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BILL ANALYSIS



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Senate Bills 812 and 813 (as enacted)
Sponsor: Senator Dave Robertson
Senate Committee: Elections and Government Reform
House Committee: Elections and Ethics

PUBLIC ACTS 123 & 124 of 2018

Date Completed: 9-27-18

CONTENT**Senate Bill 812 does the following:**

- Repeal and re-enact sections of the Michigan Election Law pertaining to the selection of electronic voting systems and absent voter counting boards.
- Amend a provision of the Law concerning payment for electronic voting systems.
- Repeal sections of the Law pertaining to voting machines.

Senate Bill 813 amends the sentencing guidelines in the Code of Criminal Procedure to replace the Michigan Compiled Law citations for two felonies under the Election Law, reflecting the repeal and re-enactment of sections by Senate Bill 812.

Senate Bill 813 is tie-barred to Senate Bill 812. Each bill will take effect on December 31, 2018.

Senate Bill 812 is described in more detail below.

Voting System Selection & Voting Machine Contracts

Section 771a of the Law requires the Secretary of State to allow a county clerk, in consultation with the clerk of each city, township, and village located in the county, to determine which electronic voting system will be used in the county, as long as the system selected meets specific criteria.

The bill repeals Section 771a and re-enacts its provisions without reference to a village.

Section 770 of the Law specifies that unless the Secretary of State implements the uniform voting system in a precinct, at all elections held in this State, ballots or votes may be cast, registered, recorded, and counted by means of voting machines. Section 770 also authorizes the governing body of a governmental unit in the State to contract with the governing body of another governmental unit with regard to the use of voting machines owned by either contracting unit.

The bill repeals Section 770 and re-enacts its provision authorizing a governing body to contract with another governing body, but would refer to "electronic voting system" rather than "voting machines".

Absent Voter Counting Boards

Section 792a of the Law provides for absent voter counting boards. The bill repeals this section and re-enacts it with the changes described below.

Currently, if a city, township, or village decides to use absent voter counting boards, the board of election commissioners of that city, township, or village must establish an absent voter counting board for each election day precinct in that local unit. The bill re-enacts this provision without reference to a village.

The Law requires the board of election commissioners to determine the number of absent voter counting boards to be established and appoint the election inspectors to those boards 10 days or more before the election at which they are to be used. The bill, instead, requires the board of election commissioners to appoint the election inspectors at least 21 days but not more than 40 days before the election at which they are to be used. The bill omits the requirement that the board of election commissioners determine the number of absent voter counting boards to be established.

Currently, if more than one absent voter counting board is to be used, the city, township, or village clerk must determine the number of voting machines or the number of ballot boxes and the number of election inspectors to be used in each of the absent voter counting boards, and to which board the absent voter ballots for each precinct must be assigned for counting. The bill re-enacts this requirement but refers to electronic voting systems, rather than voting machines, and omits the reference to a village clerk.

The Law requires the city, township, or village clerk to make the determination described above two days or more before the election, and provides that the clerk may not assign an absent voter counting board more ballots than the maximum number authorized by the board of election commissioners. The Law also states that the clerk is not required to use all of the absent voter counting boards authorized. The bill omits these provisions.

The Law specifies that Section 662 applies to the designation and prescribing of the absent voter counting place or places in which an absent voter counting board performs its duties. The bill re-enacts this provision but allows the location to be in a different jurisdiction if the county provided a tabulator for use at a central absent voter counting board location in that county. (Section 662 requires the legislative body of each city, village, and township to designate the place or places for holding a city, village, or township election and to provide a suitable polling place in or for each precinct in that local unit.)

The Law allows the board of election commissioners to require absent voter counting boards to record absent voter ballots on voting machines, and prescribes procedures for situations where this occurs. The bill omits these provisions.

Currently, in a local unit where challenged voters are required to vote on absent voter ballots, each challenged voter ballot and ballot application, after having been voted and identified, must be placed by the voter in an absent voter ballot return envelope. The envelope and application must be sealed and delivered to the absent voter counting place by the local clerk. The bill omits these provisions.

The Law requires voted absent voter ballots to be placed in a ballot box and requires the ballot bag and box to be sealed in the manner provided by the Law for paper ballot precincts. Under the bill, voted absent voter ballots must be placed in an approved ballot container, which must be sealed in the manner provided by the Law for paper ballot precincts.

Payment for Electronic Voting Systems

Under the Law, the board of commissioners of a county, the legislative body of a city or village, the township board of a township, or the school board of a school district, upon the adoption and acquisition of an electronic voting system, must provide for the payment of the system in the same manner as provided for the payment for voting machines in Section 774.

(That section allows such a body to provide for the payment of voting machines in any manner it deems best for the county, city, township, or village. The board or legislative body may enter into a contract to pay for the machines in annual installments for up to 10 years, pay for the machines in cash, or issue certificates of indebtedness to pay for them.)

Under the bill, instead, if Federal or State funding is not available, the board of commissioners of a county, the legislative body of a city, or the township board of a township, upon adopting and acquiring an electronic voting system, must provide for all or the balance of the payment of the system.

Additional Repealed Sections

The bill repeals, and does not re-enact, sections of the Election Law that pertain to the purchase, construction, operation, and location of voting machines; voting machine supplies and instructions; control over voting machines; qualifications of election inspectors to use voting machines; the arrangement of polling places; procedures for a voter to write in more candidates than there are spaces on a voting machine; emergency ballots; challenged voter procedures; irregular ballots; instructions to voters; damaging voting machines; sealing voting machines; "printer type voting machines"; discrepancies in returns; and inspectors' statements. The sections that are repealed are Sections 770a, 771, 772 through 782b, 783 through 791a, 792, and 793.

MCL 168.794b et al. (S.B. 812)
777.11d (S.B. 813)

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill has no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

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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.