

BACKGROUND BRIEF

PROPOSAL 22-2 AND RELATED CHANGES TO THE MICHIGAN ELECTION LAW

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FAST FACTS

- In November 2022, Michigan voters adopted Ballot Proposal 2, an initiative petition that enshrined several voting rights into the state constitution and added new provisions regarding election certifications, audits, and the acceptance of donated election equipment.
- Michigan joins 46 states and the District of Columbia in offering in-person early voting.
- For absentee voting, Proposal 2 requires state-funded drop boxes, return postage for election materials, and ballot tracking.

INTRODUCTION

Proposal 22-2, an initiative petition passed by Michigan voters in November 2022, amended Article II of the state constitution to make several election-related changes, such as allowing early voting at statewide and federal elections and modifying the procedures for absentee voting.¹ Eligible and registered voters may now cast their ballots in one of three ways: by using an early voting site, by returning an absentee ballot, or by casting a ballot at their polling place on election day.

Below is an overview of the changes made to the Michigan Election Law during the first half of the 2023-24 legislative session to implement Proposal 22-2.²

EARLY VOTING

Early voting will be implemented by the secretary of state (SOS) and begins for all statewide and federal elections in 2024. Early voters have the same rights and are subject to the same requirements as voters who cast their ballots at polling places on election day.

Early voting can be offered up to 29 days before an election but must be available from the second Saturday before an election until the Sunday before the election for at least eight hours a day. Beginning January 1, 2026, early voting can also be offered on the Monday before an election until 4:00 p.m. If a municipality conducts early voting for a local election, the time and date requirements do not apply.

A municipality can conduct early voting on its own, enter into a municipal agreement to jointly conduct early voting with other municipalities in a county, or enter into a county agreement authorizing the county clerk to conduct early voting.

Each municipality must designate an early voting site for each precinct and must use a publicly owned or controlled building (including a municipal or school building) unless it is impossible or inconvenient to do so. A building generally cannot be used if it is owned or leased by an elected official, a candidate, or a person regulated under the Michigan Campaign Finance Act. A city or township in which there are no available and approved buildings must enter into a municipal or

¹ For a summary of Proposal 22-2 and the resulting constitutional changes, see: https://www.house.mi.gov/hfa/PDF/Alpha/Ballot_Proposal_2_of_2022.pdf

² Although 2023 PA 25 was given immediate effect by the legislature, most of the Proposal 22-2 implementation legislation (2023 PAs 81 to 87, 254, and 259) will take effect February 13, 2024.

county agreement. Early voting sites are not subject to the limit on the number of voters that can be allowed in a precinct and can serve voters from more than one municipality within a county.

Results cannot be generated or reported from an early voting site until after 8:00 p.m. on election day, and early voting results must be reported separately from absent voter results.

ABSENTEE VOTING

Michigan voters have been able to request and return an absentee ballot for any reason since 2018.³ Proposal 22-2 further modified the state's absentee voting laws to implement the following procedures and requirements for individuals who vote absentee rather than at an early voting site or election day polling place:

Military and Overseas Voters

An absentee ballot cast by a military or overseas voter must be tabulated if it was postmarked on or before election day and received by a clerk within six days of the election.

Prepaid Postage

Prepaid postage must be included with mailed permanent absent voter list applications, absent voter application forms, absent voter ballot return envelopes, signature cure forms, presidential primary selection forms, and address verification and correction forms.

Permanent Absent Voter List

Registered voters have the right to receive an absentee ballot for all future elections by submitting a single application to be placed on a permanent absent voter list. A voter will remain on the list until they rescind the application, move without updating their registration address, or do not vote for six consecutive years. A voter can apply by mail or email to their clerk, at their clerk's office, or through an online SOS portal.

Drop Boxes and Ballot Return

Each municipality must have a minimum of one secure absentee ballot drop box and at least one drop box for every 15,000 registered voters. Drop boxes must be distributed equitably, accessible at all hours from the 40th day before an election until 8:00 p.m. on election day, and monitored by video during the 75 days before an election and on election day.⁴ Clerks or sworn staff members must collect election materials from each drop box every day during the 35 days before an election and must allow a voter to cure a missing or insufficient signature on an absent voter application or ballot return envelope.

Voters can also insert their absentee ballot into a tabulator at their polling place or early voting site after presenting identification for election purposes or signing an affidavit if they do not have such identification.

Ballot Tracking

Michigan's ballot tracking system must allow voters to sign up for email or text notifications to track the status of an absentee ballot or application. An individual must be notified if their application or ballot was rejected, with the reasons for the rejection and the instructions and deadline for curing the issue. The system must also notify an individual of the date their application or ballot was accepted and the date a cured application or ballot was approved. No more than 90 days after an election, but as soon as practicable, clerks must notify an individual whose absentee ballot was returned after the polls closed and not counted.

³ "No-reason" absentee voting was placed into the Michigan constitution by Ballot Proposal 3 of 2018. See: https://www.house.mi.gov/hfa/PDF/Alpha/Ballot_Proposal_2018-3_Promote_The_Vote.pdf.

⁴ Until 2026, the video monitoring requirement applies only to drop boxes ordered or installed on or after October 1, 2020.

Processing and Tabulating Absentee Ballots Before Election Day⁵

Cities and townships can allow an absent voter counting board (AVCB) to process and tabulate absentee ballots between 7:00 a.m. and 8:00 p.m. on the Monday before election day, or on any of the eight days before election day if the city or a township has a population of at least 5,000 or if a county establishes an AVCB for the city or township. For each day of early processing and tabulation, city and township clerks must verify the signatures on absent voter ballot return envelopes, approve ballots for tabulation, and deliver the approved ballots to the AVCB. An absentee ballot received on a day that early voting is conducted cannot be delivered to an AVCB until the following day, and an absentee ballot can only be tabulated after it is recorded on the registration list at the early voting site and after the list of individuals who cast an early voting ballot on the previous day is recorded in the Qualified Voter File. Ballots must be processed and tabulated in the same manner as absentee ballots processed and tabulated on election day, and results cannot be generated, printed, or reported before 8:00 p.m. on election day.

A voter who wishes to spoil their absentee ballot must do so by 5:00 p.m. on the second Friday before election day.

IN-PERSON VOTING: ELECTION DAY VOTE CENTERS

A city or township that processed at least 500 voter registrations on election day in either of the previous two general elections can establish an election day vote center to allow an individual who completes or updates their voter registration on election day to cast a ballot. Election day vote centers are considered polling places and must be in the same building where a clerk conducts election-day voter registration. At least three election inspectors must be appointed for an election day vote center, and a political party, incorporated organization, or organized committee of interested citizens may have one challenger for every eight election inspectors assigned to an election day vote center.

ADDITIONAL CHANGES

Identification for election purposes, which an individual must present in order to vote in person or apply in person for an absentee ballot, among other things, now includes a current photo ID card issued by a local government.

If a county clerk is a precinct delegate of a political party or an officer or member of a political party's governing body, they cannot participate in an election audit and must instead appoint a designee.

The maximum number of voters allowed in a precinct was increased from 2,999 to 4,999, and precincts that are currently divided can have the division abolished if the consolidated district does not appear to exceed 4,999 active registered voters.⁶

⁵ Proposal 2022-2 did not require Michigan to allow absentee ballot processing and tabulation prior to election day, but these changes were made as part of the Proposal 2 implementation package. Previously, a clerk of a city or township with a population of at least 10,000 could begin certain absentee ballot pre-processing activities only on the Sunday and Monday before election day. As of January 2023, 38 other states and the U.S. Virgin Islands allow for some form of absentee ballot processing before election day, and ten of those states allow counting to begin before election day: <https://www.ncsl.org/elections-and-campaigns/table-16-when-absentee-mail-ballot-processing-and-counting-can-begin>.

⁶ Proposal 2022-2 did not require increases to the maximum precinct size, but these changes were made as part of the Proposal 2 implementation package. PAs 226 and 227, which increased the precinct size to 4,999 voters, were passed with immediate effect.

IMPLEMENTING LEGISLATION

- 2023 PA 25 ([SB 259](#)) grants military and overseas voters the right to have their absentee ballots counted if the ballot is postmarked by election day and received within six days of the election.
- 2023 PA 81 ([SB 367](#)) implements early voting and election day vote centers, in addition to most of the new absentee voting procedures.
- 2023 PA 82 ([SB 370](#)) allows for signature curing and makes other changes to the absent voter ballot application and verification process.
- 2023 PA 83 ([HB 4696](#)) enacts sentencing guidelines for disclosing an election result from an early voting site before 8:00 p.m. on election day, which is a class E felony against the public trust punishable by up to five years' imprisonment.
- 2023 PA 84 ([SB 339](#)) modifies the ballot tracking system.
- 2023 PA 85 ([HB 4697](#)) modifies drop box requirements.
- 2023 PA 86 ([HB 4699](#)) establishes the permanent absent voter list.
- 2023 PA 87 ([SB 373](#)) modifies the acceptable identification for election purposes to include a photo ID issued by a local government and to revise the description of acceptable photo ID from educational institutions.
- 2023 PAs 88 ([HB 4702](#)), 226 ([SB 572](#)), and 227 ([SB 573](#)) increase the maximum precinct size.
- 2023 PA 254 ([SB 570](#)) requires a county clerk to appoint a designee to conduct an election audit if the clerk is a precinct delegate or affiliated with a political party's governing body.
- 2023 PA 259 ([HB 4695](#)) makes clarifications to some of the provisions of 2023 PA 81, mainly regarding the duties of election inspectors.