

Making Sense of Michigan new Election Laws and Early Voting Rules

October 31, 2023

When a majority of Michigan voters cast their votes last November in support of Ballot Proposal 22-2, also known as Proposal 2, the successful ballot initiative triggered a flurry of changes to Michigan's elections.

As election season draws near, what follows is an overview of the several changes brought about by the passage of Proposal 2:

- Recognition of the fundamental right to vote without harassing conduct
- At least nine days of early voting at a designated center prior to election day
- Absentee ballots distributed to military personnel or those living abroad must be counted if they are properly completed and postmarked on or before election day.
- Michigan voters have a right to verify their identity with either a photo ID or signed affidavit.
- Michigan voters have a right to a single application to vote absentee in all elections.
- State-funded absentee ballot drop boxes and postage for absentee applications and ballots must be provided to Michigan voters.
- Donations to fund elections are allowed but must be disclosed and may not be from foreign entities.
- Only election officials may conduct public post-election audits.
- The Board of State Canvassers is the only body in Michigan which is authorized to certify statewide or federal election results based on the official records of votes cast. Certifications are final, subject only to a recount supervised by the board under a procedure established by law or a court order. Additionally, the Board of State Canvassers (or the applicable Board of County Canvassers when necessary) would be responsible for determining and certifying the winner of an election in the event of a tie.

This summer, Gov. Gretchen Whitmer signed several bills to implement the changes brought about by Proposal 2. These bills address everything from new early voting rules (Senate Bill 367) and drop box requirements (House Bill 4697) to the Secretary of State's new electronic tracking system for absentee ballot applications (Senate Bill 339), voter ID requirements (Senate Bill 373) and more.

Due to the volume of changes and nuances with each update, what follows is a look at two of the biggest impending changes: **early voting days and early voting centers**.

Enrolled Senate Bill 367, which has been codified as Act No. 81 of Michigan's Public Acts of 2023 and approved by Gov. Whitmer sets the foundation for early voting.

Because the new Public Act is extensive, an overview of some key aspects are included below.

Importantly, the Act states that early voting sites for municipalities must be designated in the same manner as polling places, and each registered voter in the municipality may engage in early voting at *any* early voting site in that municipality. Section 720e(2).

Additionally, for each federal and statewide election, each municipality must have one or more early voting sites and the clerk of the municipality may set additional hours for early voting on any of the required nine consecutive days of early voting. Section 720e(4).

The clerk of a municipality may also offer additional days of early voting beyond the required nine consecutive days, and may set the hours for those additional days of early voting without regard to the hours on the required nine consecutive days. Any additional days of early voting must take place on or after the 29th day before an election. Section 720e(5). The same applies to clerks of municipalities participating in a municipal agreement and the county clerk. Sections 720f(8) and 720(g)(9).

Clerks may begin counting absentee ballots before election day and may also enter into an agreement with the clerk(s) of other cities or townships, located in the same county, to establish a combined absent voter counting board. Section 764d.

Additionally, the board of election commissioners of a city or township with a population of at least 5,000 or a board of county election commissioners may authorize absent voter counting boards to process and tabulate absent voter ballots between 7 a.m. and 8 p.m. on any of the eight days before election day, beginning the second Monday before election day and ending on the Monday immediately before election day. Section 765a(11).

The 2024 presidential primary election will be the first statewide election with the Proposal 2 changes in effect. In the meantime, Plunkett Cooney attorneys continue to stay on top of Michigan election law updates.