

THE LEGISLATURE

LANSING, MICHIGAN

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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**NOTICE OF PROPOSAL THAT A
RULE BE CHANGED**

TO: Adam Fracassi, Regulatory Manager
Michigan Office of Administrative Hearings and Rules (MOAHR)
Secretary of the Senate
Clerk of the House

FROM: Senator Jon Bumstead, Chair
Representative Luke Meerman, Alternate Chair

DATE: February 23, 2022

As provided in MCL 24.245a(1)(b), the Joint Committee on Administrative Rules is, by a concurrent majority vote, proposing that the following rule set be changed:

JCAR No. 21-74
MOAHR No. 2021-62ST
Department of State,
Bureau of Elections & Campaign Finance

Specifically, the Committee respectfully proposes that the Secretary of State consider changing **R 168.31** and **R 168.32** in the following ways and for the following reasons:

1. The rule should be changed to permit only an online *request* for an absentee ballot application. Under that rule, an elector could satisfy the statutory physical signature requirement while also taking advantage of the convenience of filling out an online form. The elector could then print and sign the request form and then scan or mail it to the clerk for processing.

If the rules are not withdrawn or changed to allow a voter to only request an absentee ballot application, they should still be amended in the following ways:

2. **R 168.31(1)(e)** defines “stored digital signature” to mean the image kept in the motor vehicle database. However, the law does not require that stored digital signature to be regularly updated. This means that an outdated digital signature could be used on an online absent voter application ballot. The Secretary should change this definition to include the most recent signature on file in either the motor vehicle database or the mastercard.


3. **R 168.33(4)** allows an individual without a digital signature on file to request an absentee ballot by simply uploading a picture of their physical signature. The Secretary should strike this provision. There is no statutory authority for such a rule, nor is there a quality control mechanism or requirement that the uploaded picture signature be sufficiently clear. Nor are there other verification requirements. The rule should ensure clear, legible signatures and protect against fraudulent ones.

Under MCL 24.245c, if the Committee suggests that a proposed rule be changed, the agency shall, within 30 days, do one of the following:

- (a) Decide to change the rule and, within the 30 days, resubmit the changed rule to the committee. If the agency decides to change the rule, the agency shall withdraw the rule, which is treated as a withdrawal with permission under MCL 24.245a(10), and follow the procedures in MCL 24.245c(2)–(5).
- (b) Decide to not change the rule. If the agency decides to not change the rule, the agency shall within the 30-day period notify the Committee of the decision and the reasons for the decision and file the notice with the Michigan Office of Administrative Hearings and Rules. After the notice is filed, the Committee has 15 session days in which to consider the agency's decision and take 1 of the actions listed in MCL 24.245a(1).

These proposed changes are offered to facilitate substantive dialogue between the Secretary and the Legislature and should not be construed as waiving any of JCAR's other statutory rights or powers.

Sincerely,



Senator Bumstead
Chair



Representative Meerman
Alternate Chair