

**Michigan Office of Administrative Hearings and Rules**

**Administrative Rules Division (ARD)**

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**REGULATORY IMPACT STATEMENT  
and COST-BENEFIT ANALYSIS (RIS)**

**Agency Information:**

**Department name:**

State

**Bureau name:**

Elections & Campaign Finance

**Name of person filling out RIS:**

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**Rule Set Information:**

**ARD assigned rule set number:**

2021-61 ST

**Title of proposed rule set:**

Signature Matching Standards for Absent Voter Ballot Applications and Absent Voter Ballot Envelopes

**Comparison of Rule(s) to Federal/State/Association Standard**

**1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.**

There are no parallel federal rules or standards.

**A. Are these rules required by state law or federal mandate?**

The rules are not required by state law or federal mandate.

**B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.**

The rules do not exceed a federal standard.

**2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.**

The agency looked at standards offered in every single state in order to develop the proposed rules and focused on the following states and standards:

1. Colorado – primarily uses voting by mail and has a comprehensive regulatory system to ensure security. The proposed rules align with Colorado’s provisions on considerations that may justify slight deviations from the signature on file such as advanced aged, decreased muscle strength, and writing utensil. These examples were also reflected in the factors used for evaluating signature validity promulgated by California, New York, Connecticut, and Oregon.
2. Hawaii – developed factors in determining whether the signature should be rejected which were utilized to develop the proposed rule. Factors used include the age of the writer and the length of time since the voter’s signature had been captured by the State of Hawaii.
3. California – Factors considered in California to explain potential deviations include the writing surface (e.g. clipboard, table), illness, age, and language differences.
4. Rhode Island – contains a presumption of validity where the signature should be accepted so long as it is “reasonably identified” as the voter’s signature. A relatively similar presumption is contained in the regulations promulgated by New York.
5. Minnesota – presumption is that the signatures are made by the same individual and should only be rejected if the name signed is a “clearly different name.”

These states were consulted in developing the proposed rules and incorporated several of the standards adopted.

**A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.**

The rules do not exceed standards in the other states, but are comparable to other state requirements.

**3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.**

There are no laws, rules, or other legal requirements that duplicate, overlap, or conflict with the proposed rules.

**A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.**

The rules have not been coordinated with other federal, state, and local laws as there are none applicable to the same activity or subject matter.

**4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.**

MCL 24.232(8) does not apply.

**5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.**

MCL 24.232(9) does not apply.

**Purpose and Objectives of the Rule(s)**

**6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.**

Before receiving an absent voter ballot, a voter must submit an application which is signed by the voter. The signature on the application is compared by the local clerk and their staff to the signature on file in the Qualified Voter File. If the signature is determined to sufficiently match the signature on file, the voter will be sent an absent voter ballot. The voter must then return the ballot in the envelope provided by the clerk which is signed. That signature is then compared to the absent voter ballot application and/or the qualified voter file.

Currently, city and township clerks review each of these signatures. This behavior would not change, nor would the frequency. The rule is designed to provide uniform standards for city and township clerks to utilize when comparing the signature in order to determine if the signature on the absent voter ballot application and envelope sufficiently matches the signature contained in the voter's registration profile.

**A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.**

It is not anticipated there will be a change in frequency because signatures must be compared before every election. The purpose of the rules is to provide uniform standards for city and township clerks to utilize when comparing the signature in order to determine if the signature on the absent voter ballot application and envelope sufficiently matches the signature contained in the voter's registration profile.

**B. Describe the difference between current behavior/practice and desired behavior/practice.**

The rules would codify current guidance and recommended practice issued by the Secretary of State, but would provide uniformity in how the voter's signature is reviewed and processed.

**C. What is the desired outcome?**

The desired outcome is to provide uniform standards for city and township clerks to utilize when comparing the signature in order to determine if the signature on the absent voter ballot application and envelope sufficiently matches the signature contained in the voter's registration profile.

**7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.**

When reviewing the signature, it is determined that the signature either does or does not sufficiently match the signature in the Qualified Voter File. That decision determines whether the voter will be provided a ballot. The largest harm that may result is when a properly qualified voter that has properly signed election documents is denied a ballot based upon the determination made that the voter's signature does not match. However, standards applied in one jurisdiction may be different than standards applied in another jurisdiction. The proposed rules seek to alter this behavior by providing uniform standards to be applied when verifying whether a signature on election documentation matches a signature contained in the voter's registration profile.

**A. What is the rationale for changing the rules instead of leaving them as currently written?**

There are currently no codified rules on the subject matter.

**8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.**

The proposed rules provide protections for the public in all of the following ways: (a) setting forth uniform standards for determining whether signature sufficiently agree with the Qualified Voter File; (b) providing clerks with guidance on how to determine whether the signature agrees; (c) providing for protections for voters when it is determined that a signature does not match by creating cure provisions. These measures are designed to protect the public interest in secure, responsible, and fair elections while at the same time promoting a regulatory environment that is the least burdensome for those required to comply.

**9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.**

There are no rules that are obsolete or unnecessary and can be rescinded.

## **Fiscal Impact on the Agency**

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

**10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).**

It is not expected that the promulgation of rules will have a fiscal impact on the agency promulgating the rules or the Department of State.

**11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.**

No agency appropriation has been made, and no funding source has been provided, as it is not anticipated that the Department of State will have any expenditures associated with the proposed rules.

**12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.**

The proposed rules are necessary to create a regulatory structure for signature matching standards for use in elections. Best practices used by local clerks and other states were consulted in order to develop the proposed rules, and it is not anticipated that they will impose any fiscal burden.

**A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.**

There are no identified burdens.

## **Impact on Other State or Local Governmental Units**

**13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.**

There are no estimated increases or decreases in revenues to other state or local governmental units.

**14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.**

City and Township clerks are required to verify the signature contained on all absent voter ballot applications and return envelopes, but there are no codified uniform practices. The proposed rules would create a uniform regulatory structure and codify best practices currently in use by several jurisdictions. There would be no additional duties or responsibilities imposed.

**A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.**

City and Township clerks would continue to verify signatures sufficiently agree with the Qualified Voter File, but would have uniform standards to make that determination. There are no additional requirements placed on governmental units.

**15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.**

An appropriation has not been made because additional expenditures associated with the rules are not anticipated.

## **Rural Impact**

**16. In general, what impact will the rules have on rural areas?**

The proposed rules are not expected to impact rural areas.

**A. Describe the types of public or private interests in rural areas that will be affected by the rules.**

The proposed rules should have no impact on public or private interests in rural areas.

## **Environmental Impact**

**17. Do the proposed rules have any impact on the environment? If yes, please explain.**

The rules will not have an impact on the environment.

## Small Business Impact Statement

**18. Describe whether and how the agency considered exempting small businesses from the proposed rules.**

The rules do not apply to small businesses.

**19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.**

The rules do not apply to small businesses.

**A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.**

The rules do not apply to small businesses.

**B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.**

The rules do not apply to small businesses and will not have an impact on their reporting requirements.

**C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.**

The agency did not consolidate or simplify the compliance and reporting requirements for small businesses as the rules do not apply to small businesses.

**D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.**

The rules do not apply to performance, design, or operation standards.

**20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.**

The rules do not apply to small businesses.

**21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.**

There are no estimated costs for small businesses as the rules do not apply to small businesses.

**22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.**

There are no costs of compliance as the rules do not apply to small businesses.

**23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.**

There are no estimated costs for small businesses as the rules do not apply to small businesses.

**24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.**

There are no estimated costs for small businesses as the rules do not apply to small businesses.

**25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.**

There are no estimated costs to the agency for administration or enforcement against small businesses as the rules do not apply to small businesses.

**26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.**

The rules do not apply to small businesses so there should be no impact on the standards of compliance.

**27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.**

The agency has not involved small businesses in the development because the rules do not apply to small businesses.

**A. If small businesses were involved in the development of the rules, please identify the business(es).**

No small businesses were involved because the rules do not apply to small businesses. The Michigan County Clerks Association and the Michigan Association of Municipal Clerks were asked to provide feedback.

## **Cost-Benefit Analysis of Rules (independent of statutory impact)**

### **28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.**

It is not anticipated that there will be any statewide compliance costs.

#### **A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.**

City and Township clerks will be directly affected by the proposed rules as they are responsible for checking signatures against the Qualified Voter File. There will be no cost associated with the rules.

#### **B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.**

There will be no costs imposed as a result of the proposed rules. It is anticipated that the rules can be followed with the resources currently given to the local clerks.

### **29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.**

It is not anticipated that there will be any actual compliance costs of the proposed rules on individuals.

#### **A. How many and what category of individuals will be affected by the rules?**

Voters in the State of Michigan will be affected as their signatures contained on election materials will continue to need to match the signature contained on their registration. Clerks will be affected by being given a set of uniform guidance on how to verify signatures, when to determine signatures do not sufficiently agree, and why signatures may not sufficiently agree based upon a list of factors.

#### **B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?**

Clerks will be given a set of uniform guidance on how to verify signatures, when to determine signatures do not sufficiently agree, and why signatures may not sufficiently agree based upon a list of factors. Voters will be provided with the same guidance to understand how to they can ensure their signature agrees. Voters will also be given an opportunity to cure any signature deficiency.

### **30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.**

There are no cost reductions for businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

### **31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.**

The purpose of the proposed set of rules is provide a uniform regulatory system that provides consistency in the administration of elections by providing guidance to city and township clerks on how to verify signatures, when to determine signatures do not sufficiently agree, and why signatures may not sufficiently agree based upon a list of factors. It is not anticipated that this will have a quantitative impact.

### **32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.**

The proposed rules will not impact business growth and job creation in Michigan.

### **33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.**

It is not anticipated that individuals or businesses that will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

### **34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.**

The agency relied upon the department's current practice, comments provided by city and township clerks, and current procedures used by local clerks. The agency relied upon agency staff and its regulatory experience to formulate estimates and assumptions and determine the need for the proposed rules.

**A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.**

The agency relied upon agency staff and its regulatory and administrative experience to determine the impact of the proposed rules. The agency also looked to local elections officials and clerks associations and relied on their expertise for feedback, and looked to other jurisdictions when determining the existence and extent of the impact of the proposed rules.

**Alternative to Regulation**

**35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.**

In order to create a safe, secure and responsible system, there is no reasonable alternative to achieve the same or similar goals.

**A. Please include any statutory amendments that may be necessary to achieve such alternatives.**

In order to create a safe, secure and responsible system, there is no reasonable alternative to achieve the same or similar goals.

**36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.**

A regulatory program established by a private third-party is not feasible because the subject of the rules concerns the administration of elections. Michigan Election Law reserves this power solely to the Secretary of State, Bureau of Elections, County, City and Township clerks. The agency is not aware of a private market-based system, as opposed to a state regulatory body for this purposes, utilized in other states.

**37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.**

Due to the nature of regulating the manner of elections, no significant alternatives to reasonable regulation were considered during the development of the proposed rules. Significant provisions of the proposed rules are intended to codify the current practice. The agency solicited feedback from clerks and incorporated many suggestions and revisions into the proposed rules.

**Additional Information**

**38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.**

The rules explicitly inform persons of requirements and methods of compliance.