

HOUSE BILL No. 5489

January 22, 1998, Introduced by Reps. Hammerstrom, Raczkowski, Bobier, Crissman, Brackenridge, London and Perricone and referred to the Committee on Local Government.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 53, 93, 133, 163, 193, 224, 254, 322, 349, 409b, 413, 426d, 433, 467b, 551, 624, and 644f (MCL 168.53, 168.93, 168.133, 168.163, 168.193, 168.224, 168.254, 168.322, 168.349, 168.409b, 168.413, 168.426d, 168.433, 168.467b, 168.551, 168.624, and 168.644f), sections 53, 93, 133, 163, 193, 224, 254, 322, 349, 409b, 413, 426d, 433, 467b, and 624 as amended by 1996 PA 583 and sections 551 and 644f as amended by 1990 PA 7.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 53. To obtain the printing of the name of a person as
2 a candidate for nomination by a political party for the office of
3 governor under a particular party heading upon the official
4 primary ballots, there shall be filed with the secretary of state
5 nominating petitions signed by a number of qualified and

1 registered electors residing in this state equal to not less than
2 1% or more than 2% of the number of votes cast by the party for
3 secretary of state at the last general November election in which
4 a secretary of state was elected. Nominating petitions shall be
5 signed by at least 100 registered resident electors in each of at
6 least 1/2 of the congressional districts of the state.

7 Nominating petitions shall be in the form as prescribed in sec-
8 tion 544c. Nominating petitions shall be received by the secre-
9 tary of state for filing in accordance with this act up to 4
10 p.m. of the ~~twelfth~~ FOURTEENTH Tuesday preceding the August
11 primary.

12 Sec. 93. To obtain the printing of the name of a person as
13 a candidate for nomination by a political party for the office of
14 United States senator under a particular party heading upon the
15 official primary ballots, there shall be filed with the secretary
16 of state nominating petitions signed by a number of qualified and
17 registered electors residing within this state equal to not less
18 than 1% or more than 2% of the number of votes cast by the party
19 for secretary of state at the last general November election in
20 which a secretary of state was elected. The petitions shall be
21 signed by at least 100 qualified and registered electors in each
22 of at least 1/2 of the congressional districts of the state.
23 Nominating petitions shall be in the form as prescribed in sec-
24 tion 544c. The petitions shall be received by the secretary of
25 state for filing in accordance with this act up to 4 p.m. of the
26 ~~twelfth~~ FOURTEENTH Tuesday preceding the August primary.

1 Sec. 133. To obtain the printing of the name of a person as
2 a candidate for nomination by a political party for the office of
3 representative in congress under a particular party heading upon
4 the official primary ballots in the various election precincts of
5 a congressional district, there shall be filed nominating peti-
6 tions signed by a number of qualified and registered electors
7 residing in the district equal to not less than 1% or more than
8 2% of the number of votes cast by the party in the district for
9 secretary of state at the last general November election in which
10 a secretary of state was elected. If the congressional district
11 comprises more than 1 county, the nominating petitions shall be
12 filed with the secretary of state. If the congressional district
13 comprises 1 county or less, the nominating petitions shall be
14 filed with the county clerk of that county. Nominating petitions
15 shall be in the form as prescribed in section 544c. The secre-
16 tary of state and the various county clerks shall receive nomi-
17 nating petitions for filing in accordance with this act up to 4
18 p.m. of the ~~twelfth~~ FOURTEENTH Tuesday preceding the August
19 primary.

20 Sec. 163. (1) To obtain the printing of the name of a
21 person as a candidate for nomination by a political party for the
22 office of state senator or representative under a particular
23 party heading upon the official primary ballots in the various
24 election precincts of a district, there shall be filed nominating
25 petitions signed by a number of qualified and registered electors
26 residing in the district equal to not less than 1% or more than
27 2% of the number of votes cast by the party in the district for

1 secretary of state at the last general November election in which
2 a secretary of state was elected. If the district comprises more
3 than 1 county, the nominating petitions shall be filed with the
4 secretary of state. If the district comprises 1 county or less,
5 the nominating petitions shall be filed with the county clerk of
6 that county. Nominating petitions shall be in the form pre-
7 scribed in section 544c. The secretary of state and the various
8 county clerks shall receive nominating petitions for filing in
9 accordance with this act up to 4 p.m. of the ~~twelfth~~ FOURTEENTH
10 Tuesday preceding the August primary.

11 (2) In lieu of filing a nominating petition, a filing fee of
12 \$100.00 may be paid to the county clerk or, for a candidate in a
13 district comprising more than 1 county, to the secretary of
14 state. Payment of the fee and certification of the name of the
15 candidate paying the fee shall be governed by the same provisions
16 as in the case of nominating petitions. The fee shall be depos-
17 ited in the general fund of the county or state and shall be
18 refunded to candidates who are nominated and to an equal number
19 of candidates who receive the next highest number of votes in the
20 primary election. If 2 or more candidates tie in having the
21 lowest number of votes allowing a refund, the sum of \$100.00
22 shall be divided among them. A refund of a deposit shall not be
23 made to a candidate who withdraws.

24 Sec. 193. (1) To obtain the printing of the name of a
25 person as a candidate nomination by a political party for for an
26 office named in section 191 under a particular party heading upon
27 the official primary ballots, there shall be filed with the

1 county clerk nominating petitions signed by a number of qualified
2 and registered electors residing within the county equal to not
3 less than 1% or more than 2% of the number of votes cast by the
4 party in the county for secretary of state at the last general
5 November election in which a secretary of state was elected.

6 Nominating petitions shall be in the form prescribed in section
7 544c. The county clerk shall receive nominating petitions up to
8 4 p.m. of the ~~twelfth~~ FOURTEENTH Tuesday preceding the August
9 primary.

10 (2) To obtain the printing of the name of a candidate of a
11 political party under the particular party's heading upon the
12 primary election ballots in the various voting precincts of the
13 county, there may be filed by the candidate, in lieu of filing
14 nomination petitions, a filing fee of \$100.00 to be paid to the
15 county clerk. Payment of the fee and certification of the
16 candidate's name paying the fee shall be governed by the same
17 provisions as in the case of nominating petitions. The fee shall
18 be deposited in the general fund of the county and shall be
19 refunded to candidates who are nominated and to an equal number
20 of candidates who receive the next highest number of votes in the
21 primary election. If 2 or more candidates tie in having the
22 lowest number of votes allowing a refund, the sum of \$100.00
23 shall be divided among them. The deposits of all other defeated
24 candidates, as well as the deposits of candidates who withdraw or
25 are disqualified, shall be forfeited, and the candidates shall be
26 notified of the forfeiture. Deposits forfeited under this

1 section shall be paid into and credited to the general fund of
2 the county.

3 Sec. 224. (1) To obtain the printing of the name of a
4 person as candidate for nomination by a political party for the
5 office of county auditor under a particular party heading upon
6 the official primary ballots, there shall be filed with the
7 county clerk nominating petitions signed by a number of qualified
8 and registered electors residing within the county equal to not
9 less than 1% or more than 2% of the number of votes cast by the
10 party in the county for secretary of state at the last general
11 November election in which a secretary of state was elected.
12 Nominating petitions shall be in the form prescribed in section
13 544c. The county clerk shall receive nominating petitions up to
14 4 p.m. of the ~~twelfth~~ FOURTEENTH Tuesday preceding the August
15 primary.

16 (2) To obtain the printing of the name of the candidate of a
17 political party under the particular party's heading upon the
18 primary election ballots in the various voting precincts of the
19 county, there may be filed by the candidate, in lieu of filing
20 nominating petitions, a filing fee of \$100.00 to be paid to the
21 county clerk. Payment of the fee and certification of the name
22 of the candidate paying the fee shall be governed by the same
23 provisions as in the case of nominating petitions. The fee shall
24 be deposited in the general fund of the county and shall be
25 refunded to candidates who are nominated and to an equal number
26 of candidates who received the next highest number of votes in
27 the primary election. If 2 or more candidates tie in having the

1 lowest number of votes allowing a refund, the sum of \$100.00
2 shall be divided among them. The deposits of all other defeated
3 candidates and of candidates who withdraw or are disqualified
4 shall be forfeited, and the candidates shall be notified of the
5 forfeitures. Deposits forfeited under this section shall be paid
6 into and credited to the general fund of the county.

7 Sec. 254. (1) To obtain the printing of the name of a
8 person as a candidate for nomination by a political party for the
9 office of county road commissioner under a particular party head-
10 ing upon the official primary ballots, there shall be filed with
11 the county clerk of the county nominating petitions signed by a
12 number of qualified and registered electors residing within the
13 county equal to not less than 1% or more than 2% of the number of
14 votes cast by the party in the county for secretary of state at
15 the last preceding general November election in which a secretary
16 of state was elected. Nominating petitions shall be in the form
17 prescribed in section 544c. The county clerk shall receive nomi-
18 nating petitions up to 4 p.m. of the ~~twelfth~~ FOURTEENTH Tuesday
19 preceding the August primary in which county road commissioners
20 are to be elected.

21 (2) To obtain the printing of the name of a candidate of a
22 political party under the particular party's heading upon the
23 primary election ballots in the various voting precincts of the
24 county, there may be filed by each candidate, in lieu of filing
25 nominating petitions, a filing fee of \$100.00 to be paid to the
26 county clerk. Payment of the fee and certification of the name
27 of the candidate paying the fee shall be governed by the same

1 provisions as in the case of nominating petitions. The fee shall
2 be deposited in the general fund of the county and shall be
3 returned to all candidates who are nominated and to an equal
4 number of candidates who received the next highest number of
5 votes in the primary election. If 2 or more candidates tie in
6 having the lowest number of votes allowing a refund, the sum of
7 \$100.00 shall be divided among them. The deposits of all other
8 defeated candidates, as well as the deposits of candidates who
9 withdraw or are disqualified, shall be forfeited, and the candi-
10 dates shall be notified of the forfeitures. Deposits forfeited
11 under this section shall be paid into and credited to the general
12 fund of the county.

13 Sec. 322. To obtain the printing of the name of a candidate
14 of a political party for a city office, including a ward office,
15 under the particular party heading on the official primary elec-
16 tion ballots for use in the city, there shall be filed with the
17 city clerk of the city not later than 4 p.m. on the ~~twelfth~~
18 FOURTEENTH Tuesday preceding the August primary, or not later
19 than 4 p.m. on the seventh Monday preceding the primary election
20 provided to be held on the third Monday in February, nominating
21 petitions signed by a number of qualified and registered electors
22 of the political party who reside in the city or ward, equal to
23 not less than 1% or more than 2% of the number of votes that the
24 political party cast in the city or ward for secretary of state
25 at the last general November election in which a secretary of
26 state was elected. This section does not apply to a city the
27 charter of which provides for a different method of nominating

1 candidates for public office. The form of the petition shall be
2 as provided in section 544c.

3 Sec. 349. (1) To obtain the printing of the name of a
4 person as a candidate for nomination by a political party for a
5 township office under the particular party heading upon the offi-
6 cial primary ballots, there shall be filed with the township
7 clerk nominating petitions signed by a number of qualified and
8 registered electors residing within the township equal to not
9 less than 1% or more than 2% of the number of votes cast by the
10 party in the township for secretary of state at the last general
11 November election in which a secretary of state was elected, but
12 in no case less than 5 signatures. Nominating petitions shall be
13 in the form prescribed in section 544c. The township clerk shall
14 receive nominating petitions up to 4 p.m. of the ~~twelfth~~
15 FOURTEENTH Tuesday preceding the August primary.

16 (2) Within 4 days after the last day for filing nominating
17 petitions, the township clerk shall deliver to the county clerk a
18 list setting forth the name, address, and political affiliation
19 and office sought of each candidate who has qualified for a posi-
20 tion on the primary ballot.

21 Sec. 409b. (1) To obtain the printing of the name of a
22 qualified person other than an incumbent judge of the court of
23 appeals as a candidate for nomination for the office of judge of
24 the court of appeals upon the official nonpartisan primary bal-
25 lots, there shall be filed with the secretary of state nominating
26 petitions containing the signatures, addresses, and dates of
27 signing of a number of qualified and registered electors residing

1 in the appellate court district equal to not less than 1/2 of 1%
2 or more than 2% of the total number of votes cast in that appel-
3 late court district for secretary of state at the last general
4 November election in which a secretary of state was elected. The
5 provisions of sections 544a and 544b apply. The secretary of
6 state shall receive nominating petitions up to 4 p.m. on the
7 ~~twelfth~~ FOURTEENTH Tuesday preceding the primary.

8 (2) Nominating petitions filed under this section are valid
9 only if they clearly indicate for which of the following offices
10 the candidate is filing, consistent with subsection (6):

11 (a) An unspecified existing judgeship for which the incum-
12 bent judge is seeking election.

13 (b) An unspecified existing judgeship for which the incum-
14 bent judge is not seeking election.

15 (c) A new judgeship.

16 (3) Nominating petitions specifying a new or existing court
17 of appeals judgeship may not be used to qualify a candidate for
18 another judicial office of the same court in the same judicial
19 district. A person who files for election to more than 1 court
20 of appeals judgeship shall have not more than 3 days following
21 the close of filing to withdraw from all but 1 filing.

22 (4) An incumbent judge of the court of appeals may become a
23 candidate in the primary election for the office of which he or
24 she is the incumbent by filing with the secretary of state an
25 affidavit of candidacy not less than 120 days before the date of
26 the primary election. The affidavit of candidacy shall contain
27 statements that the affiant is an incumbent judge of the court of

1 appeals, is domiciled within the district, will not attain the
2 age of 70 by the date of election, and is a candidate for elec-
3 tion to the office of judge of the court of appeals.

4 (5) In the primary and general November election for 2 or
5 more judgeships of the court of appeals in a judicial district,
6 each of the following categories of candidates shall be listed
7 separately on the ballot, consistent with subsection (6):

8 (a) The names of candidates for the judgeship or judgeships
9 for which the incumbent is seeking election.

10 (b) The names of candidates for the judgeship or judgeships
11 for which the incumbent is not seeking election.

12 (c) The names of candidates for a newly created judgeship or
13 judgeships.

14 (6) If the death or disqualification of an incumbent judge
15 triggers the application of section 409d(2), then for the pur-
16 poses of subsections (2) and (5), that judgeship shall be
17 regarded as a judgeship for which the incumbent judge is not
18 seeking election. The application of this subsection includes,
19 but is not limited to, circumstances in which the governor
20 appoints an individual to fill the vacancy and that individual
21 seeks to qualify as a nominee under section 409d(2).

22 Sec. 413. To obtain the printing of the name of a person as
23 a candidate for nomination for the office of judge of the circuit
24 court upon the official nonpartisan primary ballots, there shall
25 be filed with the secretary of state nominating petitions con-
26 taining the signatures, addresses, and dates of signing of a
27 number of qualified and registered electors residing in the

1 judicial circuit, equal to not less than 1% or more than 2% of
2 the total number of votes cast in that judicial district for sec-
3 retary of state at the last general November election in which a
4 secretary of state was elected or by the filing of an affidavit
5 according to section 413a. The secretary of state shall receive
6 the nominating petitions up to 4 p.m. of the ~~twelfth~~ FOURTEENTH
7 Tuesday preceding the primary. The provisions of sections 544a
8 and 544b apply.

9 Sec. 426d. (1) To obtain the printing of the name of a
10 person on the ballot as a candidate for the office of judge of
11 the municipal court of record, there shall be filed with the city
12 clerk nominating petitions containing the signatures, addresses,
13 and dates of signing of a number of qualified and registered
14 electors residing in that city equal to not less than 1/2 of 1%
15 or more than 2% of the votes cast in that municipality for secre-
16 tary of state at the last general November election in which a
17 secretary of state was elected. The city clerk shall receive
18 nominating petitions up to 4 p.m. of the ~~twelfth~~ FOURTEENTH
19 Tuesday preceding the August primary. The provisions of sections
20 544a and 544b apply.

21 (2) An incumbent judge of the municipal court of record may
22 become a candidate in the primary election for the office of
23 which the judge is the incumbent by filing, with the city clerk,
24 an affidavit of candidacy not less than 120 days before the date
25 of the primary election. The affidavit of candidacy shall con-
26 tain statements that the affiant is an incumbent judge of the
27 municipal court of record, is domiciled within the city, will not

1 attain the age of 70 by the date of election, and is a candidate
2 for election to the office of judge of the municipal court of
3 record.

4 (3) Nominating petitions filed under this section are valid
5 only if they clearly indicate for which of the following offices
6 the candidate is filing, consistent with section 426k(3):

7 (a) An unspecified existing judgeship for which the incum-
8 bent judge is seeking election.

9 (b) An unspecified existing judgeship for which the incum-
10 bent judge is not seeking election.

11 (c) A new judgeship.

12 (4) A person who files for election to more than 1 municipal
13 court of record judgeship shall have not more than 3 days follow-
14 ing the close of filing to withdraw from all but 1 filing.

15 Sec. 433. (1) To obtain the printing of the name of a
16 person as a candidate for nomination for the office of judge of
17 probate upon the official nonpartisan primary ballots, there
18 shall be filed with the county clerk of each county nominating
19 petitions containing the signatures, addresses, and dates of
20 signing of a number of qualified and registered electors residing
21 in the county, equal to not less than 1% or more than 2% of the
22 total number of votes cast in that county for secretary of state
23 at the last general November election in which a secretary of
24 state was elected or by the filing of an affidavit according to
25 section 433a. The county clerk shall receive nominating peti-
26 tions up to 4 p.m. on the ~~twelfth~~ FOURTEENTH Tuesday preceding

1 the August primary. The provisions of sections 544a and 544b
2 apply.

3 (2) Nominating petitions filed under this section are valid
4 only if they clearly indicate for which of the following offices
5 the candidate is filing, consistent with section 435a(2):

6 (a) An unspecified existing judgeship for which the incum-
7 bent judge is seeking election.

8 (b) An unspecified existing judgeship for which the incum-
9 bent judge is not seeking election.

10 (c) A new judgeship.

11 (3) A person who files for election to more than 1 probate
12 judgeship shall have not more than 3 days following the close of
13 filing to withdraw from all but 1 filing.

14 Sec. 467b. (1) To obtain the printing of the name of a
15 person as a candidate for nomination for the office of judge of
16 the district court upon the official nonpartisan primary ballots,
17 there shall be filed with the secretary of state nominating peti-
18 tions containing the signatures, addresses, and dates of signing
19 of a number of qualified and registered electors residing in the
20 judicial district or division, equal to not less than 1/2 of 1%
21 or more than 2% of the total number of votes cast in that judi-
22 cial district or division for secretary of state at the last gen-
23 eral November election in which a secretary of state was
24 elected. An incumbent district court judge may also become a
25 candidate by the filing of an affidavit in lieu of petitions
26 according to section 467c. The secretary of state shall receive
27 nominating petitions up to 4 p.m. on the ~~twelfth~~ FOURTEENTH

1 Tuesday preceding the primary. The provisions of sections 544a
2 and 544b apply.

3 (2) Nominating petitions filed under this section are valid
4 only if they clearly indicate for which of the following offices
5 the candidate is filing, consistent with section 467c(4):

6 (a) An unspecified existing judgeship for which the incum-
7 bent judge is seeking election.

8 (b) An unspecified existing judgeship for which the incum-
9 bent judge is not seeking election.

10 (c) A new judgeship.

11 (3) A person who files for election to more than 1 district
12 judgeship shall have not more than 3 days following the close of
13 filing to withdraw from all but 1 filing.

14 Sec. 551. The secretary of state and the various county,
15 township, and city clerks shall receive nominating petitions or
16 filing fees filed ~~in accordance with the provisions of~~ PURSUANT
17 TO this act up to 4 p.m., eastern standard time, of the ~~twelfth~~
18 FOURTEENTH Tuesday preceding the August primary. ~~The provisions~~
19 ~~of this~~ THIS section ~~do~~ DOES not apply to a city that does not
20 nominate its officers under the provisions of this act.

21 Sec. 624. (1) A person holding a public office in this
22 state or a municipal subdivision of this state may become a can-
23 didate for delegate to the county or district conventions.

24 (2) A candidate for delegate to the county or district con-
25 ventions of a political party shall be a qualified and registered
26 elector residing within, as well as having his or her actual bona
27 fide residence within, the election precinct for which he or she

1 desires to become a candidate. A candidate shall file an
2 affidavit of identity as prescribed in section 558(1) with the
3 county clerk of the county or the clerk of the city or township
4 in which the candidate resides. A clerk shall receive affidavits
5 of identity under this section up to 4 p.m. on the ~~twelfth~~
6 FOURTEENTH Tuesday preceding the time designated for holding a
7 primary election in the county. Within 4 days after the last day
8 for filing affidavits of identity under this section, the city or
9 township clerk shall forward to the county clerk the affidavit of
10 identity of each candidate who has qualified for a position on
11 the primary ballot. All duly elected and certified delegates
12 shall be seated at the county or district county conventions. A
13 person violating this section is guilty of a misdemeanor.

14 (3) If a written complaint is made to the county clerk with
15 respect to the registration or bona fide residence, or both, of a
16 candidate, the county clerk shall check with the township or city
17 clerk of the township or city in which the candidate is regis-
18 tered or residing, or both. The township or city clerk shall
19 report back to the county clerk within 48 hours as to the regis-
20 tration or bona fide residence, or both, of the candidate. If
21 the township or city clerk's report shows that the candidate is
22 not a registered elector or a bona fide resident of the election
23 precinct of the township or city for which the petition shows the
24 candidate is a resident, the county clerk shall remove the name
25 of the candidate from the ballot. A complaint received by the
26 county clerk after the ballots have been released for printing
27 and before the primary election shall not be acted upon.

1 Sec. 644f. (1) Except as provided in section 644e,
2 nominating petitions for offices to be filled at the odd year
3 general election shall be filed by 4 p.m. on the ~~twelfth~~
4 FOURTEENTH Tuesday ~~prior to~~ BEFORE the odd year primary
5 election. The place of filing and the number of signatures shall
6 be the same as is now required by law for such offices.

7 (2) If no nonpartisan petition requirement is contained in
8 law or charter, the minimum number of signatures shall be 1/2 of
9 1% of the vote for secretary of state in the election district at
10 the last election at which a secretary of state was elected, but
11 in no case less than 10 signatures.

12 (3) If, upon the expiration of the time for filing nonparti-
13 san petitions, not more than twice the number of candidates as
14 there are persons to be elected to that office have filed, the
15 primary for that office shall not be held and those persons
16 filing valid petitions shall be declared the nominees for the
17 offices, unless a city charter provides otherwise for city
18 offices.