

SUBSTITUTE FOR
HOUSE BILL NO. 5055

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 558, 826, 845, and 933 (MCL 168.558,
168.826, 168.845, and 168.933), sections 558 and 933 as amended
by 1997 PA 137 and section 826 as amended by 1995 PA 261.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 558. (1) ~~A candidate~~ WHEN filing A nominating
2 ~~petitions or a~~ PETITION, filing fee, OR AN AFFIDAVIT OF CANDI-
3 DACY, OR WITHIN 1 BUSINESS DAY OF BEING NOMINATED BY A POLITICAL
4 PARTY CONVENTION OR CAUCUS, for a county, state, national, city,
5 township, village, or school district office in any election, ~~at~~
6 ~~the time of filing the nominating petitions or filing fee,~~ A
7 CANDIDATE shall file with the officer with whom the petitions or
8 fee is filed 2 copies of an affidavit. The affidavit shall
9 contain the candidate's name; address; ward and precinct where

HB5055, As Passed House, November 9, 1999

House Bill No. 5055

2

1 registered, if qualified to vote at that election; a statement
2 that the candidate is a citizen of the United States; number of
3 years of residence in the state and county; other information
4 that may be required to satisfy the officer as to the identity of
5 the candidate; A STATEMENT THAT, AS OF THE DATE OF THE AFFIDAVIT,
6 ALL STATEMENTS, REPORTS, LATE FILING FEES, AND FINES REQUIRED OF
7 THE CANDIDATE OR ANY CANDIDATE COMMITTEE ORGANIZED TO SUPPORT THE
8 CANDIDATE'S ELECTION UNDER THE MICHIGAN CAMPAIGN FINANCE ACT,
9 1976 PA 388, MCL 169.201 TO 169.282, HAVE BEEN FILED OR PAID; and
10 a statement that the candidate acknowledges that making a false
11 statement in the affidavit is perjury, punishable by a fine up to
12 \$1,000.00 or imprisonment for up to 5 years, or both. If a can-
13 didate files the affidavit with an officer other than the county
14 clerk or secretary of state, the officer shall immediately for-
15 ward to the county clerk 1 copy of the affidavit by first class
16 mail. The county clerk shall immediately forward 1 copy of the
17 affidavit for state and national candidates to the secretary of
18 state by first class mail. An officer shall not certify to the
19 board of election commissioners the name of a candidate who fails
20 to comply with this section.

21 (2) If petitions or filing fees are filed by or in behalf of
22 a candidate for more than 1 office, either national, state,
23 county, city, village, township, or school district, the terms of
24 which run concurrently or overlap, the candidate so filing, or in
25 behalf of whom petitions or fees were so filed, shall select the
26 1 office to which his or her candidacy is restricted within 3
27 days after the last day for the filing of petitions or filing

HB5055, As Passed House, November 9, 1999

House Bill No. 5055

3

1 fees unless the petitions or filing fees are filed for 2 offices
2 that are combined or for offices that are not incompatible.
3 Failure to make the selection disqualifies a candidate with
4 respect to any office for which petitions or fees were so filed
5 and the name of the candidate shall not be printed upon the
6 ballot for those offices. A vote cast for that candidate at the
7 primary or general election ensuing shall not be counted and is
8 void.

9 Sec. 826. (1) Except as otherwise provided in this subsec-
10 tion, the board of county canvassers shall determine and declare
11 the result of the election for county and local officers, and for
12 all county and local ballot questions. If a city or township has
13 more than 5 precincts, the board of city or township canvassers
14 shall canvass votes for city or township officers and ballot
15 questions. If a state senatorial or representative district is
16 located solely within 1 county, the board of county canvassers
17 shall determine and declare the result of the election for that
18 office. Upon making the determination under this subsection, the
19 board of county canvassers shall prepare a certificate of deter-
20 mination and deliver the properly certified certificate of deter-
21 mination to the county clerk. ~~In addition, if~~ IF the determi-
22 nation relates to a state senatorial or representative district
23 located solely within 1 county, the board of county canvassers
24 shall ALSO deliver the properly certified certificate of determi-
25 nation to the board of state canvassers.

26 (2) Upon receipt of a properly certified certificate of
27 determination from a board of county canvassers pursuant to

HB5055, As Passed House, November 9, 1999

House Bill No. 5055

4

1 subsection (1), the county clerk shall file the certificate in
2 his or her office. The county clerk may cause a statement of the
3 total county or district votes cast for the various candidates
4 and the total vote cast for and against the various ballot ques-
5 tions at the election to be published in at least 1 newspaper
6 printed or circulated in that county. The county clerk shall
7 immediately execute and deliver to the persons declared elected,
8 a properly certified certificate of election.

9 (3) EACH ELECTED CANDIDATE WHO HAS BEEN ISSUED A CERTIFICATE
10 OF ELECTION UNDER SUBSECTION (2) SHALL FILE AN AFFIDAVIT WITH THE
11 COUNTY CLERK. ALL OF THE FOLLOWING APPLY TO THE AFFIDAVIT:

12 (A) THE AFFIDAVIT SHALL CERTIFY THAT, AS OF THE DATE OF THE
13 AFFIDAVIT, ALL STATEMENTS, REPORTS, LATE FILING FEES, AND FINES
14 REQUIRED OF THE CANDIDATE OR ANY CANDIDATE COMMITTEE ORGANIZED TO
15 SUPPORT THE CANDIDATE'S ELECTION UNDER THE MICHIGAN CAMPAIGN
16 FINANCE ACT, 1976 PA 388, MCL 169.201 TO 169.282, HAVE BEEN FILED
17 OR PAID.

18 (B) THE AFFIDAVIT SHALL BE FILED WITH THE COUNTY CLERK
19 BEFORE THE ELECTED CANDIDATE ASSUMES OFFICE.

20 (C) THE AFFIDAVIT SHALL BE ON A FORM PRESCRIBED BY THE SEC-
21 RETARY OF STATE AND SHALL INCLUDE A STATEMENT THAT THE CANDIDATE
22 ACKNOWLEDGES THAT MAKING A FALSE STATEMENT IN THE AFFIDAVIT IS
23 PERJURY PUNISHABLE BY A FINE OF UP TO \$1,000.00 OR IMPRISONMENT
24 FOR UP TO 5 YEARS, OR BOTH.

25 (D) AN AFFIDAVIT IS NOT REQUIRED OF ANY CANDIDATE WHOSE CAN-
26 DIDATE COMMITTEE DID NOT RECEIVE OR EXPEND MORE THAN \$1,000.00
27 DURING THE ELECTION CYCLE.

HB5055, As Passed House, November 9, 1999

House Bill No. 5055

5

1 (E) FAILURE TO FILE THE AFFIDAVIT IF REQUIRED IS A
2 MISDEMEANOR PUNISHABLE BY A FINE OF UP TO \$500.00 OR IMPRISONMENT
3 FOR UP TO 93 DAYS, OR BOTH. MAKING A FALSE STATEMENT IN THE
4 AFFIDAVIT IS PERJURY PUNISHABLE BY A FINE OF UP TO \$1,000.00 OR
5 IMPRISONMENT FOR UP TO 5 YEARS, OR BOTH.

6 Sec. 845. (1) The members of the board of state canvassers
7 shall certify as to the correctness of the statement provided for
8 in section 844 and subscribe their names ~~thereto; and they~~ TO
9 THE STATEMENT. THE MEMBERS OF THE BOARD OF STATE CANVASSERS
10 shall determine which persons have been duly elected to each
11 office and which constitutional amendments and propositions, if
12 any, have been approved or rejected. The board shall certify the
13 determinations and deliver the statement and certificate of
14 determinations to the secretary of state. ~~, who~~ THE SECRETARY
15 OF STATE shall file and preserve the ~~same in his office and~~
16 ~~without delay~~ STATEMENT AND CERTIFICATE OF DETERMINATIONS IN HIS
17 OR HER OFFICE AND SHALL IMMEDIATELY execute and ~~cause to be~~
18 ~~delivered~~ DELIVER a certificate of election to each person
19 elected. If the secretary of state has received notice prior to
20 the certificate of determinations being issued that the person to
21 whom the certificate of election is to be issued died, withdrew
22 from the district, was declared legally incapacitated by a court
23 having jurisdiction, or submitted to the secretary of state an
24 affidavit declaring that person's intention to refuse the certifi-
25 cate of election, then the SECRETARY OF STATE SHALL NOT ISSUE A
26 certificate of election ~~shall not be issued~~ and the office
27 shall be declared vacant as of the commencement of the term of

HB5055, As Passed House, November 9, 1999

House Bill No. 5055

6

1 office to which that person would otherwise have been elected.
2 The secretary of state shall also ~~cause~~ PUBLISH any amendment
3 to the constitution which has been approved and ratified ~~to be~~
4 ~~published~~ with the laws enacted by the legislature at its next
5 succeeding session.

6 (2) EACH ELECTED CANDIDATE WHO HAS BEEN ISSUED A CERTIFICATE
7 OF ELECTION UNDER SUBSECTION (1) SHALL FILE AN AFFIDAVIT WITH THE
8 SECRETARY OF STATE. ALL OF THE FOLLOWING APPLY TO THE
9 AFFIDAVIT:

10 (A) THE AFFIDAVIT SHALL CERTIFY THAT, AS OF THE DATE OF THE
11 AFFIDAVIT, ALL STATEMENTS, REPORTS, LATE FILING FEES, AND FINES
12 REQUIRED OF THE PERSON OR ANY CANDIDATE COMMITTEE ORGANIZED TO
13 SUPPORT THE PERSON'S ELECTION UNDER THE MICHIGAN CAMPAIGN FINANCE
14 ACT, 1976 PA 388, MCL 169.201 TO 169.282, HAVE BEEN FILED OR
15 PAID.

16 (B) THE AFFIDAVIT SHALL BE FILED WITH THE SECRETARY OF STATE
17 BEFORE THE ELECTED PERSON ASSUMES OFFICE.

18 (C) THE AFFIDAVIT SHALL BE ON A FORM PRESCRIBED BY THE SEC-
19 RETARY OF STATE AND SHALL INCLUDE A STATEMENT THAT THE ELECTED
20 PERSON ACKNOWLEDGES THAT MAKING A FALSE STATEMENT IN THE AFFIDA-
21 VIT IS PERJURY PUNISHABLE BY A FINE OF UP TO \$1,000.00 OR IMPRIS-
22 ONMENT FOR UP TO 5 YEARS, OR BOTH.

23 (D) AN AFFIDAVIT IS NOT REQUIRED OF ANY ELECTED PERSON WHOSE
24 CANDIDATE COMMITTEE DID NOT RECEIVE OR EXPEND MORE THAN \$1,000.00
25 DURING THE ELECTION CYCLE.

26 (E) FAILURE TO FILE THE AFFIDAVIT IF REQUIRED IS A
27 MISDEMEANOR PUNISHABLE BY A FINE OF UP TO \$500.00 OR IMPRISONMENT

HB5055, As Passed House, November 9, 1999

House Bill No. 5055

7

1 FOR UP TO 93 DAYS, OR BOTH. MAKING A FALSE STATEMENT IN THE
2 AFFIDAVIT IS PERJURY PUNISHABLE BY A FINE OF UP TO \$1,000.00 OR
3 IMPRISONMENT FOR UP TO 5 YEARS, OR BOTH.

4 Sec. 933. A person who makes a false affidavit or swears
5 falsely while under oath UNDER SECTION 826(3) OR for the purpose
6 of securing registration, for the purpose of voting at an elec-
7 tion, or for the purpose of qualifying as a candidate for elec-
8 tive office under section 558 is guilty of perjury.