



HOUSE BILL No. 5064

October 27, 1999, Introduced by Rep. Bishop and referred to the Committee on Constitutional Law and Ethics.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 31, 476, 552, 961a, and 963 (MCL 168.31, 168.476, 168.552, 168.961a, and 168.963), section 31 as amended by 1998 PA 215, section 552 as amended by 1990 PA 7, and sections 961a and 963 as amended by 1982 PA 456.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 31. (1) The secretary of state ~~in addition to other~~
2 ~~powers and duties conferred upon him or her has the power and it~~
3 ~~is his or her duty to~~ SHALL do all of the following:

4 (a) ~~To prepare rules, regulations, and instructions~~
5 SUBJECT TO SUBSECTION (2), ISSUE INSTRUCTIONS AND PROMULGATE
6 RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969
7 PA 306, MCL 24.201 TO 24.328, for the conduct of elections and
8 registrations in accordance with the laws of this state.

1 (b) ~~To advise~~ ADVISE and direct local election officials
2 as to the proper methods of conducting elections.

3 (c) ~~To publish~~ PUBLISH and furnish for the use in each
4 election precinct before each state primary and election a manual
5 of instructions that includes specific instructions on assisting
6 voters in casting their ballots, directions on the location of
7 voting stations in polling places, procedures and forms for pro-
8 cessing challenges, and procedures on prohibiting campaigning in
9 the polling places as prescribed in this act.

10 (d) ~~To publish~~ PUBLISH indexed pamphlet copies of the reg-
11 istration, primary, and election laws and ~~to~~ furnish to the
12 various county, city, township, and village clerks a sufficient
13 number of copies for their own use and to enable them to include
14 1 copy with the election supplies furnished each precinct board
15 of election inspectors under their respective jurisdictions. ~~—~~
16 ~~and the~~ THE secretary of state may furnish single copies of the
17 publications to organizations or individuals who request the same
18 for purposes of instruction or public reference.

19 (e) ~~To prescribe~~ PRESCRIBE and require uniform forms,
20 notices, and supplies the secretary of state considers advisable
21 for use in the conduct of elections and registrations.

22 (f) ~~To prepare~~ PREPARE the form of ballot for any proposed
23 amendment to the constitution or proposal under the initiative or
24 referendum provision of the constitution to be submitted to the
25 voters of this state.

26 (g) ~~To require~~ REQUIRE reports from the local election
27 officials the secretary of state considers necessary.

1 (h) ~~To investigate~~ INVESTIGATE, or cause to be
2 investigated by local authorities, the administration of election
3 laws, and ~~to~~ report violations of the election laws and regula-
4 tions to the attorney general or prosecuting attorney, or both,
5 for prosecution.

6 (i) ~~To publish~~ PUBLISH in the legislative manual the vote
7 for governor and secretary of state by townships and wards and
8 the vote for members of the state legislature cast at the preced-
9 ing November election, which shall be returned to the secretary
10 of state by the county clerks on or before the first day of
11 December following the election. ~~It is also the duty of all~~
12 ~~clerks to~~ ALL CLERKS SHALL furnish to the secretary of state,
13 promptly and without compensation, any further information
14 requested of them to be used in the compilation of the
15 LEGISLATIVE manual.

16 (j) ~~To establish~~ ESTABLISH a curriculum for comprehensive
17 training and accreditation of all county, city, township, vil-
18 lage, and school elections officials.

19 (k) ~~To establish~~ ESTABLISH and require attendance by all
20 new appointed or elected election officials at an initial course
21 of instruction within 6 months before the date of the election.

22 (l) ~~To establish~~ ESTABLISH a comprehensive training cur-
23 riculum for all precinct inspectors.

24 (m) ~~To create~~ CREATE an election day dispute resolution
25 team that has regional representatives of the department of
26 state, which team shall appear on site, if necessary.

1 (2) PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
2 1969 PA 306, MCL 24.201 TO 24.328, THE SECRETARY OF STATE MAY
3 PROMULGATE RULES ESTABLISHING UNIFORM STANDARDS FOR BOTH OF THE
4 FOLLOWING:

5 (A) STATE AND LOCAL NOMINATING, RECALL, AND BALLOT QUESTION
6 PETITION SHEETS. THE STANDARDS MAY INCLUDE, BUT NEED NOT BE
7 LIMITED TO, STANDARDS FOR PETITION SHEET HEADINGS AND
8 CIRCULATORS' CERTIFICATES.

9 (B) STATE AND LOCAL NOMINATING, RECALL, AND BALLOT QUESTION
10 PETITION SIGNATURES. THE STANDARDS FOR PETITION SIGNATURES MAY
11 INCLUDE, BUT NEED NOT BE LIMITED TO, STANDARDS FOR ALL OF THE
12 FOLLOWING:

13 (i) DETERMINING THE VALIDITY OF REGISTRATION OF A CIRCULATOR
14 OR INDIVIDUAL SIGNING A PETITION.

15 (ii) DETERMINING THE GENUINENESS OF THE SIGNATURE OF A CIR-
16 CULATOR OR INDIVIDUAL SIGNING A PETITION.

17 (iii) PROPER DESIGNATION OF THE PLACE OF REGISTRATION OF A
18 CIRCULATOR OR INDIVIDUAL SIGNING A PETITION.

19 Sec. 476. (1) Upon receipt of ~~said~~ THE petitions, ~~said~~
20 ~~board~~ THE BOARD OF STATE CANVASSERS shall canvass the ~~same~~
21 PETITIONS to ascertain if ~~such~~ THE petitions have been signed
22 by the requisite number of qualified and registered electors. ~~—~~
23 ~~and for the purpose of determining the validity thereof,~~ THE
24 BOARD may cause any doubtful signatures to be checked against the
25 registration records by the clerk of any political subdivision in
26 which ~~said~~ THE petitions were circulated, ~~for properly~~
27 ~~determining~~ TO DETERMINE the authenticity of ~~such~~ THE

1 signatures. ~~It shall be the duty of~~ UPON REQUEST, the clerk of
2 any political subdivision ~~to~~ SHALL cooperate fully with ~~said~~
3 THE board ~~in any request made to said clerks by said board~~ in
4 determining the validity of doubtful signatures by rechecking the
5 ~~same~~ SIGNATURE against registration records ~~, and said clerk~~
6 ~~shall make the requested rechecks~~ in an expeditious and proper
7 manner. ~~Said~~

8 (2) THE board OF STATE CANVASSERS may hold hearings upon any
9 complaints filed or for any purpose ~~deemed~~ CONSIDERED necessary
10 by ~~said~~ THE board to conduct investigations of ~~said~~ THE
11 petitions. ~~, and to conduct said hearings said board shall have~~
12 ~~the power to~~ TO CONDUCT A HEARING, THE BOARD MAY issue subpoenas
13 and ~~to~~ administer oaths. ~~Said~~ THE board may also adjourn
14 from time to time awaiting receipt of returns from investigations
15 that are being made or for other necessary purposes, but shall
16 complete ~~said~~ THE canvass at least 2 months ~~prior to~~ BEFORE
17 the election at which ~~such proposals are~~ THE PROPOSAL IS to be
18 submitted.

19 (3) IF A PERSON HAS FILED A COMPLAINT WITH THE BOARD OF
20 STATE CANVASSERS ABOUT THE VALIDITY OF THE REGISTRATION OR THE
21 GENUINENESS OF THE SIGNATURE OF A CIRCULATOR OR PERSON SIGNING
22 THE PETITIONS, THE BOARD SHALL NOTIFY THE COMPLAINANT IN WRITING
23 OF THE BOARD'S DETERMINATION AS TO THE MATTER COMPLAINED OF AT
24 LEAST 1 WEEK BEFORE THE BOARD MAKES ITS OFFICIAL DECLARATION OF
25 THE SUFFICIENCY OR INSUFFICIENCY OF THE PETITIONS UNDER SECTION
26 477. THE NOTICE SHALL INCLUDE DETAILED FINDINGS ON WHICH THE
27 BOARD BASED ITS DETERMINATION.

1 Sec. 552. (1) The county or city clerk, after the last day
2 ~~named~~ SPECIFIED in this act for receiving and filing nominating
3 petitions, shall immediately certify to the proper board or
4 boards of election commissioners in the city, county, district,
5 or state the name and post office address of each party candidate
6 whose petitions meet the requirements of this act, together with
7 the name of the political party and the office for which he or
8 she is a candidate.

9 (2) If the county clerk receives a sworn complaint, in writ-
10 ing, questioning the validity of the registration or genuineness
11 of the signature of the circulator or of a person signing a peti-
12 tion filed with the county clerk for an office, the county clerk
13 shall commence an investigation and shall cause the petition that
14 he or she considers necessary to be forwarded to the proper city
15 clerk or township clerk to compare the signatures appearing on
16 the petition with the signatures appearing on the registration
17 record, or in some other proper manner determine whether the sig-
18 natures appearing on the petition are valid and genuine. If the
19 request has been made by the county clerk, the city clerk or
20 township clerk shall complete the investigation and report his or
21 her findings to the county clerk within 7 days after the
22 request. The investigation shall include the validity of the
23 signatures and the genuineness of a petition as is specified in
24 the sworn complaint and may include any other doubtful signatures
25 or petitions filed on behalf of the candidate against whose peti-
26 tions the sworn complaint is directed, as the county clerk
27 considers necessary. A complaint respecting the validity and

1 genuineness of signatures on a petition shall not be acted upon
2 unless the complaint sets forth the specific signatures claimed
3 to be invalid and the specific petition for which the complaint
4 questions the validity and genuineness of the signature or regis-
5 tration of the circulator, and unless the complaint is received
6 by the county clerk within 7 days after the ~~statutory date~~
7 DEADLINE for the filing of the nominating petitions.

8 (3) In addition to the duty specified in subsection (2) for
9 the examination of petitions, the county clerk, on his or her own
10 initiative, on receipt of the nominating petitions, may examine
11 the petitions, and if after examination the county clerk is in
12 doubt as to the validity of the registration or genuineness of
13 the signature of the circulator or persons signing or
14 ~~purporting~~ PURPORTED to ~~sign~~ HAVE SIGNED the petitions, the
15 county clerk shall commence an investigation and shall cause the
16 petitions in question to be forwarded to the proper city clerk or
17 township clerk to compare the signatures appearing on the peti-
18 tions with the signatures appearing on the registration records,
19 or in some other proper manner to determine whether the signa-
20 tures appearing on the petitions are valid and genuine.

21 (4) The clerk of a political subdivision shall cooperate
22 fully with the county clerk in a request made to the clerk by the
23 county clerk in determining the validity of doubtful signatures
24 by checking the signatures against registration records in an
25 expeditious and proper manner.

26 (5) IF A PERSON HAS FILED A COMPLAINT WITH THE COUNTY CLERK
27 ABOUT THE VALIDITY OF THE REGISTRATION OR THE GENUINENESS OF THE

1 SIGNATURE OF A CIRCULATOR OR PERSON SIGNING THE PETITIONS, THE
 2 COUNTY CLERK SHALL NOTIFY THE COMPLAINANT IN WRITING OF THE
 3 COUNTY CLERK'S DETERMINATION AS TO THE MATTER COMPLAINED OF AT
 4 LEAST 1 WEEK BEFORE THE COUNTY CLERK MAKES ITS OFFICIAL DECLARA-
 5 TION OF THE SUFFICIENCY OR INSUFFICIENCY OF THE NOMINATING PETI-
 6 TIONS UNDER SUBSECTION (6). THE NOTICE SHALL INCLUDE DETAILED
 7 FINDINGS ON WHICH THE COUNTY CLERK BASED ITS DETERMINATION.

8 (6) ~~-(5)-~~ Upon the completion of the investigation or exami-
 9 nation, the county clerk shall immediately make an official dec-
 10 laration of the sufficiency or insufficiency of nominating peti-
 11 tions for which a sworn complaint has been received or of the
 12 sufficiency or insufficiency of nominating petitions that the
 13 county clerk has examined or investigated on his or her own
 14 initiative. A person feeling aggrieved by a determination made
 15 by the county clerk may have the determination reviewed by the
 16 secretary of state, ~~if~~ BY FILING A written request ~~is filed~~
 17 with the secretary of state within 3 days after the official dec-
 18 laration of the county clerk, unless the third day falls on a
 19 Saturday, Sunday, or legal holiday, in which case ~~appeal~~ THE
 20 REQUEST may be filed not later than 4 p.m. on the next day that
 21 is not a Saturday, Sunday, or legal holiday. ~~, or~~
 22 ALTERNATIVELY, THE AGGRIEVED PERSON may have the determination of
 23 the county clerk reviewed by filing a mandamus, certiorari, or
 24 other appropriate remedy in the circuit court. A person ~~having~~
 25 WHO filed a nominating petition ~~, feeling~~ AND FEELS aggrieved
 26 by the determination of the secretary of state ~~,~~ may then have

1 that determination reviewed by mandamus, certiorari, or other
2 appropriate remedy in the circuit court.

3 (7) ~~(6)~~ A city clerk with whom nominating petitions are
4 filed may examine the petitions and investigate the validity and
5 genuineness of signatures appearing on the petitions by checking
6 the signatures against registration records. The city clerk
7 shall make a determination as to the sufficiency or insufficiency
8 of the petitions upon the completion of the examination or inves-
9 tigation, and shall make an official declaration of the
10 findings. A party feeling aggrieved by the determination has the
11 same rights of review as in case of a determination by the county
12 clerk.

13 (8) ~~(7)~~ Upon the filing of ~~nomination~~ NOMINATING peti-
14 tions with the secretary of state, the secretary of state shall
15 notify the board of state canvassers within 5 days after the last
16 day for the filing of the petitions. The notification shall be
17 by first-class mail. Upon the receipt of the ~~nomination~~
18 NOMINATING petitions, the board of state canvassers shall canvass
19 the petitions to ascertain if the petitions have been signed by
20 the requisite number of qualified and registered electors and,
21 for the purpose of determining the validity of the signatures,
22 may cause a doubtful signature to be checked against the regis-
23 tration records by the clerk of a political subdivision in which
24 the petitions were circulated. If the board of state canvassers
25 receives a sworn complaint, in writing, questioning the validity
26 of the registration or genuineness of the signature of the
27 circulator or of a person signing a nominating petition filed

1 with the secretary of state, the board of state canvassers shall
2 commence an investigation and shall cause the petition to be for-
3 warded to the proper city clerk or township clerk to compare the
4 signatures appearing on the petition with the signatures appear-
5 ing on the registration record, or in some other manner determine
6 whether the signatures appearing on the petition are valid and
7 genuine. A complaint respecting the validity and genuineness of
8 signatures on a petition shall not be acted upon unless the com-
9 plaint sets forth the specific signatures claimed to be invalid
10 and the specific petition for which the complaint questions the
11 validity and genuineness of the signature or registration of the
12 circulator, and unless the complaint is received by the board of
13 state canvassers within 7 days after the ~~statutory date~~
14 DEADLINE for the filing of the nominating petitions. The clerk
15 of a political subdivision shall cooperate fully with the board
16 of state canvassers in a request made to the clerk by the board
17 of state canvassers in determining the validity of doubtful sig-
18 natures by rechecking the signatures against registration records
19 in an expeditious and proper manner.

20 (9) ~~(8)~~ The board of state canvassers may hold a hearing
21 upon a complaint filed or for a purpose considered necessary by
22 the board of state canvassers to conduct an investigation of the
23 petitions. In conducting a hearing, the board of state canvass-
24 ers may issue subpoenas and administer oaths. The board of state
25 canvassers may also adjourn periodically awaiting receipt of
26 returns from investigations that are being made or for other
27 necessary purposes, but shall complete the canvass not less than

1 9 weeks before the primary election at which candidates are to be
2 nominated.

3 (10) IF A PERSON HAS FILED A COMPLAINT WITH THE BOARD OF
4 STATE CANVASSERS ABOUT THE VALIDITY OF THE REGISTRATION OR THE
5 GENUINENESS OF THE SIGNATURE OF A CIRCULATOR OR PERSON SIGNING
6 THE PETITIONS, THE BOARD SHALL NOTIFY THE COMPLAINANT IN WRITING
7 OF THE BOARD'S DETERMINATION AS TO THE MATTER COMPLAINED OF AT
8 LEAST 1 WEEK BEFORE THE BOARD MAKES ITS OFFICIAL DECLARATION OF
9 THE SUFFICIENCY OR INSUFFICIENCY OF THE PETITIONS UNDER SUBSEC-
10 TION (11). THE NOTICE SHALL INCLUDE DETAILED FINDINGS ON WHICH
11 THE BOARD BASED ITS DETERMINATION.

12 (11) ~~(9)~~ An official declaration of the sufficiency or
13 insufficiency of a ~~nomination~~ NOMINATING petition shall be made
14 by the board of state canvassers not less than 9 weeks before the
15 primary election at which candidates are to be nominated. At the
16 time of filing a ~~nomination~~ NOMINATING petition with the secre-
17 tary of state, the person filing the petition may request a
18 notice of the approval or rejection of the petition. If such a
19 request is made at the time of filing of the petition, the secre-
20 tary of state, immediately upon the determination of approval or
21 rejection, shall transmit by registered mail to the person making
22 the request an official notice of the sufficiency or insuffi-
23 ciency of the petitions.

24 (12) ~~(10)~~ A person, having filed a ~~nomination~~ NOMINATING
25 petition with the secretary of state, feeling aggrieved by a
26 determination made by the board of state canvassers, may have the

1 determination reviewed by mandamus, certiorari, or other
2 appropriate remedy in the supreme court.

3 (13) ~~(11)~~ Not less than 9 weeks before the primary elec-
4 tion at which candidates are to be nominated, the secretary of
5 state shall certify to the proper boards of election commission-
6 ers in the various counties in the state, the name and post
7 office address of each partisan or nonpartisan candidate whose
8 petitions have been filed with the secretary of state and meet
9 the requirements of this act, together with the name of the
10 political party, if any, and the office for which he or she is a
11 candidate.

12 Sec. 961a. (1) Not later than the business day following
13 the filing of a recall petition, the official with whom the
14 recall was filed shall notify in writing the officer whose recall
15 is sought that the recall petition has been filed.

16 (2) An officer whose recall is sought may challenge the
17 validity of ~~a signature or~~ the registration ~~of an elector~~
18 ~~whose name appears upon a~~ OR THE GENUINENESS OF THE SIGNATURE OF
19 A CIRCULATOR OR PERSON SIGNING THE recall petition. A challenge
20 shall be in writing, specifying the challenged signature, and
21 shall be delivered to the filing official within 30 days after
22 the filing of the petitions. The officer whose recall is sought
23 shall have not less than 8 days after the clerk has examined the
24 signatures to check signatures on the original registration
25 records.

26 (3) A challenged signature shall be compared with the
27 signature on the original registration record.

1 (4) IF AN OFFICER WHOSE RECALL IS SOUGHT HAS CHALLENGED THE
2 VALIDITY OF THE REGISTRATION OR THE GENUINENESS OF THE SIGNATURE
3 OF A CIRCULATOR OR PERSON SIGNING THE PETITIONS, THE FILING OFFI-
4 CIAL SHALL NOTIFY THE OFFICER IN WRITING OF THE FILING OFFICIAL'S
5 DETERMINATION AS TO THE MATTER COMPLAINED OF AT LEAST 1 WEEK
6 BEFORE THE FILING OFFICIAL MAKES HIS OR HER OFFICIAL DECLARATION
7 OF THE SUFFICIENCY OR INSUFFICIENCY OF THE PETITIONS UNDER SEC-
8 TION 963. THE NOTICE SHALL INCLUDE DETAILED FINDINGS ON WHICH
9 THE FILING OFFICIAL BASED HIS OR HER DETERMINATION.

10 Sec. 963. (1) ~~The filing official with whom the recall~~
11 ~~petition is filed shall determine, within~~ WITHIN 35 days after
12 the filing of the recall petition, the ~~sufficiency~~ FILING OFFI-
13 CIAL WITH WHOM THE RECALL PETITION IS FILED SHALL MAKE AN OFFI-
14 CIAL DECLARATION OF THE SUFFICIENCY OR INSUFFICIENCY of the
15 petition. If the recall petition is ~~found~~ DETERMINED to be
16 insufficient, the filing official shall notify the person or
17 organization sponsoring the recall of the insufficiency of the
18 petition. It ~~shall not be~~ IS NOT necessary to give notifica-
19 tion unless the person or organization sponsoring the recall
20 files with the filing official a written notice of sponsorship
21 and a mailing address.

22 (2) Immediately upon ~~ascertaining~~ DETERMINING that the
23 petition is sufficient, but not later than 35 days after the date
24 of filing of the petition, the county clerk with whom the peti-
25 tion is filed shall submit to the county election scheduling com-
26 mittee a proposed date for a special election to be held within
27 60 days after the submission to the county scheduling committee

1 to determine whether the electors will recall the officer whose
2 recall is sought.

3 (3) If a petition is filed under section 959, the officer
4 with whom the petition is filed shall not submit a proposed date
5 to the county election scheduling committee but shall call the
6 special election subject to the ~~same~~ time limitations set out
7 in this section.