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SFA

BILL ANALYSIS

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House Bill 5335 (Substitute H-2 as passed by the House)
Sponsor: Representative Andrew Richner
House Committee: Redistricting and Elections
Senate Committee: Government Operations

Date Completed: 2-1-02

CONTENT

The bill would amend the Michigan Election Law to do the following:

- Require a candidate to indicate on an affidavit of identity how the candidate wished his or her name to appear on the ballot and, except under certain circumstances, to indicate a name change.**
- Require that a candidate's given name and surname appear on a ballot, and provide that only those names could appear, unless an exception applied.**
- Limit the designations that could appear on a ballot if two or more candidates had the same or similar names.**
- Extend the time for appealing a determination of a request for a clarifying designation.**

Affidavit of Identity

The Act requires candidates for Federal, State, and local offices to file an affidavit containing specific information when filing a nominating petition, filing fee, or affidavit of candidacy. The bill would refer to the required affidavit as an "affidavit of identity". The bill specifies that this filing requirement would not apply to a candidate nominated for the office of President or Vice President of the United States.

In addition to the information that currently must be on an affidavit, the bill would require it to include the manner in which the candidate wished to have his or her name appear on the ballot; and a statement that the candidate either was or was not presently using a name, whether a given name, a surname, or otherwise, that was not a name he or she had been given at birth. A candidate who was using such a name would have to include his or her full former name on the affidavit.

The bill's requirement to indicate a name change would not apply if the name in question were one of the following:

- Formally changed at least 10 years before the person filed as a candidate.
- Changed in a certificate of naturalization issued by a Federal district court when the individual became a naturalized citizen at least 10 years before filing.
- Changed because of marriage.
- Changed because of divorce, but only if changed to a legal name by which the individual was previously known.

The bill would repeal Section 557 of the Michigan Election Law, which contains similar provisions. Under this section, nominating petitions may not be filed unless a candidate also files an affidavit relative to any change that may have been made in his or her name. If the affidavit or the candidate's birth certificate or record discloses that the name used in the nominating petition is other than his or her birth name, the petition may not be filed unless it states both names of the candidate. Also, both names must be printed on the ballot. Section 557 does not apply to a candidate whose name was formally changed at least 12 years before a nominating petition is filed, or whose name change was included in a certificate of naturalization and who has lived in this State for at least 10 years after the naturalization.

Candidates' Names on Ballots

Under the bill, a candidate who would be required to indicate a name change on the affidavit of identity, as provided above, would have to be listed on the ballot with his or her current name and former name, as prescribed by the Secretary of State.

Both a candidate's given name and surname that he or she was given at birth, and only those names, could appear on the ballot, unless 1) the name in question, whether a given name, a surname, or otherwise, was a name that was formally changed; 2) the candidate was required to indicate a name change on the affidavit of identity, or 3) the name in question, whether a given name, a surname, or otherwise, was one of the following:

- A name that was changed in a certificate of naturalization issued by a Federal district court when the individual became a naturalized citizen at least 10 years before filing as a candidate.
- A name that was changed because of marriage.
- A name that was changed because of divorce, but only if changed to a legal name by which the individual was previously known.

(The bill would define "name that was formally changed" as a name changed by a proceeding under Chapter 11 of the Probate Code of 1939 or former Public Act 314 of 1915, or through a similar, statutorily sanctioned procedure under the law of another state or country.)

A candidate could specify, however, that both his or her given name and middle name, or only a middle name, would appear on the ballot. A candidate also could specify that either an initial or a recognized diminutive for his or her given or middle name, or for both, would appear on the ballot.

The bill would prohibit a candidate from specifying that a nickname that was not a recognized diminutive of his or her given name or middle name appear on the ballot. A married individual could not specify that his or her spouse's given name, or an alternative for that given name otherwise permitted under the bill, appear on the ballot.

A ballot that would violate these provisions could not be produced, printed, or distributed.

Currently, the Election Law provides that a candidate's name must be printed showing the given name or abbreviation or initials of the given name of the candidate, and, in the case of a married woman, may not be printed showing the husband's given name. The bill would delete these provisions.

Clarifying Designation

Under the Election Law, a candidate may file a request with the board of county election commissioners for a clarifying designation if, in a district that is a county or entirely within one

county, two or more candidates for the same office have the same or similar surnames. The board then must determine whether a similarity exists and whether a clarifying designation should be granted. In a district located in more than one county, the Board of State Canvassers must determine whether to grant a clarifying designation upon the request of a candidate who files nominating petitions with the Secretary of State.

The State or county board must notify the requester and the other candidate of its determination within 24 hours of the final date for the determination (which is three days after the request was filed). The bill also would require the board immediately to notify the other candidate that a request had been made.

A candidate who is dissatisfied with the determination of the board of county election commissioners may file an appeal in the circuit court of that county, and a candidate who is dissatisfied with the determination of the Board of State Canvassers may file an appeal in the Ingham County Circuit Court. The appeal must be filed within seven days after the final date for determination. The bill would extend that to 14 days.

Under the bill, if there were two candidates with the same or similar names and one of the candidates were entitled to an incumbency designation by Article 6, Section 24 of the State Constitution, no other designation could be provided for the other candidate. If there were more than two candidates with the same or similar names and one of them were entitled to an incumbency designation, a clarifying designation could be given to the other candidates with the same or similar surname. Except for an incumbency designation, if two or more candidates with the same or similar surnames were related (within the third degree of consanguinity), the board could print only the residence or date of birth of each of the candidates as a clarifying designation.

(Under Article 6, Section 24, the designation of the office must be printed on the ballot under the name of each incumbent justice or judge who is a candidate for nomination or election to the same office.)

MCL 168.2 et al.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: J. Runnels

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.