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Senate Bills 973 through 976 (as introduced 1-24-06)

Sponsor: Senator Bev Hammerstrom (S.B. 973)

Senator Wayne Kuipers (S.B. 974)

Senator Michael D. Bishop (S.B. 975)

Senator Alan L. Cropsey (S.B. 976)

Committee: Government Operations

Date Completed: 1-31-06

CONTENT

The bills would amend the Michigan Election Law to transfer from the Board of State Canvassers to the State Elections Director responsibilities for canvassing petitions to determine the validity and sufficiency of signatures; performing other constitutional duties concerning ballot petitions; and holding hearings on complaints or to investigate signatures. The bills also would delete requirements for the Board to approve ballot statements prepared by the Elections Director.

The bills are tie-barred to each other and to three bills that have not yet been introduced.

Senate Bill 973

The Election Law requires the Elections Director, with the approval of the Board of State Canvassers, to prepare a statement for the ballot of any proposed amendment or question to be submitted to the voters under Article XII, Section 2 of the State Constitution (which establishes the right of the voters to propose constitutional amendments by petition).

The bill would delete the requirement for approval by the Board of State Canvassers.

The bill also would require the State Elections Director to perform other duties as prescribed by the Election Law. Currently, the Director is required to perform the duties of the Secretary of State under his or her supervision with respect to the supervision and administration of the election laws.

Senate Bill 974

Article II, Section 9 of the State Constitution provides for the power of the people to propose laws and to enact laws (the "initiative") and the power to approve or reject laws enacted by the Legislature (the "referendum"). As noted above, Article XII, Section 2 provides for the right of the voters to propose constitutional amendments by petition. Both sections mandate responsibilities for "the state officer authorized by law" or "the person authorized by law".

The Election Law states that those phrases mean the Board of State Canvassers, and requires the Board to exercise the duties prescribed in the constitutional provisions. Under

the bill, the phrases would mean the State Elections Director, who would have to exercise the duties prescribed in the constitutional provisions.

Under the Election Law, it is the duty of the State Elections Director, with the approval of the Board of State Canvassers, to prepare a statement of purpose of any proposed amendment or question to be designated on the ballot for submission to the electors. The bill would delete the requirement for the Board's approval.

Senate Bill 975

The bill would require the State Elections Director, rather than the Board of State Canvassers, to assign a number designation to appear on the ballot for each question to be submitted on a statewide basis.

Senate Bill 976

Under the Election Law, when the Secretary of State receives petitions for a statewide vote under Article II, Section 9, or Article XII, Section 2 of the Constitution, he or she is required to notify the Board of State Canvassers. Upon receiving the notification, the Board must canvass the petitions to determine whether they have been signed by the requisite number of qualified and registered voters. If the Board cannot verify the genuineness of a petition signature using the digitized signature contained in the qualified voter file, the Board may have the signature checked against the registration records of the clerk of a political subdivision where the petitions were circulated. The clerk is required to cooperate fully with the Board.

Under the bill, the State Elections Director would have to canvass the petitions and could check doubtful signatures against local registration records, and the clerk of a political subdivision would have to cooperate with the Elections Director.

The Election Law authorizes the Board of State Canvassers to hold hearings upon any complaints filed or for any purpose considered necessary by the Board to investigate the petitions. To conduct a hearing, the Board may issue subpoenas and administer oaths. The bill would transfer to the Elections Director the authority to hold hearings. The Elections Director also could issue subpoenas and administer oaths with the approval of the Board.

Currently, at least two business days before the Board of State Canvassers meets to make a final determination on challenges to and the sufficiency of a petition, the Elections Bureau must make public its staff report concerning the disposition of challenges filed against the petition. Beginning with the receipt of any document from local election officials (to authenticate signatures or verify registrations), the Board must make that document available to petitioners and challengers on a daily basis. The bill would refer in these provisions to the State Elections Director, rather than the Board.

MCL 168.32 (S.B. 973)
168.474 (S.B. 974)
168.474a (S.B. 975)
168.476 (S.B. 976)

BACKGROUND

Article II, Section 7 of the State Constitution requires a Board of State Canvassers to be formed, and governs the Board's membership. The section states: "A board of state canvassers of four members shall be established by law...A majority of any board of canvassers shall not be composed of members of the same political party.

Under the Michigan Election Law, the Board members are appointed by the Governor with the advice and consent of the Senate. The Board must consist of two members from each major political party, selected by the Governor from a list of three names submitted by each party's State central committee. If a party's State central committee fails to submit names within the time allowed, the Governor must appoint an individual who was formerly elected as a State officer of the party and is presently affiliated with it. A Board member's term of office is four years.

Three members of the Board constitute a quorum, and an action of the Board is effective only if at least one member of each major political party concurs in the action.

The Board's role in certifying petitions for statewide ballot proposals originates from Article II, Section 9, and Article XII, Section 2 of the State Constitution (described above), although neither section refers to the Board itself. Article XII, Section 2 includes the following language:

Such petitions [proposing amendments to the Constitution] shall be filed with *the person authorized by law* to receive the same...Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. *The person authorized by law* to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official statement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon...

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment...Such statement of purpose and caption shall be prepared by *the person authorized by law*, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment. [Emphasis added.]

Under Article II, Section 9, if a law is proposed by initiative petition, the Legislature must enact or reject it. If the Legislature does not enact the law, "*the state officer authorized by law* shall submit such proposed law to the people for approval or rejection at the next general election" (emphasis added).

As noted above, the Michigan Election Law states that the terms "the state officer authorized by law" and "the person authorized by law", as used in these provisions, mean the Board of State Canvassers.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have a minimal impact on State government and no impact on local units of government. Members of the Board of State Canvassers are entitled to necessary expenses and receive a per diem of \$75.

Fiscal Analyst: Bill Bowerman

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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.