

Legislative Analysis



CAMPAIGN FINANCE FILING REQUIREMENTS; APPROVAL OF PETITIONS BEFORE CIRCULATION

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House Bills 5059 & 5063

Sponsor: Rep. Sharon Tyler

Committee: Redistricting and Elections

Complete to 1-23-12

A SUMMARY OF HOUSE BILLS 5059 AND 5063 AS INTRODUCED 10-12-11

House Bill 5063 would require that a petition proposing an amendment to the State Constitution or to initiate legislation by initiative and referendum be approved by the Board of State Canvassers prior to its circulation. The bill provides a process for this approval, which would involve the preparation of a report by the state's director of elections. The bill also repeals three sections of the Michigan Election Law (as described later).

House Bill 5059 would modify the campaign filing requirements for both ballot question and political party campaign committees.

House Bill 5059 is tie-barred to House Bill 5063, meaning that it could not take effect unless House Bill 5063 is also enacted into law. A more detailed description of each bill follows.

House Bill 5063

The bill would amend the Michigan Election Law (MCL 168.22e et al.) to require that the secretary of state certify the statement of the purpose of any proposed amendment or question to be submitted to the state's electors at least 60 days before the date of an election.

Under the bill, if a proposed constitutional amendment or other special question is to be submitted to the electors for popular vote, then the secretary of state, not less than 60 days before the date of the election, must certify the statement of the purpose for designation on the ballot to the clerk of each county, together with the form in which the constitutional amendment or other special questions are to be printed on the ballot. Now under the law, constitutional amendments or special questions are certified by the secretary of state 49 days before the election.

More specifically, the bill requires that a petition proposing an amendment to the constitution or to initiate legislation be submitted to the director of elections for review before being circulated. When submitted, the petition form must be accompanied by an affidavit executed by the printer who prepared the petition form, attesting that the type sizes used on the form comply with the type size requirements specified under Section 482 of the Michigan Election Law. Upon receipt of a petition, the director of elections

must determine whether the petition complies with all applicable formatting requirements. If a statement describing the subject matter of the proposal appears on the form, then the director of election must also determine whether the statement fairly reflects the subject matter of the proposal. The director of elections must then prepare a written report concerning the review of the petition form for presentation to the Board of State Canvassers. That written report must include a copy of the petition form, the affidavit submitted by the printer who prepared the form, the certification by the director of elections that the petition complies with the applicable formatting requirements, and if a statement describing the subject matter appears on the form, then certification by the elections director that the statement fairly reflects the subject matter of the proposal.

Under the bill, the Board of State Canvassers must meet within 30 days after the petition sponsor submits the petition to the director of elections, to receive the report prepared by the elections director, and to consider the approval of the petition form. If the elections director requested a revision of the petition during the course of the review process, then the Board of State Canvassers would be required to meet within 30 days after the petition sponsor submitted the final petition review requested by the elections director. The bill prohibits the Board of State Canvassers from meeting to consider the approval of the petition until the elections director certifies that the petition complies with the applicable formatting requirements and, if applicable, that the statement describing the subject matter fairly reflects the proposal.

The bill also specifies that if the Board of State Canvassers adopted a motion to approve the form of the petition, then the petition sponsor could proceed with circulating the petition. Any signatures affixed to the petition that were dated before the date the Board of State Canvassers approved the form would be invalid.

If the Board of State Canvassers adopted a motion not to approve the form of the petition, then the petition sponsor could not circulate the petition for the collection of signatures. Any signatures affixed to a petition not approved would be invalid. Under the bill, the motion made not to approve the form of the petition would have to specify the deficiencies identified in the petition form. The petition sponsor could correct the petition form and resubmit it to the director of elections for review and reconsideration. The Board of State Canvassers would then meet to consider the approval of the corrected petition within 30 days after the sponsor submitted it.

If the Board of State Canvassers failed to meet to receive the election director's report within the prescribed 30-day time period, or if the board met to receive the report within the 30-day time period but failed to approve or not approve the petition form, then the petition sponsor could proceed with circulating the petition. Any signatures affixed to the petition dated on or before the date when the 30-day time period elapsed or that were dated on or before the date the board met to receive the report would be invalid. If the petition form were subsequently used to submit a filing to the secretary of state, then the petition form would be subject to review and approval by the Board of State Canvassers as a part of the canvass of the petition for sufficiency.

Under the bill the substance of the proposal appearing on a petition submitted to the elections director would not be subject to review or consideration by the elections director or the Board of State Canvassers. If the petition contained a statement describing the subject matter of the proposal, the statement could not be subject to review or consideration by the Board of State Canvassers.

After a petition form was approved by the Board of State Canvassers, the petition could not be altered or modified in any way prior to or during the circulation of the petition, except for any tear-off sheets that provided for directory information.

The bill specifies that any person who felt aggrieved by a determination made by the elections director or the Board of State Canvassers relative to the form of a petition or the statement describing the subject matter of the proposal appearing on the petition, if any, could have the determination reviewed on appeal by the Michigan Court of Appeals on an expedited basis.

Repealers. House Bill 5063 would repeal three sections of the Michigan Election Law, as follows.

MCL 168.474 reads:

Sec. 474.

Wherever the phrases "the state officer authorized by law" or "the person authorized by law", are used in section 9 of article 2 or section 2 of article 12 of the constitution of this state, such phrases shall mean and have reference to the board of state canvassers and such board shall exercise the duties prescribed in such constitutional provisions. The preparing of a statement of the purpose of any such proposed amendment or question to be designated on the ballots for submission to the electors in not more than 100 words, exclusive of the caption, which said statement shall consist of a true and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against such proposal shall be the duty of the director of elections with the approval of the board of state canvassers.

MCL 168.649 reads:

Sec. 649.

Whenever a proposed constitutional amendment or other special question is to be submitted to the electors of the state for popular vote, the secretary of state shall, not less than 49 days before election, certify the same to the clerk of each county in the state and shall at the same time prescribe the form in which such amendment or other special question shall be submitted. Any city ordinance which has been or is hereafter adopted by the common council in a city of over 500,000 and which is subject to referendum shall be submitted to the people of that city at the next general election unless submitted to a special election by action of the common council.

MCL 168.707 reads:

Sec. 707.

(1) If a proposed constitutional amendment or other proposition is to be submitted to the electors of this state for popular vote, the secretary of state, not less than 49 days before the date of the election at which the proposed constitutional amendment or other proposition is to be submitted, shall certify to the various county clerks the form of ballots to be prepared in connection with the proposal. The ballot shall contain a statement of the proposed constitutional amendment or other proposition in 100 words or less, exclusive of caption, as provided in section 2 of article XII of the state constitution of 1963. The ballot shall be a single ballot separate and distinct from the ballots containing the names of candidates or nominees for public office. The ballot shall contain a suitable caption, under which shall be printed the words "yes" and "no" in

separate lines. Each board of county election commissioners shall print the ballots for use in their respective counties.

(2) A city ordinance that has been or is hereafter adopted by the legislative body of a city with a population of more than 500,000 and that is subject to referendum shall be submitted to the people of that city at the next general election unless submitted to a special election by action of the legislative body.

House Bill 5059

The bill would amend the Michigan Campaign Finance Act (MCL 169.203 et al) to modify the campaign finance filing requirements for ballot question and political party committees.

Campaign Filing Schedules

House Bill 5059 would require that a political party committee for a party attempting to qualify as a new political party under Section 685 of the Michigan Election Law (MCL 168.685) file six campaign statements with the secretary of state, using the same filing schedule is as now required for House and Senate political party caucus committees.

That schedule is as follows: 1) not later than January 31 of each year (with a closing date of December 31 of the immediately preceding year); 2) not later than April 25 of each year (with a closing date of April 20 of that year); 3) not later than July 25 of each year (with a closing date of July 20 of that year); 4) not later than October 25 of each year (with a closing date of October 20 of that year); 5) for the period beginning on the 14th day immediately preceding *a primary or special primary election*, and ending on the day immediately following the primary or special primary election, not later than 4 p.m. each business day (with a closing date of the immediately preceding day), only for a contribution received or expenditure made that exceeds \$1,000 per day; and 6) for the period beginning on the 14th day immediately preceding *a general or special election* and ending on the day immediately following the general or special election, not later than 4 p.m. each business day (with a closing date of the immediately preceding day), only for a contribution received or expenditure made that exceeds \$1,000 per day.

House Bill 5059 would also require a ballot question committee to file an additional four campaign statements. Currently, a ballot question committee must file two campaign statements: 1) a pre-election campaign statement filed not later than the 11th day before the election (with the closing date being the 16th day before the election); and 2) a post-election campaign statement to be filed not later than the 30th day following the election (with the closing date being the 20th day following the election).

House Bill 5059 would retain these provisions, and add four additional campaign statements to be filed according to the following schedule: 3) not later than January 31 (with a closing date of December 31 of the previous year); 4) April 25 (with a closing date of April 20 of that year); 5) not later than July 25 (with a closing date of July 20 of that year); and 6) in every odd-numbered year, a campaign statement not later than October 25 (with a closing date of October 20 of that year).

Definitions

House Bill 5059 would also modify the definitions of "committee," "contribution," "expenditure," "political merchandise," and "political party committee" so that all apply to the *qualification of a new political party*, and *in supporting or opposing the qualification of a new political party* where applicable.

FISCAL IMPACT:

House Bill 5059 would require a political party committee for a party attempting to qualify as a new political party to file six campaign statements with the SOS. In addition, the bill would require a ballot question committee to file four additional campaign statements for review. These provisions would increase Secretary of State (SOS) election administration costs by an indeterminate amount due to the increased review of campaign statements. The fiscal impact would depend on the characteristics of each election cycle.

House Bill 5063 would have an indeterminate fiscal impact on the Secretary of State. The provisions of the bill could increase costs of the Director of Elections due to the requirement that the petition be submitted and reviewed by the Director of Elections prior to the collection of signatures. The Director of Elections would be required to create and submit a report to the Board of State Canvassers stating whether the petition complies with the appropriate requirements, which could increase the administrative costs of the Director of Elections. The extent of the costs would be dependent upon the number of petitions received and the complexity of the review and report process. The Board of State Canvassers would then be required to meet to consider the approval of the petition form. At present, it cannot be determined if there would be additional cost increases or decreases associated with the proposed change in process for the Board of Canvassers compared to current law.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.