

REVISE RECALL ELECTION LAW

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House Bill 6058

Sponsor: Rep. Marilyn Lane

House Bill 6061

Sponsor: Rep. Jon Switalski

House Bill 6059

Sponsor: Rep. Jeff Farrington

House Bill 6062

Sponsor: Rep. Andrea LaFontaine

House Bill 6060

Sponsor: Rep. Anthony G. Forlini

House Bill 6063

Sponsor: Rep. Harold Haugh

Committee: Redistricting and Elections
Complete to 12-3-12

A SUMMARY OF HOUSE BILLS 6058 - 6063 AS INTRODUCED 11-28-12

The six bills would amend various sections of the Michigan Election Law to revise Michigan's recall election process. The key provisions include:

- In a recall election a challenger would compete for the office against the official whose recall is sought. (HB 6059)
- When a county board of election commissioners reviews a recall petition they would have to determine whether the reasons for the recall are stated both "factually and clearly." Currently, the petition is reviewed for "sufficient clarity" only. (HB 6060)
- Recall elections would be limited to the two election dates set each year in May and November. (HB 6061)
- A recall petition could not be submitted until the official had actually performed the duties of the office for a period of six months during his or her current term nor during the last six months of the term. (HB 6063)
- After one recall election, no further petitions could be filed against the same incumbent during the same term of office. (HB 6059)
- The membership of the board of county election commissioners would be altered by removing the probate judge and adding the county prosecutor. The board would then be composed of the county prosecutor, the county clerk, and the county treasurer. (HB 6062)

A more detailed description of each bill follows.

House Bill 6058: Circulation of petitions

The bill would amend two sections of the Michigan Election Law (MCL 168.952 and 168.961) to specify that a recall petition is not valid for circulation until a determination of "sufficient clarity" is made by the circuit court, if the determination of the board of county election commissioners had been appealed to the circuit court (an appeal that must be filed within 10 days after the board's determination).

House Bill 6059: Challengers in recall elections & Only one recall per term

The bill would modify seven sections of the Michigan Election Law, as well as repeal certain provisions, to revise various aspects that govern recall petitions and procedures. In particular, the bill would establish that during a recall election a challenger would vie for office against the official subject to the recall.

Partisan election: how challenger candidates chosen

Under the bill, if a recall election involved a partisan office, a political party candidate would be nominated for that office, as follows:

- If the office were a state office or U. S. Senate, then the state central committee of the political party would nominate a candidate for office.
- If the office were a county office or a district office within an electoral district of one county, then the county executive committee of the political party would nominate the candidate for office.
- If the office were a district office within an electoral district in less than one county and three or more members of the county executive committee of a political party resided in the electoral district, then the members of the county executive committee of the political party *residing in the electoral district* would nominate a candidate for office. If the office were a district office in less than one county, and fewer than three members of the county executive committee resided in the electoral district, then the county executive committee of the political party would nominate a candidate for that office.
- If the office were a district office having an electoral district in *more* than one county, then the members of the several county executive committees of the political party residing in those parts of the counties that were in the district would nominate the candidate.
- If the office were a ward or township office, and three or more members of the county executive committee of a political party resided in the ward or township, then the members of the county executive committee of the political party *residing in that ward or township* would nominate the candidate for that office. If the office were in a ward or township office and fewer than three member of the county executive committee of a political party resided in the ward or township, then the county executive committee of the political party would nominate a candidate.

The bill requires that each nomination by a committee, as described above, would have to be certified to the officer with whom the recall petitions were filed, within 10 days after the calling of the recall election.

Incumbent is a candidate unless he or she declines

Under the bill, unless the incumbent declined within 10 days after the filing of a recall petition, the incumbent would, without filing, be deemed to have filed for the recall election, and his or her name would appear on the recall election ballot. However, if the incumbent candidate declined to be a candidate at the recall election, then the political party of that incumbent candidate would nominate a candidate using the nominating procedure described above.

Nonpartisan office

If the recall election involved a non-partisan office, a candidate for that nonpartisan office would be nominated and voted for in the recall election by filing a nominating petition or paying a \$100 nonrefundable fee not later than 4 pm on the 10th day after the filing official with whom the recall petition was filed calls the recall election.

Only one recall election

Now the law specifies that after filing a recall petition and following a special recall election, no further recall petitions can be filed against the same incumbent during the term for which he or she was elected, unless such further petitioners first pay into the public treasury, the whole amount of election expenses for the preceding special election held to recall the official. House Bill 6059 would delete this payment requirement, and specify, instead, that after one recall election, no further petitions could be filed against the same incumbent during the term of office.

House Bill 6060: Reasons must be stated factually and clearly

The bill would amend three sections of the Michigan Election Law (MCL 168.23, 168.952, and 168.961) to require that when the county board of election commissioners reviews a recall petition to determine whether it has "sufficient clarity," the commissioners also determine whether the reasons for the recall are stated both "factually and clearly." Now under the law, the board of county election commissioners must meet (not less than 10 nor more than 20 days after receiving a recall petition) and determine whether each reason for the recall stated in a petition is of sufficient clarity to enable the officer whose recall is sought and the voters to identify the course of conduct that is the basis for the recall. House Bill 6060 would retain this provision, and also require that the board determine whether each reason for the recall stated in the petition is "factual and of sufficient clarity."

House Bill 6061: Election dates

The bill would amend one section of the Michigan Election Law (MCL 168.963) to limit recall elections to the two election dates set each year in May and November. Specifically, the bill would require that the county clerk with whom the recall petition is filed call a special election not less than 95 days after the petition's filing, and schedule

that election on the next May regular election date or the next November regular election date, whichever occurs first.

House Bill 6062: Membership of board of county election commissioners

The bill would amend one section of the Michigan Election Law (MCL 168.23) to change the membership of the board of county election commissioners by removing the probate judge, and adding the county prosecutor. Now under the law, the election commissioners' board comprises the chief (or only) judge of probate, the county clerk, and the county treasurer (two of whom constitute a quorum for the transaction of business). Under House Bill 6062, the election board's membership would include the county prosecutor, the county clerk, and the county treasurer.

House Bill 6063: Timing of recalls

The bill would amend one section of the Michigan Election Law (MCL 168.952) to specify the timing for the submission of a recall petition to the board of county election commissioners. The bill would prohibit the submission of a recall petition against an elected official to the board of county election commissioners until the official had actually performed the duties of the office for a period of six months during the current term. In addition, a recall petition could not be submitted to the county election commissioners during the last six months of the officer's term.

FISCAL IMPACT:

Collectively, the package of bills would lower the overall costs of conducting recall elections by changing the process and shortening the timeframe whereby an official could be recalled. The package of bills would lower overall costs for local governments and have an indeterminate fiscal impact on state government. Any fiscal impact would depend upon the number of recall elections sought in a given year. There is currently no data available on the cost of special elections. As a point of reference, a general statewide election costs approximately \$2,000 per precinct. Specific fiscal impacts for each bill follow.

House Bill 6058 would have an indeterminate, but likely negligible, fiscal impact on state and local government. The bill would require a determination of "sufficient clarity" to be made by the circuit court, if the board of county election commissioners was appealed, before the petition could be circulated for signatures.

House Bill 6059 would lower costs for local units of government by an indeterminate amount. Any annual fiscal impact would depend on the number of recall elections. The bill would require that a challenger would vie for office against the official subject to recall. Under current law, the official subject to recall must first face a special election and a subsequent election must be held to replace the official if they were recalled in the special election. The bill would eliminate the potential need for two special elections. Local governments would realize cost savings by not having to conduct two special elections if the official was recalled.

House Bill 6060 would have an indeterminate fiscal impact on state and local government. Under the bill, the board of county election commissioners would have to determine whether the reasons for the recall are stated both "factually and clearly." Whether the inclusion of "factually" would have any impact on advancing a recall petition cannot be determined.

House Bill 6061 would lower costs for local units of government by an indeterminate amount. Any annual fiscal impact would depend on the number of recall elections held. The bill would require recall elections to be held in May or November. By requiring the recall election to be held during other scheduled elections, local units of government would not be required to cover the cost of an additional special election.

House Bill 6062 would have no fiscal impact on state or local government.

House Bill 6063 would have an indeterminate fiscal impact on local governments. Any fiscal impact would depend on the number of recall petitions prevented due to the time constraints imposed. Presumably, a party seeking to recall elected official during the first six months of a term could wait until the time constraint has passed. However, the time constraint imposed during the last six months of the term may mitigate the number of recall elections.

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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.