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BILL ANALYSIS



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House Bill 5059 (Substitute H-1 as passed by the House)
House Bill 5063 (Substitute H-3 as passed by the House)
Sponsor: Representative Sharon Tyler
House Committee: Redistricting and Elections
Senate Committee: Local Government and Elections

Date Completed: 5-2-12

CONTENT

House Bill 5059 (H-1) would amend the Michigan Campaign Finance Act to do the following:

- Include in the definition of "committee" a person who received contributions or made expenditures to influence voters regarding the qualification of a new political party.
- Extend certain campaign statement filing requirements to a committee for a political party attempting to qualify as a new party.
- Require a ballot question committee to file periodic campaign statements in addition to preelection and postelection statements.

House Bill 5063 (H-3) would amend the Michigan Election Law to do the following:

- Require a petition proposing an amendment to the State Constitution or initiation or referendum of legislation to be submitted to the Director of Elections for review before being circulated.
- Require the Director to determine whether the petition form met formatting requirements and that, if a statement describing the proposal appeared on the form, the statement fairly reflected the proposal; and require the Director to report to the Board of State Canvassers.

- Require the Board of State Canvassers to meet within 30 days after a petition was submitted to the Director for review.
- Allow a petition to be circulated for the collection of signatures after the Board adopted a motion to approve the form of the petition.
- Prohibit circulation of a petition if the Board adopted a motion not to approve the form of the petition.
- Allow a petition to be circulated for signatures, without Board approval, if the Board failed to meet within the required 30-day period or if the Board met but failed to adopt a motion to approve or not approve the petition form.
- Specify that the substance of a proposal would not be subject to review by the Director or the Board, and that a statement describing a proposal's subject matter would not be subject to review by the Board.
- Allow aggrieved parties to appeal to the Michigan Court of Appeals on an expedited basis.
- Require the Secretary of State (SOS) to certify the statement of purpose of a proposed ballot question at least 60 days, rather than 49, before the election.
- Provide for the listing of a candidate's common law name on the ballot.

The bill also would repeal several sections pertaining to the duties of the Board of State Canvassers under the State Constitution and certification of ballot questions by the SOS.

House Bill 5059 (H-1) is tie-barred to House Bill 5063.

House Bill 5059 (H-1)

New Political Party Committee

Under the Act, "committee" means a person who receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, or the qualification, passage, or defeat of a ballot question, if contributions received or expenditures made total at least \$500 in a calendar year. Under the bill, the definition also would include a person who received contributions or made expenditures for the purpose of influencing or attempting to influence the action of voters for or against the qualification of a new political party, subject to the \$500 threshold.

The Act defines "political party committee" as a State central, district, or county committee of a political party that is a committee. Under the bill, the term also would include a State central, district, or county committee of a party that was attempting to qualify as a new political party under the Michigan Election Law.

The bill also would include references to the qualification of a new political party in the definitions of "contribution", "expenditure", and "political merchandise".

The Act requires a House or Senate political party caucus committee that is required to file with the SOS, to file required campaign statements quarterly, according to a schedule specified in the Act. In addition, the committee must file daily statements for contributions or expenditures that exceed \$1,000 per day during the period beginning 14 days before an election and ending the day after the election.

Under the bill, these filing requirements also would apply to a political party committee for a party attempting to qualify as a new political party.

Ballot Question Committee

The Act requires a ballot question committee to file a preelection campaign statement by the 11th day before the election, and a postelection campaign statement by the 30th day following the election. The closing dates for those statements are the 16th day before and the 20th day after the election, respectively.

Under the bill, a ballot question committee also would have to file campaign statements by the following dates every year:

- February 15 with a closing date of February 10.
- April 25 with a closing date of April 20.
- July 25 with a closing date of July 20.

Also, in every odd-numbered year, the committee would have to file a campaign statement by October 25 with a closing date of October 20.

The Act requires a ballot question committee to file a campaign statement, with a closing date of the 28th day after the qualification of the measure, by the 35th day after the question is qualified for the ballot. If the question fails to qualify for the ballot, the committee must file the statement within 35 days after the final deadline for qualifying. The closing date of the statement is the 28th day after the deadline. The bill would refer to approval of the petition form under Section 483a of the Michigan Election Law (which House Bill 5063 (H-3) would add), rather than qualification of the question.

House Bill 5063 (H-3)

Proposed Section 483a: Petition Form Approval

Under the bill, a petition proposing a constitutional amendment or initiation or referendum of legislation would have to be submitted to the Director of Elections for review before being circulated. When submitted, the petition form would have to be accompanied by an affidavit executed by the printer who prepared the form attesting that the type sizes used on it complied with the type size requirements specified under the Michigan Election Law.

Upon receiving a petition, the Director would have to determine whether it complied with all applicable formatting requirements. If a

statement describing the subject matter of the proposal appeared on the form, the Director would have to determine whether the statement fairly reflected the proposal. The Director would have to prepare a written report concerning the review of the petition form for presentation to the Board of State Canvassers. The report would have to include a copy of the petition form, the affidavit submitted by the printer, and certification by the Director that the petition complied with the applicable formatting requirements. If a statement describing the proposal's subject matter appeared on the form, the report also would have to include the Director's certification that the statement fairly reflected the proposal.

The Board would have to meet within 30 days after the petition sponsor submitted the petition to the Director for review, to receive the report prepared by the Director and to consider the approval of the petition form. If the Director requested a revision of the petition during the course of the review process, the Board would have to meet within 30 days after the sponsor submitted the final petition revision requested by the Director. The Board could not meet to consider the approval of the petition form unless and until the Director certified that the petition complied with the applicable formatting requirements and that the statement describing the subject matter of the proposal fairly reflected it, if a statement describing the proposal appeared on the form.

If the Board adopted a motion to approve the form of a petition, the petition sponsor could proceed with circulating the petition. Any signatures affixed to the petition that were dated before the date of the Board's approval would be invalid.

If the Board adopted a motion not to approve the form of a petition, the petition sponsor could not circulate the petition for the collection of signatures. Any signatures on a petition form that was not approved by the Board would be invalid. A motion not to approve the form of a petition would have to specify the deficiencies identified in it. The petition sponsor could correct the form and resubmit the petition to the Director for review and reconsideration. The Board would have to meet to consider the approval of a corrected petition form within 30 days after the sponsor submitted it.

If the Board failed to meet to receive a report prepared by the Director within the required 30-day period, or if the Board met to receive the Director's report within that period and failed to adopt a motion to approve or not approve the petition form, the petition sponsor could proceed with circulating the petition. Any signatures on the petition that were dated on or before the date the 30-day period elapsed, or that were dated on or before the date the Board met to receive the Director's report, if an earlier date, would be invalid. If the petition form subsequently were used to submit a filing to the Secretary of State, the petition form would be subject to review and approval by the Board as a part of the canvass of the petition for sufficiency.

The substance of a proposal appearing on a petition submitted to the Director would not be subject to review or consideration by the Director or the Board. If the petition included a statement describing the subject matter of the proposal, the statement would not be subject to review or consideration by the Board.

After the Board approved a petition form, the petition could not be altered or modified in any way before or during its circulation, except for any tear-off sheets that provided for directory information.

Any person who felt aggrieved by a determination made by the Director or the Board relative to the form of a petition or a statement describing the proposal's subject matter, if any, could have the determination reviewed on appeal by the Michigan Court of Appeals on an expedited basis.

Proposed Section 483a would not apply to a petition that was being circulated for signatures on or before the bill's effective date.

Approval of Ballot Question

The Law requires the Board of State Canvassers to meet to consider and approve a statement of the purpose of a proposed constitutional amendment or other ballot question prepared pursuant to Sections 32 and 474.

Section 32 provides for the Bureau of Elections within the office of the Secretary of State. The Bureau is under the supervision

of the Director of Elections. With the approval of the State Board of Canvassers, the Director must prepare a statement for designation on the ballot in not more than 100 words of the purpose of any proposed amendment or question to be submitted to the electors as required under Section 2 of Article XII of the State Constitution (which pertains to constitutional amendments proposed by petition). The bill also would refer to a proposed amendment or question to be submitted to electors as required under Section 9 of Article II, Section 34 of Article IV, and Section 1 of Article XII (which pertain to initiated laws and referenda invoked by petition, enacted legislation requiring voter approval, and constitutional amendments proposed in the Legislature, respectively). The bill would require the SOS to certify the statement of purpose of any proposed amendment or question to be submitted to the electors at least 60 days before the date of the election.

The bill would repeal Section 474, which provides that the phrases "the state officer authorized by law" or "the person authorized by law" in Section 9 of Article II or Section 2 of Article XII of the State Constitution mean and refer to the Board of State Canvassers, which must exercise the duties prescribed in those constitutional provisions. Section 474 also states that the preparing of a statement of the purpose of a proposed amendment or question to be designated on the ballots for submission to the electors is the duty of the Director of Elections with the approval of the Board of State Canvassers. The section specifies that the statement of purpose must consist of a true and impartial statement of the purpose of the amendment or question in language that creates no prejudice for or against the proposal. The bill would eliminate several references to Section 474 throughout the Law.

Certification by SOS

Under Section 480, if a proposed constitutional amendment or other special question is to be submitted to the electors of the State for a popular vote, at least 49 days before the election, the SOS must certify the amendment or question to the clerk of each county, together with the form in which it will be submitted. The bill would require the SOS to certify the statement of the purpose for designation on the ballot, rather than certify the amendment or

question. Also, the bill would require the SOS to certify the statement 60 days, rather than 49, before the election.

The bill would repeal Section 649, which contains language similar to that in Section 480 regarding certification. Section 649 also requires any city ordinance that is adopted by the common council in a city of more than 500,000 and subject to referendum to 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.

The bill also would repeal Section 707, which requires the SOS, at least 49 days before an election, to certify to county clerks the form of ballots to be prepared in connection with a proposed constitutional amendment or other proposition to be submitted to electors. The section requires the ballot to contain a statement of the proposal in 100 words or less, and requires the ballot to be a single ballot separate and distinct from the ballots containing the names of candidates or nominees for public office. Section 707 requires each board of county election commissioners to print the ballots for use in their respective counties. The section also contains language similar to that in Section 649 regarding a city ordinance adopted in a city of more than 500,000.

Common Law Name

The Law requires a candidate to file an affidavit of identity, which must include a statement that the candidate either is or is not using a name that is not a name that he or she was given at birth. If a candidate is using a name other than his or her birth name, he or she must include his or her full former name.

The requirement to indicate a name change on the affidavit does not apply if the name in question is one of the following:

- A name that was formally changed at least 10 years before filing as a candidate.
- A name that was changed in a certificate of naturalization when the individual became a naturalized citizen at least 10 years before filing as a candidate.
- A name that was changed because of marriage or divorce.

The bill provides that this requirement also would not apply if the name constituted a common law name as provided in Section 560b.

Under that section, a candidate required to indicate a name change on the affidavit of identity must be listed on the ballot with his or her current name and former name as prescribed by the SOS. Generally, both a candidate's given name and surname that he or she was given at birth, and only those names, must appear on the ballot; however, there are several exceptions to this requirement. A candidate may specify that both his or her given and middle names, or only a middle name, should appear on the ballot, or that an initial or recognized diminutive for his or her given and/or middle name should appear. Under the bill, a candidate also could specify that a common law name used in accordance with Michigan Department of State guidelines for use of a common law name on a driver license or State personal ID card should appear on the ballot.

The Law prohibits a candidate from specifying that a nickname that is not a recognized diminutive of the candidate's given name or middle name appear on the ballot. The bill would include a nickname that is not a recognized diminutive of the candidate's common law name.

MCL 169.203 (H.B. 5059)
168.22e et al. (H.B. 5063)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

House Bill 5059 (H-1)

State: The bill could increase the Secretary of State's administrative costs associated with having to review campaign statements filed by political parties trying to qualify as a party. The additional cost is indeterminate and would depend on the number of political parties trying to qualify as a party and the number of elections for which they were trying to qualify.

Local: The political parties trying to qualify as a party would incur the costs associated with the filing of the six required campaign statements. The cost is indeterminate.

House Bill 5063 (H-3)

State: The review and report preparation that would be required of the Director of Elections should not add any costs. However, if the number of petitions to be reviewed were to become substantial, additional staff time could be required, which could increase the need for additional funding. In all likelihood, the responsibilities of the Director called for in the bill should be absorbed within current appropriations.

Local: The bill would have no fiscal impact on local government.

Fiscal Analyst: Joe Carrasco

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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.