



HOUSE BILL No. 6060

November 28, 2012, Introduced by Reps. Forlini, Lane, Goike, Farrington, Liss, Haugh and LaFontaine and referred to the Committee on Redistricting and Elections.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 23, 952, and 961 (MCL 168.23, 168.952, and 168.961), section 23 as amended by 1982 PA 456, section 952 as amended by 1993 PA 137, and section 961 as amended by 2005 PA 71.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 23. (1) The chief or only judge of probate of the county
2 or probate court district, the county clerk, and the county
3 treasurer shall constitute a board of county election commissioners
4 for each county, 2 of whom shall be a quorum for the transaction of
5 business. The chief or only judge of probate of the county or
6 probate court district and the county clerk shall act respectively
7 as chairperson and secretary of the board. In the absence or
8 disqualification of the county clerk from any meeting of the board
9 of **COUNTY** election commissioners, the board may select 1 of the

1 county clerk's deputies to act in the county clerk's place. In the
2 absence or disqualification of any member of the board of **COUNTY**
3 election commissioners other than the county clerk, the members of
4 the board who are present shall appoint some other county officer
5 in the absent or disqualified member's place, and the appointed
6 county officer, on being notified, shall attend without delay and
7 act as a member of the board.

8 (2) If a member of the board is involved in the recall of an
9 officer, either by assisting in the preparation of the petition for
10 recall or by being an officer whose recall is sought, then the
11 member of the board shall be disqualified with respect to any
12 determination ~~as to clarity~~ **UNDER SECTION 952** and shall be replaced
13 as provided in this section.

14 Sec. 952. (1) A petition for the recall of an officer shall
15 meet all of the following requirements:

16 (a) Comply with section 544c(1) and (2).

17 (b) Be printed.

18 (c) State **FACTUALLY AND** clearly each reason for the recall.
19 Each reason for the recall shall be based upon the officer's
20 conduct during his or her current term of office. The reason for
21 the recall may be typewritten.

22 (d) Contain a certificate of the circulator. The certificate
23 of the circulator may be printed on the reverse side of the
24 petition.

25 (e) Be in a form prescribed by the secretary of state.

26 (2) Before being circulated, a petition for the recall of an
27 officer shall be submitted to the board of county election

1 commissioners of the county in which the officer whose recall is
2 sought resides.

3 (3) The board of county election commissioners, not less than
4 10 days or more than 20 days after submission to it of a petition
5 for the recall of an officer, shall meet and shall determine
6 whether each reason for the recall stated in the petition is
7 **FACTUAL AND** of sufficient clarity to enable the officer whose
8 recall is sought and the electors to identify the course of conduct
9 that is the basis for the recall. Failure of the board of county
10 election commissioners to comply with this subsection shall
11 constitute a determination that each reason for the recall stated
12 in the petition is **FACTUAL AND** of sufficient clarity to enable the
13 officer whose recall is being sought and the electors to identify
14 the course of conduct that is the basis for the recall.

15 (4) The board of county election commissioners, not later than
16 24 hours after receipt of a petition for the recall of an officer,
17 shall notify the officer whose recall is sought of each reason
18 stated in the **RECALL** petition and of the date of the meeting of the
19 board of county election commissioners to consider ~~the clarity of~~
20 **WHETHER** each reason **IS FACTUAL AND OF SUFFICIENT CLARITY**.

21 (5) The officer whose recall is sought and the sponsors of the
22 **RECALL** petition may appear at the meeting and present arguments on
23 ~~the clarity of~~ **WHETHER** each reason **IS FACTUAL AND OF SUFFICIENT**
24 **CLARITY**.

25 (6) The determination by the board of county election
26 commissioners may be appealed by the officer whose recall is sought
27 or by the sponsors of the **RECALL** petition drive to the circuit

1 court in the county. The appeal shall be filed not more than 10
2 days after the determination of the board of county election
3 commissioners.

4 (7) A **RECALL** petition that is determined to be **FACTUAL AND** of
5 sufficient clarity under subsection ~~(1)-(3)~~ or, if the
6 determination under subsection ~~(1)-(3)~~ is appealed ~~pursuant to~~
7 **UNDER** subsection (6), a **RECALL** petition that is determined by the
8 circuit court to be **FACTUAL AND** of sufficient clarity is valid for
9 180 days following the last determination ~~of sufficient clarity~~
10 under this section. A recall petition that is filed under section
11 959 or 960 after the 180-day period described in this subsection is
12 not valid and shall not be accepted ~~pursuant to~~ **UNDER** section 961.
13 This subsection does not prohibit a person from resubmitting a
14 recall petition for a determination ~~of sufficient clarity~~ under
15 this section.

16 Sec. 961. (1) A recall petition shall be filed with the filing
17 officer provided in section 959 or 960. The filing official shall
18 give a receipt showing the date of filing, the number of **RECALL**
19 petition sheets filed, and the number of signatures claimed by the
20 filer. This shall constitute the total filing, and additional
21 **RECALL** petition sheets for this filing shall not be accepted by the
22 filing official.

23 (2) Within 7 days after a recall petition is filed, the filing
24 official with whom the **RECALL** petition was filed shall examine the
25 recall petition. The filing official shall determine if the recall
26 petition is in proper form and shall determine the number of
27 signatures of the **RECALL** petition. In determining the number of

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1 signatures, the filing official shall not count signatures on a
2 **RECALL** petition sheet if 1 or more of the following apply:

3 (a) The execution of the certificate of circulator is not in
4 compliance with this act.

5 (b) The heading of the **RECALL** petition sheet is improperly
6 completed.

7 (c) The reasons for recall are different than those determined
8 **UNDER SECTION 952** by the board of county election commissioners **OR**
9 **THE CIRCUIT COURT** to be **FACTUAL AND** of sufficient clarity to enable
10 the officer whose recall is sought and the electors to identify the
11 course of conduct which is the basis for this recall.

12 (d) The signature was obtained before the date of
13 determination by the board of county election commissioners **OR THE**
14 **CIRCUIT COURT**, or more than ~~[90-60]~~ days before the filing of the **RECALL**
15 petition.

16 (3) If the filing official determines that the form of the
17 **RECALL** petition is improper or that the number of signatures is
18 less than the minimum number required in section 955, the filing
19 official shall proceed as provided in section 963(1).

20 (4) If the filing official determines that the number of
21 signatures is in excess of the minimum number required in section
22 955, the filing official shall determine the validity of the
23 signatures by verifying the registration of signers ~~pursuant to~~
24 **UNDER** subsection (6) and may determine the genuineness of
25 signatures ~~pursuant to~~ **UNDER** subsection (7) or shall forward each
26 **RECALL** petition sheet to the clerk of the city or township
27 appearing on the head of the **RECALL** petition sheet. However, the

1 **RECALL** petition shall not be forwarded to the secretary of a school
2 district.

3 (5) The city or township clerk shall determine the validity of
4 the signatures by verifying the registration of signers ~~pursuant to~~
5 **UNDER** subsection (6) and may determine the genuineness of
6 signatures ~~pursuant to~~ **UNDER** subsection (7). Within 15 days after
7 receipt of the **RECALL** petition, the city or township clerk shall
8 attach to the **RECALL** petition a certificate indicating the number
9 of signers on each **RECALL** petition sheet that are registered
10 electors in the city or township and in the governmental unit for
11 which the recall is sought. The certificate shall be on a form
12 approved by the secretary of state and may be a part of the **RECALL**
13 petition sheet. If the recall petition is for the recall of a
14 village official, the county clerk shall forward the **RECALL**
15 petition to the clerk of the village, and the duties and
16 responsibilities of the city or township clerk as set forth in this
17 section shall be performed by the village clerk.

18 (6) The qualified voter file shall be used to determine the
19 validity of **RECALL** petition signatures by verifying the
20 registration of signers. If the qualified voter file indicates
21 that, on the date the elector signed the **RECALL** petition, the
22 elector was not registered to vote, there is a rebuttable
23 presumption that the signature is invalid. If the qualified voter
24 file indicates that, on the date the elector signed the **RECALL**
25 petition, the elector was not registered to vote in the city or
26 township designated on the **RECALL** petition, there is a rebuttable
27 presumption that the signature is invalid.

1 (7) The qualified voter file shall be used to determine the
2 genuineness of a challenged petition signature appearing on a
3 recall petition. Signature comparisons shall be made with the
4 digitized signature in the qualified voter file. If the qualified
5 voter file does not contain a digitized signature of an elector,
6 the official with whom the recall petition was filed shall compare
7 the challenged signature to the signature on the master card.