

# HOUSE BILL No. 6058

November 28, 2012, Introduced by Reps. Lane, Forlini, 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 952 and 961 (MCL 168.952 and 168.961), 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. 952. (1) A petition for the recall of an officer shall  
2 meet all of the following requirements:

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

4           (b) Be printed.

5           (c) State clearly each reason for the recall. Each reason for  
6 the recall shall be based upon the officer's conduct during his or  
7 her current term of office. The reason for the recall may be  
8 typewritten.

9           (d) Contain a certificate of the circulator. The certificate

1 of the circulator may be printed on the reverse side of the  
2 petition.

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

4 (2) Before being circulated, a petition for the recall of an  
5 officer shall be submitted to the board of county election  
6 commissioners of the county in which the officer whose recall is  
7 sought resides.

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

20 (4) The board of county election commissioners, not later than  
21 24 hours after receipt of a petition for the recall of an officer,  
22 shall notify the officer whose recall is sought of each reason  
23 stated in the **RECALL** petition and of the date of the meeting of the  
24 board of county election commissioners to consider the clarity of  
25 each reason.

26 (5) The officer whose recall is sought and the sponsors of the  
27 **RECALL** petition may appear at the meeting and present arguments on

1 the clarity of each reason.

2 (6) The determination by the board of county election  
3 commissioners may be appealed by the officer whose recall is sought  
4 or by the sponsors of the **RECALL** petition drive to the circuit  
5 court in the county. The appeal shall be filed not more than 10  
6 days after the determination of the board of county election  
7 commissioners. **IF A DETERMINATION OF THE BOARD OF COUNTY ELECTION**  
8 **COMMISSIONERS IS APPEALED TO THE CIRCUIT COURT IN THE COUNTY, THE**  
9 **RECALL PETITION IS NOT VALID FOR CIRCULATION AND SHALL NOT BE**  
10 **CIRCULATED UNTIL A DETERMINATION OF SUFFICIENT CLARITY IS MADE BY**  
11 **THE CIRCUIT COURT.**

12 (7) ~~A petition that is determined to be of sufficient clarity~~  
13 ~~under subsection (1) or, if the determination under subsection (1)~~  
14 ~~is appealed pursuant to subsection (6), a petition that is~~  
15 ~~determined by the circuit court to be of sufficient clarity~~ **A**  
16 **RECALL PETITION** is valid for 180 days following the ~~last~~ **DATE OF**  
17 **determination of sufficient clarity** ~~under this section.~~ **BY THE**  
18 **BOARD OF COUNTY ELECTION COMMISSIONERS OR THE CIRCUIT COURT,**  
19 **WHICHEVER OCCURS LATER.** A recall petition that is filed under  
20 section 959 or 960 after the 180-day period described in this  
21 subsection is not valid and shall not be accepted ~~pursuant to~~ **BY**  
22 **THE FILING OFFICIAL UNDER** section 961. This subsection does not  
23 prohibit a person from resubmitting a recall petition for a  
24 determination of sufficient clarity under this section.

25 Sec. 961. (1) A recall petition shall be filed with the filing  
26 officer provided in section 959 or 960. The filing official shall  
27 give a receipt showing the date of filing, the number of **RECALL**

1 petition sheets filed, and the number of signatures claimed by the  
2 filer. This shall constitute the total filing, and additional  
3 **RECALL** petition sheets for this filing shall not be accepted by the  
4 filing official.

5 (2) Within 7 days after a recall petition is filed, the filing  
6 official with whom the **RECALL** petition was filed shall examine the  
7 recall petition. The filing official shall determine if the recall  
8 petition is in proper form and shall determine the number of  
9 signatures of the **RECALL** petition. In determining the number of  
10 signatures, the filing official shall not count signatures on a  
11 **RECALL** petition sheet if 1 or more of the following apply:

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

14 (b) The heading of the **RECALL** petition sheet is improperly  
15 completed.

16 (c) The reasons for recall are different than those determined  
17 by the board of county election commissioners **OR THE CIRCUIT COURT**  
18 to be of sufficient clarity to enable the officer whose recall is  
19 sought and the electors to identify the course of conduct which is  
20 the basis for this recall.

21 (d) The signature was obtained before the date of  
22 determination by the board of county election commissioners **OR THE**  
23 **CIRCUIT COURT, WHICHEVER OCCURS LATER,** or more than 90 days before  
24 the filing of the petition.

25 (3) If the filing official determines that the form of the  
26 **RECALL** petition is improper or that the number of signatures is  
27 less than the minimum number required in section 955, the filing

1 official shall proceed as provided in section 963(1).

2 (4) If the filing official determines that the number of  
3 signatures is in excess of the minimum number required in section  
4 955, the filing official shall determine the validity of the  
5 signatures by verifying the registration of signers ~~pursuant to~~  
6 **UNDER** subsection (6) and may determine the genuineness of  
7 signatures ~~pursuant to~~ **UNDER** subsection (7) or shall forward each  
8 **RECALL** petition sheet to the clerk of the city or township  
9 appearing on the head of the **RECALL** petition sheet. However, the  
10 **RECALL** petition shall not be forwarded to the secretary of a school  
11 district.

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

27 (6) The qualified voter file shall be used to determine the

1 validity of **RECALL** petition signatures by verifying the  
2 registration of signers. If the qualified voter file indicates  
3 that, on the date the elector signed the **RECALL** petition, the  
4 elector was not registered to vote, there is a rebuttable  
5 presumption that the signature is invalid. If the qualified voter  
6 file indicates that, on the date the elector signed the **RECALL**  
7 petition, the elector was not registered to vote in the city or  
8 township designated on the **RECALL** petition, there is a rebuttable  
9 presumption that the signature is invalid.

10 (7) The qualified voter file shall be used to determine the  
11 genuineness of a challenged petition signature appearing on a  
12 recall petition. Signature comparisons shall be made with the  
13 digitized signature in the qualified voter file. If the qualified  
14 voter file does not contain a digitized signature of an elector,  
15 the official with whom the recall petition was filed shall compare  
16 the challenged signature to the signature on the master card.