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**SFA****BILL ANALYSIS**

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Senate Bill 844 (as introduced 10-21-99)  
Sponsor: Senator Shirley Johnson  
Committee: Government Operations

Date Completed: 10-27-99

## **CONTENT**

**The bill would amend the Election Law to revise provisions that regulate the submission of petitions to propose an amendment to the State Constitution, initiate legislation, or invoke a referendum; require ballot questions to be identified by number rather than letter; allow the Board of State Canvassers and other election officials to use the Qualified Voter File (QVF) to check the validity of signatures on petitions; and specify penalties for violations committed by petition circulators and signers.**

### Constitutional Amendments/Initiative/Referendum

Article 12, Section 2 of the State Constitution provides that amendments to the Constitution may be proposed by petition of registered electors. Article 2, Section 9, allows the people to propose laws and enact and reject laws (the initiative), and to approve or reject laws enacted by the Legislature (the referendum), by petition. Under the Election Law, petitions proposing a constitutional amendment must be filed with the Secretary of State at least 120 days before the election at which the amendment is to be voted upon. Referendum petitions must be filed within 90 days after the final adjournment of the Legislature. The bill provides that initiative petitions would have to be filed at least 160 days before the election at which the proposed law was to be voted upon.

Under the bill, if signatures on a petition to propose a constitutional amendment, or a petition to initiate legislation, were collected both before and after a November general election at which a governor was elected, the signatures collected before the election, or the signatures collected after the election, at the option of the organization or other person sponsoring the petition drive, would be invalid.

The bill provides that after the day on which a petition was filed, the Secretary of State could not accept further filings of that petition to supplement the original filing. This provision would apply to a petition proposing a constitutional amendment, an initiative petition, and a petition to invoke the referendum. The bill also specifies that the circulator of such a petition only would have to be qualified to be a registered elector of the State at the time of circulation and at the time of executing the certificate of circulator. (Under the Election Law, the circulator of a nominating petition must be registered in the city or township indicated in the certificate of the circulator on the petition, and must be a registered elector of the State at the time of circulation.)

Article 2, Section 9 of the Constitution provides that to invoke the referendum, petitions containing the minimum number of signatures as specified must be submitted; once invoked, the law that is the subject of the referendum cannot take effect until it is approved by a majority of the voters at the next general election. The bill provides that the referendum would be invoked once the Board of State Canvassers made its official declaration of the sufficiency of the referendum petition.

### Ballot Questions

The bill would require the Board of State Canvassers to assign a number designation to appear on the ballot for each question to be submitted on a Statewide basis. (Currently, ballot questions appear with a letter designation.) The bill would require the number designation to consist of three or four digits. The first two digits would have to be the last two digits of the year of the election. The next digit or, if necessary, two digits would

have to indicate the chronological order in which the question was authorized to appear on the ballot. A question would have to be considered to be authorized to appear on the ballot as follows:

- A general revision of the Constitution would have to be considered to be the first question authorized to appear on the ballot for those elections at which a general revision of the Constitution would appear on the ballot.
- An amendment to the Constitution proposed by petition of the voters, or legislation initiated or a referendum invoked by petition of the electors, would have to be considered to be authorized to appear on the ballot when the petition was declared to be sufficient by the Board of State Canvassers.
- An amendment to the Constitution proposed by the Legislature to be submitted to the voters would have to be considered to be authorized to appear on the ballot when the joint resolution proposing the amendment was filed with the Secretary of State.
- A referendum submitted to the voters by the Legislature would have to be considered to be authorized to appear on the ballot when the legislation was filed with the Secretary of State. (Article 4, Section 33 of the State Constitution allows the Legislature to submit any proposed legislation, except a bill appropriating money, to the voters for approval or disapproval.)

#### Signature Validation

The Election Law requires various filing officials to determine the validity and sufficiency of petition signatures. The Board of State Canvassers must determine the validity and sufficiency of signatures on petitions proposing to amend the State Constitution, initiate legislation, and invoke the referendum. Further, the board and local election officials are required to validate signatures on nominating petitions under certain conditions, and on recall petitions. The bill would allow filing officials to use the QVF to determine the validity of petition signatures by verifying the registration of signers. If the name of an elector signing a petition did not appear in the QVF or appeared in the QVF at a different address, there would be a rebuttable presumption that the signature was invalid. A signature of an elector would not be invalidated because the elector gave as a place of registration a "postal community" rather than a city or township, if the city or township could be identified through the QVF. A "postal community" would be a community that was recognized by the U.S. Postal Service as a mailing address but that was not a city or township.

#### Penalties/Board Sanctions

The Election Law provides that it is a misdemeanor for a person to sign a petition with a name other than his or her own name; knowingly make a false statement in a certificate on a petition; sign as a petition circulator if he or she is not a circulator; or sign as a petition circulator a name other than his or her own name. The bill specifies that a person who violated any of these provisions would be guilty of a misdemeanor punishable by a fine of up to \$500, imprisonment for up to 93 days, or both.

If an individual committed one of these violations, with respect to a petition to nominate a candidate to an office for which the election results were canvassed by the Board of State Canvassers, to recall an officer in such an office, or to submit a ballot question to the electors at large, the board, after a hearing, could impose one of the following sanctions:

- Disqualify any obviously fraudulent signatures on a petition form on which the violation occurred, without checking the signatures against local registration records.
- Disqualify from the ballot a candidate who committed, aided or abetted, or knowingly allowed the violation on a petition to nominate that candidate.

If an individual committed a violation and the affected petition sheet were filed, each of the following who knew of the violation before the filing of the affected petition sheet and who failed to report the violation to the Secretary of State, the filing official (if different), the Attorney General, a law enforcement officer, or the county prosecuting attorney, would be guilty of a misdemeanor, punishable by a fine of up to \$500, imprisonment for up to 93 days, or both:

- The circulator of the petition, if different than the individual who committed the violation.
- If the petition were a nominating petition, the candidate whose nomination was sought.

- If the petition were a petition for a ballot question or recall, the organization or other person who sponsored the petition drive.

If a person or organization knew of a violation and failed to report it, the Board of State Canvassers, after a hearing, could impose one or more of the following sanctions:

- Impose on the organization or other person who sponsored the petition drive an administrative fine of up to \$5,000.
- Charge the organization or other person who sponsored the petition drive for the costs of canvassing any petition form on which a violation occurred.
- Disqualify an organization or other person from collecting signatures on a petition for up to four years.
- Disqualify any obviously fraudulent signatures on a petition form on which a violation occurred, without checking the signatures against local registration records.
- Disqualify from the ballot a candidate who committed, aided or abetted, or knowingly allowed a violation on a petition to nominate that candidate.

If an individual refused to comply with a subpoena of the board in an investigation of an alleged violation, the board could hold the canvass of the petitions in abeyance until the individual complied.

MCL 168.471 et al.

Legislative Analyst: G. Towne

#### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: E. Limbs

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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.