

Senate Fiscal Agency
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SFA

BILL ANALYSIS

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House Bill 5055 (Substitute H-2 as passed by the House)
Sponsor: Representative Marc Shulman
House Committee: Constitutional Law and Ethics
Senate Committee: Government Operations

Date Completed: 12-2-99

CONTENT

The bill would amend the Michigan Election Law to require each elected candidate who had been issued a certificate of election from the State Board of Canvassers or a county clerk to file an affidavit stating that all reports, fines, and fees had been filed or paid. Further, the bill would require a candidate to provide this information when he or she filed nominating petitions.

The Election Law requires a county board of canvassers and the Board of State Canvassers, for elections under their respective jurisdictions, to determine and declare the results of an election and prepare a certificate of determination to be delivered to the Secretary of State or county clerk. The bill would require each elected candidate who had been issued a certificate of election to file an affidavit with the Secretary of State (or the county clerk, as applicable). The following would apply to the affidavit:

- It would have to certify that, as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the person or any candidate committee organized to support the person's election under the Campaign Finance Act had been filed or paid.
- It would have to be filed with the Secretary of State (or county clerk) before the elected person assumed office.
- It would have to be on a form prescribed by the Secretary of State and include a statement that the elected person acknowledged that making a false statement in the affidavit was perjury punishable by a fine of up to \$1,000, imprisonment for up to five years, or both.

An affidavit would not be required of any elected person whose candidate committee did not receive or spend more than \$1,000 during the election cycle.

Failure to file the affidavit (if required) would be a misdemeanor punishable by a fine of up to \$500, imprisonment for up to 93 days, or both. Making a false statement in the affidavit would be perjury punishable by a fine of up to \$1,000, imprisonment for up to five years, or both.

Currently, when filing nominating petitions, a candidate must file an affidavit that states various information regarding the candidate's identity and residency. The bill would require that the affidavit contain a statement that, as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate had been filed or paid. Further, the bill would require a candidate to file the affidavit when he or she filed an affidavit of candidacy, or within one business day of being nominated by a political party convention or caucus.

MCL 168.1558 et al.

Legislative Analyst: G. Towne

FISCAL IMPACT

House Bill 5055 (H-2) would have an indeterminate fiscal impact on State and local government.

There are no data available to indicate how many people could be convicted of the misdemeanor of failing to file an affidavit, which would result in a maximum fine of \$500 and/or incarceration for up to 93 days, or of the felony of filing an affidavit with false information, which would result in a maximum fine of \$1,000 and/or a prisoner term of up to five years. Local units of government receive the fine revenue or incur the costs of

incarceration for misdemeanor offenses, and costs vary among the counties.

Assuming that five people annually would be convicted of providing false information on an affidavit and sentenced to a minimum term of incarceration of 45 months, given that the average cost of incarceration is \$22,000, the costs for incarceration of these offenders would be \$412,500.

Fiscal Analyst: K. Firestone

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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.