

HOUSE BILL No. 4601

April 30, 2003, Introduced by Reps. Gaffney, Ward and Pastor and referred to the Committee on Local Government and Urban Policy.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending section 552 (MCL 168.552), as amended by 1999 PA
220.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 552. (1) The county or city clerk, after the last day
2 specified in this act for receiving and filing nominating
3 petitions, shall immediately certify to the proper board or
4 boards of election commissioners in the city, county, district,
5 or state the name and post office address of each party candidate
6 whose petitions meet the requirements of this act, together with
7 the name of the political party and the office for which he or
8 she is a candidate.

9 (2) If the county clerk receives a sworn complaint, in
10 writing, questioning the registration or genuineness of the

1 signature of the circulator or of a person signing a petition
2 filed with the county clerk for an office, the county clerk shall
3 commence an investigation. The county clerk shall cause the
4 petition that he or she considers necessary to be forwarded to
5 the proper city clerk or township clerk to compare the signatures
6 appearing on the petition with the signatures appearing on the
7 registration record, or in some other proper manner determine
8 whether the signatures appearing on the petition are valid and
9 genuine. If the request has been made by the county clerk, the
10 city clerk or township clerk shall complete the investigation and
11 report his or her findings to the county clerk within ~~7~~ 14 days
12 after the request. The investigation shall include the validity
13 of the signatures and the genuineness of a petition as is
14 specified in the sworn complaint and may include any other
15 doubtful signatures or petitions filed on behalf of the candidate
16 against whose petitions the sworn complaint is directed, as the
17 county clerk considers necessary. ~~A~~ **The county clerk is not**
18 **required to act on a** complaint respecting the validity and
19 genuineness of signatures on a petition ~~shall not be acted upon~~
20 unless the complaint sets forth the specific signatures claimed
21 to be invalid and the specific petition for which the complaint
22 questions the validity and genuineness of the signature or
23 registration of the circulator, and unless the complaint is
24 received by the county clerk within ~~7~~ 14 days after the
25 deadline for the filing of the nominating petitions. **If a**
26 **complaint is received after 14 days after the nominating petition**
27 **filing deadline, in his or her discretion, the county clerk may**

1 hold a hearing on and conduct an investigation regarding the
2 complaint in the same manner as provided in subsection (9).

3 (3) In addition to the duty specified in subsection (2) for
4 the examination of petitions, the county clerk, on his or her own
5 initiative, on receipt of the nominating petitions, may examine
6 the petitions, and if after examination the county clerk is in
7 doubt as to the validity of the registration or genuineness of
8 the signature of the circulator or persons signing or purported
9 to have signed the petitions, the county clerk shall commence an
10 investigation. Subject to subsection (13), the county clerk
11 shall cause the petitions in question to be forwarded to the
12 proper city clerk or township clerk to compare the signatures
13 appearing on the petitions with the signatures appearing on the
14 registration records, or in some other proper manner to determine
15 whether the signatures appearing on the petitions are valid and
16 genuine.

17 (4) The clerk of a political subdivision shall cooperate
18 fully with the county clerk in a request made to the clerk by the
19 county clerk in determining the validity of doubtful signatures
20 by checking the signatures against registration records in an
21 expeditious and proper manner.

22 (5) At least 2 business days before the board of state
23 canvassers meets to make a final determination on challenges to
24 and sufficiency of a petition, the county clerk shall make public
25 its staff report concerning disposition of challenges filed
26 against the petition. Beginning with the receipt of any document
27 from local election officials ~~pursuant to~~ **under** subsection (2)

1 or (3), the county clerk shall make that document available to
2 petitioners and challengers on a daily basis.

3 (6) Upon the completion of the investigation or examination,
4 the county clerk shall immediately make an official declaration
5 of the sufficiency or insufficiency of nominating petitions for
6 which a sworn complaint has been received or of the sufficiency
7 or insufficiency of nominating petitions that the county clerk
8 has examined or investigated on his or her own initiative. A
9 person feeling aggrieved by a determination made by the county
10 clerk may have the determination reviewed by the secretary of
11 state — by filing a written request with the secretary of state
12 within 3 days after the official declaration of the county clerk,
13 unless the third day falls on a Saturday, Sunday, or legal
14 holiday, in which case the request may be filed not later than 4
15 p.m. on the next day that is not a Saturday, Sunday, or legal
16 holiday. Alternatively, the aggrieved person may have the
17 determination of the county clerk reviewed by filing a mandamus,
18 certiorari, or other appropriate remedy in the circuit court. A
19 person who filed a nominating petition and feels aggrieved by the
20 determination of the secretary of state may then have that
21 determination reviewed by mandamus, certiorari, or other
22 appropriate remedy in the circuit court.

23 (7) A city clerk with whom nominating petitions are filed may
24 examine the petitions and investigate the validity and
25 genuineness of signatures appearing on the petitions. Subject to
26 subsection (13), the city clerk may check the signatures against
27 registration records. The city clerk shall make a determination

1 as to the sufficiency or insufficiency of the petitions upon the
2 completion of the examination or investigation, and shall make an
3 official declaration of the findings. A ~~party~~ **person** feeling
4 aggrieved by the determination has the same rights of review as
5 in case of a determination by the county clerk.

6 (8) Upon the filing of nominating petitions with the
7 secretary of state, the secretary of state shall notify the board
8 of state canvassers within 5 days after the last day for ~~the~~
9 filing ~~of~~ the petitions. The notification shall be by
10 first-class mail. Upon the receipt of the nominating petitions,
11 the board of state canvassers shall canvass the petitions to
12 ascertain if the petitions have been signed by the requisite
13 number of qualified and registered electors. Subject to
14 subsection (13), for the purpose of determining the validity of
15 the signatures, the board of state canvassers may cause a
16 doubtful signature to be checked against the registration records
17 by the clerk of a political subdivision in which the petitions
18 were circulated. If the board of state canvassers receives a
19 sworn complaint, in writing, questioning the registration of or
20 the genuineness of the signature of the circulator or of a person
21 signing a nominating petition filed with the secretary of state,
22 the board of state canvassers shall commence an investigation.
23 Subject to subsection (13), the board of state canvassers shall
24 cause the petition to be forwarded to the proper city clerk or
25 township clerk to compare the signatures ~~appearing~~ on the
26 petition with the signatures ~~appearing~~ on the registration
27 record, or in some other manner determine whether the signatures

1 ~~appearing~~ on the petition are valid and genuine. ~~A~~ **The board**
2 **of state canvassers is not required to act on a** complaint
3 respecting the validity and genuineness of signatures on a
4 petition ~~shall not be acted upon~~ unless the complaint sets
5 forth the specific signatures claimed to be invalid and the
6 specific petition for which the complaint questions the validity
7 and genuineness of the signature or the registration of the
8 circulator, and unless the complaint is received by the board of
9 state canvassers within ~~7~~ **14** days after the deadline for ~~the~~
10 filing ~~of~~ the nominating petitions. ~~The~~ **If a complaint is**
11 **received after 14 days after the nominating petition filing**
12 **deadline, in its discretion, the board of state canvassers may**
13 **hold a hearing on and conduct an investigation regarding the**
14 **complaint as provided in subsection (9). After receiving a**
15 **request from the board of state canvassers under this subsection,**
16 **the** clerk of a political subdivision shall cooperate fully ~~with~~
17 ~~the board of state canvassers in a request made to the clerk by~~
18 ~~the board of state canvassers~~ in determining the validity of
19 doubtful signatures by rechecking the signatures against
20 registration records in an expeditious and proper manner.

21 (9) The board of state canvassers may hold a hearing upon a
22 complaint filed or for a purpose considered necessary by the
23 board of state canvassers to conduct an investigation of the
24 petitions. In conducting a hearing, the board of state
25 canvassers may issue subpoenas and administer oaths. The board
26 of state canvassers may also adjourn periodically awaiting
27 receipt of returns from investigations that are being made or for

1 other necessary purposes, but shall complete the canvass not less
2 than 9 weeks before the primary election at which candidates are
3 to be nominated.

4 (10) At least 2 business days before the board of state
5 canvassers meets to make a final determination on challenges to
6 and sufficiency of a petition, the board shall make public its
7 staff report concerning disposition of challenges filed against
8 the petition. Beginning with the receipt of any document from
9 local election officials ~~pursuant to~~ **under** subsection (8), the
10 board of state canvassers shall make that document available to
11 candidates and challengers on a daily basis.

12 (11) An official declaration of the sufficiency or
13 insufficiency of a nominating petition shall be made by the board
14 of state canvassers not less than 60 days before the primary
15 election at which candidates are to be nominated. At the time of
16 filing a nominating petition with the secretary of state, the
17 person filing the petition may request a notice of the approval
18 or rejection of the petition. If ~~such~~ a request is made at the
19 time of filing ~~of~~ the petition, the secretary of state,
20 immediately upon the determination of approval or rejection,
21 shall transmit by registered mail to the person making the
22 request an official notice of the sufficiency or insufficiency of
23 the petitions.

24 (12) A person ~~—, having—~~ **who** filed a nominating petition with
25 the secretary of state ~~—, feeling—~~ **and who feels** aggrieved by a
26 determination made by the board of state canvassers ~~—~~ may have
27 the determination reviewed by mandamus, certiorari, or other

1 appropriate ~~remedy~~ **process** in the supreme court.

2 (13) The qualified voter file may be used to determine the
3 validity of petition signatures by verifying the registration of
4 signers. If the qualified voter file indicates that, on the date
5 the elector signed the petition, the elector was not registered
6 to vote, there is a rebuttable presumption that the signature is
7 invalid. If the qualified voter file indicates that, on the date
8 the elector signed the petition, the elector was not registered
9 to vote in the city or township designated on the petition, there
10 is a rebuttable presumption that the signature is invalid.

11 (14) Not less than 60 days before the primary election at
12 which candidates are to be nominated, the secretary of state
13 shall certify to the proper boards of election commissioners in
14 the various counties in the state, the name and post office
15 address of each partisan or nonpartisan candidate whose petitions
16 have been filed with the secretary of state and meet the
17 requirements of this act, together with the name of the political
18 party, if any, and the office for which he or she is a
19 candidate.