



Senate Fiscal Agency
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BILL ANALYSIS

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House Bills 5648, 5649, and 5650 (as passed by the House)
Sponsor: Representative Tonya Schuitmaker (H.B. 5648)
Representative Barb Vander Veen (H.B. 5649)
Representative Chris Ward (H.B. 5650)
House Committee: House Oversight, Elections, and Ethics
Senate Committee: Government Operations

Date Completed: 3-21-06

CONTENT

The bills would amend Chapter 22 (Initiative and Referendum) of the Michigan Election Law to do the following:

- Require the Fourth District of the Court of Appeals, rather than the State Board of Canvassers, to declare the sufficiency or insufficiency of a ballot proposal petition.**
- Require the Fourth District of the Court of Appeals to declare a petition sufficient unless it were not in the proper form or the number of valid signatures were less than required.**
- Require the Fourth District of the Court of Appeals to notify the Secretary of State before September 1, 2006, if it declined to make an official declaration of sufficiency or insufficiency; and require the Elections Director to make the declaration.**
- Require a fiscal impact analysis of a ballot proposal to be prepared before an election; and require a summary of the analysis to appear on the ballot.**
- Allow a person filing a petition to request that notice of its approval or rejection be forwarded to the person by the Fourth District of the Court of Appeals or the Elections Director, rather than the Board of State Canvassers.**
- Provide that a person who felt aggrieved by a determination by the Fourth District of the Court of Appeals or the Elections Director could have the determination reviewed in the Michigan Supreme Court.**

The bills are tie-barred to each other and to Senate Bills 973 through 976, which are tie-barred to the House bills. The Senate bills would amend the Election Law to transfer from the Board of State Canvassers to the Elections Director responsibilities for canvassing petitions to determine the validity and sufficiency of signatures; performing other constitutional duties concerning ballot petitions; and holding hearings on complaints or to investigate signatures. The Senate bills also would delete requirements for the Board to approve ballot statements prepared by the Elections Director.

The House bills are described below.

House Bill 5650

Under Article XII, Section 2 of the State Constitution, electors may propose amendments to the Constitution by petition. Under Article II, Section 9, electors may by petition propose

laws and enact and reject laws (the "initiative") and approve or reject laws enacted by the Legislature (the "referendum"). Chapter 22 of the Election Law governs the process by the petitions are approved and placed on the ballot.

The Election Law requires the Board of State Canvassers to make an official declaration of the sufficiency or insufficiency of a petition at least two months before the election at which the proposal is to be submitted. The bill would transfer this responsibility to the Fourth District of the Michigan Court of Appeals.

The Fourth District of the Court of Appeals would have to declare the petition sufficient unless the Court determined that the petition was not in the proper form or that the number of valid signatures was less than the minimum number required. In determining the sufficiency of the form of the petition, the Court could not consider the substance of the proposal affixed to it.

The Election Law states that, for the purposes of the second paragraph of Article II, Section 9 of the Constitution, a law that is the subject of the referendum continues to be effective until the referendum is properly invoked, which occurs when the Board of State Canvassers makes its official declaration of the sufficiency of the referendum petition. The Board must complete the canvass of a referendum petition within 60 days after the petition is filed with the Secretary of State, although a 15-day extension may be granted. The bill would refer to the Fourth District of the Court of Appeals, rather than the Board of State Canvassers, in these provisions. (The second paragraph of Article II, Section 9 states, "No law as to which the power of referendum has been properly invoked shall be effective thereafter unless approved by a majority of the electors...".)

The bill would require the Fourth District of the Court of Appeals to notify the Secretary of State before September 1, 2006, if the Court declined to make the official declaration of the sufficiency or insufficiency of petitions. If the Secretary of State received this notice, the State Elections Director would have to make the official declaration.

Under the bill, at least 30 days before the election at which a ballot proposal was to be submitted, a fiscal impact analysis of the proposal would have to be prepared by the State Budget Director or the State Treasurer, the Director of the Senate Fiscal Agency, and the Director of the House Fiscal Agency, or their respective designees. A summary of the fiscal impact analysis, including the cost of the ballot proposal to the State, would have to appear on the ballot with the ballot proposal language.

House Bill 5648

Currently, when a person files a petition under Chapter 22 of the Election Law, he or she may request a notice of the approval or rejection of the petition to be forwarded by the Board of State Canvassers to the person or another person designated at the time of the filing. Under the bill, a person filing a petition could request that notice of its approval or rejection be forwarded by the Fourth District of the Court of Appeals or the Elections Director.

As currently required, if such a request were made, the Secretary of State would have to send the person an official notice by registered or certified mail.

House Bill 5649

Under the Election Law, a person who feels aggrieved by a determination made by the Board of State Canvassers may have the determination reviewed by mandamus, certiorari, or other appropriate remedy in the Supreme Court. Under the bill, a person also could have

a determination made by the Fourth District of the Court of Appeals or the State Elections Director reviewed in the Supreme Court.

MCL 168.478 (H.B. 5648)
168.479 (H.B. 5649)
168.477 (H.B. 5650)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on the Judiciary. According to representatives of the State Court Administrative Office and the Court of Appeals, the bills would add administrative costs and increase the need for court resources. No estimated cost is available at this time. According to the Bureau of Elections, approximately 15 groups consider developing ballot proposals per year, and three or four actually submit signatures for review. There are currently two ballot proposals qualified to appear on the general election ballot in 2006, one proposal under review, and five proposal petitions approved as to form and circulating for signatures.

Fiscal Analyst: Stephanie Yu

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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.