

# SENATE BILL No. 394

March 19, 2009, Introduced by Senators SWITALSKI, BIRKHOLZ and GILBERT and referred to the Committee on Campaign and Election Oversight.

A bill to amend 1954 PA 116, entitled  
"Michigan election law,"  
by amending sections 952 and 968 (MCL 168.952 and 168.968), section  
952 as amended by 1993 PA 137 and section 968 as amended by 1989 PA  
26.

## 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 **FOR REASONS OF MISFEASANCE, MALFEASANCE, OR**

1 **NONFEASANCE IN OFFICE AND SHALL BE** based upon the officer's conduct  
2 during his or her current term of office. The reason for the recall  
3 may be typewritten.

4 (d) Contain a certificate of the circulator. The certificate  
5 of the circulator may be printed on the reverse side of the  
6 petition.

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

8 (2) Before being circulated, a petition for the recall of an  
9 officer shall be submitted to the board of county election  
10 commissioners of the county in which the officer whose recall is  
11 sought resides.

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

24 (4) The board of county election commissioners, not later than  
25 24 hours after receipt of a petition for the recall of an officer,  
26 shall notify the officer whose recall is sought of each reason  
27 stated in the **RECALL** petition and of the date of the meeting of the

1 board of county election commissioners to consider the clarity of  
2 each reason.

3 (5) The officer whose recall is sought and the sponsors of the  
4 **RECALL** petition may appear at the meeting and present arguments on  
5 the clarity of each reason.

6 (6) The determination by the board of county election  
7 commissioners may be appealed by the officer whose recall is sought  
8 or by the sponsors of the **RECALL** petition drive to the circuit  
9 court in the county. The appeal shall be filed not more than 10  
10 days after the determination of the board of county election  
11 commissioners.

12 (7) A **RECALL** petition that is determined to be of sufficient  
13 clarity under subsection ~~(1)~~-(3) or, if the determination under  
14 subsection ~~(1)~~-(3) is appealed pursuant to subsection (6), a **RECALL**  
15 petition that is determined by the circuit court to be of  
16 sufficient clarity is valid for 180 days following the last  
17 determination of sufficient clarity under this section. A recall  
18 petition that is filed under section 959 or 960 after the 180-day  
19 period described in this subsection is not valid and shall not be  
20 accepted pursuant to section 961. This subsection does not prohibit  
21 a person from resubmitting a recall petition for a determination of  
22 sufficient clarity under this section.

23 Sec. 968. (1) If a **RECALL** petition is filed under section 960,  
24 the board of county canvassers in the county where the **RECALL**  
25 petition is filed shall conduct the canvass of the recall election.  
26 The canvass of other recall elections shall be by the board of  
27 state canvassers. ~~if~~-**EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**

1 (2), IF a board of canvassers determines that a majority of the  
2 votes are in favor of recall, the board of canvassers immediately  
3 upon the determination shall certify the result to the officer with  
4 whom the recall petition was filed. Upon certification, the office  
5 is vacant. The officer with whom the recall petition was filed  
6 shall immediately upon receipt of the certification notify the  
7 clerk or secretary of the electoral district or, if the electoral  
8 district is a district library district, the district library board  
9 from which the official was recalled and the recalled official of  
10 the results of the recall election and the date and time of the  
11 certification.

12 (2) IF THE OFFICER WHOSE RECALL IS SOUGHT IS AN OFFICER OF A  
13 COUNTY, CITY, VILLAGE, TOWNSHIP, OR SCHOOL DISTRICT, THE BOARD OF  
14 CANVASSERS SHALL NOT CERTIFY AS PROVIDED IN SUBSECTION (1) UNLESS  
15 THE MAJORITY OF VOTES IS IN FAVOR OF RECALL AND THAT MAJORITY  
16 TOTALS AT LEAST 1 VOTE MORE THAN THE VOTES CAST FOR THE OFFICER  
17 WHOSE RECALL IS SOUGHT AT THE ELECTION AT WHICH THE OFFICER WAS  
18 ELECTED FOR THAT TERM.