



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986

Senate Bill 640 (as reported without amendment)  
Sponsor: Senator Dave Robertson  
Committee: Elections and Government Reform

Date Completed: 5-9-16

### **RATIONALE**

The Michigan Election Law establishes requirements for various types of petitions as well as criteria for individuals who circulate the petitions for signatures. Both nominating petitions and recall petitions must contain a certificate of the circulator. In the case of recall petitions, the Law requires a circulator to be a registered voter of the district of the official whose recall is sought, and the certificate of the circulator must indicate that he or she meets this requirement. The requirement, however, was found to be unconstitutional in 2009 by a United States District Court. Therefore, it has been suggested that the requirement be deleted from the statute.

### **CONTENT**

**The bill would amend the Michigan Election Law to delete a requirement that a person circulating a recall petition be a qualified and registered elector of the electoral district of the official sought to be recalled.**

The bill also would delete the requirement that the circulator attach to the petition his or her certificate stating that he or she is qualified and registered elector of the district, and stating the city or township where he or she lives and his or her post office address.

The bill would require a person circulating a recall petition to state in the certificate of circulator his or her residence address and that he or she is 18 years of age or older and a United States citizen.

The bill would retain a requirement that the circulator's certificate also indicate the following:

- That signatures appearing on the petition were not obtained through fraud, deceit, or misrepresentation and that the circulator has not caused or permitted a person to sign more than once and has no knowledge of a person doing so.
- That all signatures to the petition were made in the circulator's presence.
- That, to the best of the circulator's knowledge, information, and belief, the signers are qualified and registered electors and the signatures on the petition are the genuine signatures of the people signing the petition.

A person who makes a false statement in a certificate or circulator is guilty of a misdemeanor. (Under the Election Law, unless a different penalty is specified, a misdemeanor violation of the Law is punishable by a maximum fine of \$500, imprisonment for up to 90 days, or both.)

MCL 168.957

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

**Supporting Argument**

The bill would clean up the Election Law by removing the requirement that a person circulating a recall petition be registered to vote in the district of the official who is the subject of the petition. In an opinion dated December 17, 2009, the United States District Court for the Western District of Michigan found that this requirement was an unconstitutional violation of the First Amendment of the U.S. Constitution (*Bogaert v. Land*, 675 F.Supp.2d 742).

The bill also would require that a recall petition circulator be at least 18 years old and a United States citizen. This would be consistent with the Election Law's requirement for a person circulating a nominating petition (MCL 168.544c).

Legislative Analyst: Suzanne Lowe

**FISCAL IMPACT**

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

Fiscal Analyst: Ryan Bergan  
Joe Carrasco

A1516\sb640a

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.