

VALIDITY OF SIGNATURES ON PETITIONS

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House Bill 6595 (H-4) as passed by the House

Sponsor: Rep. James A. Lower

Committee: Elections and Ethics

Complete to 12-13-18

Analysis available at

<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 6595 would amend the Michigan Election Law to set new requirements for signatures collected on petitions for ballot proposals and state that failure to comply with them would render the signatures invalid and unable to be counted.

FISCAL IMPACT: The bill would have no fiscal impact on state or local units of government.

THE CONTENT OF THE BILL:

The bill would limit the percentage of signatures that could be collected from a congressional district to 15% of the total number of signatures. Submitted petition signatures would have to be sorted by congressional district, and the person filing the petition would have to certify to the Michigan Secretary of State (SOS) that the number of signatures did not exceed the limit. Signatures from a district in excess of 15% would be invalid and could not be counted.

The Board of State Canvassers would have to officially declare the sufficiency or insufficiency of an initiative petition no later than 100 days before the election. Legal challenges to this finding would have to be filed in the Michigan Supreme Court within seven days of the finding and would be given the highest priority by the court. (Generally, those aggrieved by Board decisions may have the decisions reviewed by mandamus, certiorari, or other appropriate remedy in the Supreme Court.)

The Law provides the format to be used on a petition initiative, including the paper and font sizes. The bill would require that, in addition to a 14-point heading and 8-point text of the proposal, the petition would have to include a summary of that proposal that is no more than 100 words and in a 12-point font. This summary could be submitted to the Michigan Secretary of State (SOS) for approval as to the content of the summary prior to circulation of the petition. Additionally, each petition would have to indicate in a 12-point font whether the petition circulator was a paid or volunteer signature gatherer and that if a circulator did not comply with the Law, any signatures he or she gathered would be invalid. A circulator who made a false statement on his or her status as a paid or volunteer circulator would be guilty of a misdemeanor. (The offense would fall under the misdemeanor catch-all provision of the Law,¹ and would be punishable by a fine of up to \$500 or imprisonment for up to 90 days, or both.)

¹ MCL 168.934

Each paid circulator would also have to file a signed affidavit with the SOS indicating that he or she was a paid circulator. Signatures gathered by a paid circulator who had not filed the affidavit would be invalid.

Under the bill, if the circulator used a false address or provided any fraudulent information on the certificate of circulator, any signature obtained by that circulator on that petition would be invalid.

Likewise, failure to meet the requirements set for petitions in Section 482 of the Law would render signatures on that petition invalid.

Finally, any signature on a petition that was not signed in the circulator's presence would be invalid.

MCL 168.471, 168.477, and 168.482, and proposed MCL 168.482a et al.

ARGUMENTS:

For:

Proponents argued that the bill provides necessary updates to the petition process to increase transparency and accountability for voters. Some of the processes set forth in the 1963 Constitution would benefit from an update, they say. A maximum percentage from each congressional district would ensure that petitions destined for the ballot were supported by a more representative geographic cross-section of Michiganders, they said.

Response:

Others argued that a minimum threshold for each congressional district—for instance, a requirement that at least 3-5% of signatures be gathered from each of Michigan's 14 congressional districts—would be a better way of ensuring a greater distribution. After all, say some, the tri-county area of Wayne, Oakland, and Macomb Counties touch seven congressional districts; under the bill, all of the signatures could be gathered without leaving the metro Detroit area (which is also the case now). How, then, would the bill ensure greater geographic representation?

Against:

Much of the opposition centered around the initial 10% cap on signatures from a congressional district. Some raised concerns that it would be unworkable from an administrative standpoint. Currently, the SOS assesses the sufficiency of petition signatures by taking a sample of the total and sorting by hand. If the result is inconclusive, a larger sample may be taken to assess the sufficiency. The bill's initial requirement that a maximum of 10% of signatures for a petition come from a given congressional district would require that each petition signature page be handled multiple times to determine that the maximum number for a district had not been reached. They argued that a floor, instead of a ceiling, would be more workable, and would make it easier for the SOS to handle by sampling.

Response:

In response to concerns that the initial proposal would be unworkable for the SOS, a bill substitute raises the percentage allowed from a district to 15% and requires that the group

submitting the signatures, rather than the SOS, determine whether the maximum had been reached and certify as much.

Against:

Others argued that the Constitution already states that a certain number of registered Michigan electors must sign a petition in order for it to be on the ballot, and wonder why any additional guidance is necessary. After all, why would one Michigan voter be less entitled to have his or her voice heard just because an arbitrary number of voters in his or her district had likewise supported a measure?

POSITIONS:

A representative of the West Michigan Policy Forum testified in support of the bill. (12-12-18)

The following organizations indicated support for the bill (12-12-18):

- Michigan Manufacturers Association
- Michigan Chamber of Commerce
- Grand Rapids Chamber
- Michigan Retailers Association
- Small Business Association of Michigan
- Michigan Restaurant and Lodging Association

The Michigan Catholic Conference supports the concept of the bill. (12-12-18)

Representatives of the Michigan Secretary of State testified and indicated that the SOS takes no position on the bill. (12-12-18)

Representatives of the following organizations testified in opposition to the bill (12-12-18):

- Right to Life of Michigan
- Citizens in Charge
- ACLU of Michigan
- AFSCME

The following organizations indicated opposition to the bill (12-12-18):

- The Michigan Songbird Protection Coalition
- Humane Society of the United States
- Michigan AFL-CIO
- Michigan Time to Care
- League of Women Voters
- Sierra Club

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.