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BILL



ANALYSIS

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House Bill 6595 (Substitute H-4 as passed by the House)
Sponsor: Representative James A. Lower
House Committee: Elections and Ethics
Senate Committee: Elections and Government Reform

Date Completed: 12-18-18

CONTENT

The bill would amend the Michigan Election Law to do the following:

- **Specify that not more than 15% of the petition signatures for a constitutional amendment, referendum, or initiative could be collected from any one congressional district.**
- **Require a person who filed a petition with the Secretary of State (SOS) to certify that the number of petition signatures from each congressional district did not exceed the 15% limit.**
- **Specify that any signature obtained above the 15% limit would be invalid and not counted.**
- **Require the Board of State Canvassers to make an official declaration of the sufficiency or insufficiency of a petition no later than 100 days before the election at which the proposal was to be submitted.**
- **Require a person who felt aggrieved by a determination made by the Board regarding the sufficiency of an initiative petition to file a challenge to the Board's determination in the Michigan Supreme Court within seven business days after the date of the official declaration.**
- **Require a petition to have a summary of that proposal that was not more than 100 words.**
- **Require each petition to indicate at the top of the page whether the circulator of the petition was a paid signature gatherer or a volunteer signature gatherer.**
- **Specify that any signature obtained on a circulated petition that failed to meet all of the requirements regarding its size and format would be invalid.**
- **Require a petition circulator who was a paid signature gatherer to file an affidavit with the SOS that indicated as such before circulating a petition.**
- **Specify that any signature obtained by a petition circulator on a petition would be invalid and could not be counted if the circulator provided or used a false address or provided any fraudulent information on the certificate of circulator.**
- **Specify that any signature obtained on a petition that was not signed in the circulator's presence would be invalid and could not be counted.**
- **Prescribed a misdemeanor penalty for a circulator who knowingly made a false statement concerning his or her status as a paid signature gatherer or volunteer signature gatherer.**

Congressional District Petition Signature Limit

The Michigan Election Law requires petitions under Article 12, Section 2 of the Michigan Constitution (which provides that amendments to the Constitution may be proposed by

petition of registered electors) proposing an amendment to the Constitution to be filed with the SOS at least 120 days before the election at which the proposed amendment is to be voted on. Initiative petitions under Article 2, Section 9 of the Constitution (which allows people to propose laws and enact and reject laws, and to approve or reject laws enacted by the Legislature, by petition) must be filed with the SOS at least 160 days before the election at which the proposed law is to be voted on. Referendum petitions under Article 2, Section 9 must be filed with the SOS not more than 90 days following the final adjournment of the Legislative session at which the law that is subject of the referendum was enacted.

Under the bill, not more than 15% of the petition signatures for a petition described above could come from any one congressional district. When filing the petition with the SOS, a person would have to sort the petition so that the petition signatures were categorized by congressional district. In addition, when filing the petition with the SOS, the person who filed it would have to certify to the SOS that the number of petition signatures from each district did not exceed the limit under the bill. Any signature obtained on a petition above the limit would be invalid and could not be counted.

Board of State Canvassers: Declaration

Under the Michigan Election Law, the Board of State Canvassers must 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 require the Board to make the official declaration no later than 100 days before the election at which the proposal was to be submitted.

Determination Legal Challenge: Filing Deadline

Currently, any person who feels aggrieved by any determination made by the Board of State Canvassers may have the determination reviewed by mandamus, certiorari, or other appropriate remedy in the Michigan Supreme Court.

Under the bill, if a person felt aggrieved by any determination made by the Board regarding the sufficiency or insufficiency of an initiative petition, the person would have to file a legal challenge to the Board's determination in the Supreme Court within seven business days after the date of the official declaration. Any legal challenge to the declaration would have the highest priority and would have to be advanced on the Supreme Court docket so as to provide for the earliest possible disposition.

Petition Format

The Michigan Election Law requires each petition to be a certain size. If the measure to be submitted proposes a Constitutional amendment, initiation of legislation, or referendum of legislation, the heading of each part of the petition must be prepared in a form described under the Election Law. The full text of the amendment proposed must follow and be printed in eight-point type. The bill would require a summary in not more than 100 words of the purpose of the proposed amendment or question proposed to follow the full text of the amendment. The summary would have to be printed in 12-point type.

A person who circulated a petition could, before circulating any petitions, submit the summary of the purpose of the proposed amendment or question proposed to the Board of State Canvassers for approval as to the content of the summary.

Petition Circulator

Each petition would have to clearly indicate at the top of the page and be printed in 12-point

type whether the circulator of the petition was a paid signature gatherer or a volunteer signature gatherer. Below this indication, each petition also would have to indicate in 12-point type that if the petition circulator did not comply with all of the requirements of the Election Law for circulators, any signature obtained by that circulator on that petition would be invalid and not counted. "Paid signature gatherer" would mean an individual who is compensated through payments of money or other valuable consideration to obtain signatures on a petition described above.

Also, a petition circulator who knowingly made a false statement concerning his or her status as a paid signature gatherer or volunteer signature gatherer would be guilty of a misdemeanor. (Section 934 of the Election Law requires any person found guilty of a misdemeanor under its provisions to be punished by a fine of not more than \$500, or by imprisonment in the county jail for not more than 90 days, or both.)

If an individual who circulated a petition were a paid signature gatherer, then that individual would have to, before circulating any petition, file a signed affidavit with the SOS that indicated he or she was a paid signature gatherer. Any signature obtained on a petition by an individual who had not filed the required affidavit would be invalid and could not be counted.

If the circulator provided or used a false address or provided fraudulent information on the certificate of circulator, any signature obtained by that circulator would be invalid and could not be counted. If a petition were circulated and it did not meet all of the requirements regarding its size and format, any signature obtained on that petition would be invalid and could not be counted.

A signature obtained on a petition that was not signed in the circulator's presence would be invalid and could not be counted.

MCL 168.471 et al.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

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

Fiscal Analyst: Joe Carrasco

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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.