

VALIDITY OF SIGNATURES ON PETITIONS

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House Bill 6595 as enacted

Public Act 608 of 2018

Sponsor: Rep. James A. Lower

House Committee: Elections and Ethics

Senate Committee: Elections and Government Reform

Complete to 2-13-19

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 6595 amends 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 direct costs for the state or local units of government. The bill would result in additional administrative personnel hours, which would likely be absorbed by current staffing and appropriations.

THE CONTENT OF THE BILL:

The bill limits the percentage of signatures that may be counted from a congressional district to 15% of the total number of signatures. Submitted petition signatures must be sorted by congressional district, and the person filing the petition must specify to the Michigan Secretary of State (SOS) a good-faith estimate of the number of signatures from each district. Signatures from a district in excess of 15% are invalid and may not be counted.

The Board of State Canvassers must officially declare the sufficiency or insufficiency of an initiative petition no later than 100 days before the election. Legal challenges to this finding must be filed in the Michigan Supreme Court within seven days of the finding or no later than 60 days before the election at which the initiative will be considered, whichever occurs first, and must 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 Election Law provides the format to be used on a petition initiative, including the paper and font sizes. The bill requires that, in addition to a 14-point heading and 8-point text of the proposal, the petition must include a summary of that proposal that is no more than 100 words and in a 12-point font. This summary may be submitted to the Michigan Board of State Canvassers for approval as to its content prior to circulation of the petition and, if it is approved, the Board may not consider a challenge based on the assertion that the summary is misleading or deceptive. The Board must approve or reject the summary within 30 days of its submittal.

If the summary is submitted for approval, it must be prepared by the Director of Elections with the approval of the Board. It is limited to 100 words with common everyday meanings,

which must convey a true and impartial statement of the purpose of the proposal and apprise the reader of the subject matter.

Additionally, each petition must include check boxes and statements in a 12-point font indicating whether the petition circulator is a paid or volunteer signature gatherer and stating that if a circulator does not comply with the Election Law, any signatures he or she gathers are invalid. A circulator who makes a false statement regarding his or her status as a paid or volunteer circulator is guilty of a misdemeanor. (The offense falls under the misdemeanor catch-all provision of the Election Law,¹ and violation is punishable by a fine of up to \$500 or imprisonment for up to 90 days, or both.)

Each paid circulator must also file a signed affidavit with the SOS indicating that he or she is a paid circulator. Signatures gathered by a paid circulator who has not filed the affidavit are invalid.

Under the bill, if a circulator uses a false address or provides any fraudulent information on the certificate of circulator, any signature obtained by that circulator on that petition is invalid.

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

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

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

ARGUMENTS:

For:

Proponents argued that the bill would provide 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. A maximum percentage counted 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 to 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

¹ MCL 168.934: <http://legislature.mi.gov/doc.aspx?mcl-168-934>

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, the bill was substituted to raise the percentage allowed from a district to 15% and require 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 wondered 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?

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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.