

HOUSE BILL No. 5712

March 13, 2018, Introduced by Reps. Howrylak, Pagan, Howell and Miller and referred to the Committee on Elections and Ethics.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 963, 967, 969, 970a, 970c, 970e, 970g, 971a, 972, 973a, and 977 (MCL 168.963, 168.967, 168.969, 168.970a, 168.970c, 168.970e, 168.970g, 168.971a, 168.972, 168.973a, and 168.977), section 963 as amended by 2015 PA 99, sections 967, 969, and 972 as amended and sections 970a, 970c, 970g, 971a, 973a, and 977 as added by 2012 PA 417, and section 970e as amended by 2015 PA 102; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 963. (1) Within 35 days after the filing of the recall
2 petition, the filing official with whom the recall petition is

1 filed shall make an official declaration of the sufficiency or
2 insufficiency of the recall petition. If the recall petition is
3 determined to be insufficient, the filing official shall notify the
4 person or organization sponsoring the recall of the insufficiency
5 of the recall petition. It is not necessary to give notification
6 unless the person or organization sponsoring the recall files with
7 the filing official a written notice of sponsorship and a mailing
8 address.

9 (2) If a recall petition is filed under section 960,
10 immediately upon determining that the recall petition is
11 sufficient, but not later than 35 days after the date of filing of
12 the recall petition, the county clerk with whom the recall petition
13 is filed shall call the recall election and proceed under sections
14 ~~971e-972~~ to 975. The recall election ~~shall~~ **MUST** be held not less
15 than 95 days after the date the recall petition is filed and ~~shall~~
16 **MUST** be held on the next May regular election date or the next
17 November regular election date, whichever occurs first.

18 (3) Except as otherwise provided in subsection (4), if a
19 recall petition is filed under section 959, the filing official
20 with whom the recall petition is filed shall call the recall
21 ~~primary~~ election and proceed under sections ~~970b-970c~~ **970C** to 970g. The
22 recall ~~primary~~ election ~~shall~~ **MUST** be held on the next regular
23 election date that is not less than 95 days after the date the
24 recall petition is filed.

25 (4) If a recall petition is filed under section 959 demanding
26 the recall of the governor, the filing official with whom the
27 recall petition is filed shall call a special recall election and

1 proceed under sections 975c to 975g. The special recall election
2 ~~shall~~**MUST** be held not less than 95 days after the date the recall
3 petition is filed and ~~shall~~**MUST** be held on the next May regular
4 election date or the next August regular election date, whichever
5 occurs first.

6 Sec. 967. The expenses of a special recall election, ~~a recall~~
7 ~~primary election, a recall general election, or a recall election~~
8 ~~shall be~~**ARE** payable in the same manner as are the costs of a
9 regular election to fill the office in question.

10 Sec. 969. After filing a recall petition and after a recall
11 election, ~~a recall general election, or special recall election~~
12 under this chapter, no further recall petition shall be filed
13 against the same incumbent of that office during the term for which
14 he or she is elected.

15 Sec. 970a. Sections ~~970b~~**970C** to 970g apply to the recall
16 ~~primary election and recall general election~~ for an office listed
17 in section 959.

18 Sec. 970c. ~~(1) Except as otherwise provided in subsection (2),~~
19 ~~for the recall primary election, a~~**A** political party candidate may
20 qualify for the recall ~~primary~~ election by filing a nominating
21 petition or paying a \$100.00 nonrefundable fee with the secretary
22 of state not later than 4 p.m. on the tenth day after the filing
23 official with whom the recall petition is filed calls the recall
24 ~~primary~~ election. The nominating petition ~~shall~~**MUST** be filed with
25 the secretary of state and signed by 10% of the number of
26 signatures required under section 544f.

27 ~~———— (2) As provided in section 970b, if the incumbent is the~~

1 ~~nominee of his or her political party at the recall general~~
2 ~~election, an individual in the incumbent's political party is not~~
3 ~~eligible as a candidate for the recall primary election and that~~
4 ~~political party shall not conduct a recall primary election.~~

5 ~~Sec. 970e. Subject to section 970b, the candidate of each~~
6 ~~political party receiving the greatest number of votes cast for~~
7 ~~candidates at the recall primary election as set forth in the~~
8 ~~report of the board of state canvassers, based on the returns from~~
9 ~~the various election precincts, shall be declared the nominee of~~
10 ~~that political party at the recall general election to be held on~~
11 ~~the next May regular election date or the next August regular~~
12 ~~election date, whichever occurs first. In addition, except as~~
13 ~~otherwise provided in this section, a **A** candidate without a~~
14 ~~political party affiliation may qualify for the recall ~~general~~~~
15 ~~election by filing a qualifying petition with the officer with whom~~
16 ~~the recall petitions were filed that contains 10% of the number of~~
17 ~~signatures required under section 544f within 10 days after the~~
18 ~~recall ~~general~~ election is scheduled. An individual who was an~~
19 ~~unsuccessful candidate in the recall primary election may not~~
20 ~~subsequently file a qualifying petition as a candidate without a~~
21 ~~political party affiliation for the recall general election.~~

22 ~~Sec. 970g. The candidate receiving the highest number of votes~~
23 ~~in the recall ~~general~~ election is elected for the remainder of the~~
24 ~~term.~~

25 ~~Sec. 971a. Sections ~~971e~~**972** to 975 apply to the recall~~
26 ~~election for an office listed in section 960.~~

27 ~~Sec. 972. (1) Except as provided in subsection (2), and~~

1 ~~section 971e,~~ if the recall election involves a nonpartisan office,
2 a candidate for that nonpartisan office shall be nominated and
3 voted for in the recall election by filing a nominating petition or
4 paying a \$100.00 nonrefundable fee not later than 4 p.m. on the
5 tenth day after the filing official with whom the recall petition
6 is filed calls the recall election. The nominating petition ~~shall~~
7 **MUST** be filed with the clerk of the electoral district and signed
8 by 10% of the number of qualified and registered electors of the
9 electoral district as required under section 544f. Instead of
10 filing a nominating petition, an individual may become a candidate
11 by paying a \$100.00 nonrefundable fee with the clerk of the
12 electoral district.

13 (2) This subsection applies to a recall election involving a
14 school board member, if the recall election is scheduled to be held
15 on the same date as a general election. A nominating petition filed
16 by a candidate ~~shall~~ **MUST** be signed by a number of qualified and
17 registered electors of the school district as determined under
18 section 303. The nominating petition ~~shall~~ **MUST** be filed with the
19 school district election coordinator, as designated by section 301,
20 not later than 4 p.m. on the tenth day after the filing official
21 with whom the recall petition is filed calls the recall election.
22 Instead of filing a nominating petition, an individual may become a
23 candidate by paying a \$100.00 nonrefundable fee to the school
24 district election coordinator.

25 Sec. 973a. (1) ~~Subject to subsection (2), if~~ **IF** the recall
26 election involves a partisan office, a political party candidate
27 shall be nominated for that partisan office as follows:

1 (a) If the office is in the office of county commissioner or
2 in a district office within an electoral district of 1 county, the
3 county executive committee of the political party shall nominate a
4 candidate for that office.

5 (b) If the office is in a district office within an electoral
6 district in less than 1 county and 3 or more members of the county
7 executive committee of a political party reside in the electoral
8 district, the members of the county executive committee of the
9 political party residing in the electoral district shall nominate a
10 candidate for that office. If the office is in a district office
11 within an electoral district in less than 1 county and less than 3
12 members of the county executive committee of a political party
13 reside in the electoral district, the county executive committee of
14 the political party shall nominate a candidate for that office.

15 (c) If the office is in a district office having an electoral
16 district in more than 1 county, the members of the several county
17 executive committees of the political party residing in those parts
18 of the counties that are in the district shall nominate a candidate
19 for that office.

20 (d) If the office is in a ward or township office and 3 or
21 more members of the county executive committee of a political party
22 reside in the ward or township, the members of the county executive
23 committee of the political party residing in that ward or township
24 shall nominate a candidate for that office. If the office is in a
25 ward or township office and less than 3 members of the county
26 executive committee of a political party reside in the ward or
27 township, the county executive committee of the political party

1 shall nominate a candidate for that office.

2 ~~—— (2) If the incumbent candidate declines to be a candidate at~~
3 ~~the recall election as provided in section 971c, the political~~
4 ~~party of that incumbent candidate shall nominate a candidate using~~
5 ~~the nominating procedure as provided in subsection (1).~~

6 (2) ~~(3)~~—Each nomination by a committee under subsection (1)
7 shall **MUST** be certified to the officer with whom the recall
8 petitions were filed within 10 days after the calling of the recall
9 election.

10 (3) ~~(4)~~—A candidate without a political party affiliation may
11 qualify for a partisan office by filing a qualifying petition with
12 the officer with whom the recall petitions were filed that contains
13 10% of the number of signatures required under section 544f within
14 10 days after the calling of the recall election.

15 Sec. 977. (1) An officer who is recalled under this chapter
16 shall not be appointed to fill a vacancy in an elective office in
17 the electoral district or governmental unit from which the recall
18 was made during the term of office from which the officer was
19 recalled.

20 (2) An officer who resigns subsequent to the filing of a
21 recall petition shall not be appointed to fill a vacancy in
22 elective office in that electoral district or governmental unit
23 during the term of the office from which the officer resigned.

24 (3) If an officer resigns subsequent to the filing of
25 petitions to recall that officer from office, it is not necessary
26 for the office with which the recall petitions have been filed to
27 proceed under sections 961 and 963.

1 (4) If an officer whose recall is sought resigns after the
2 calling of a ~~recall primary election, recall general election,~~
3 recall election ~~,~~ or special recall election, the election shall
4 not be held.

5 Enacting section 1. Sections 970b and 971c of the Michigan
6 election law, 1954 PA 116, MCL 168.970b and 168.971c, are repealed.

7 Enacting section 2. This amendatory act takes effect 90 days
8 after the date it is enacted into law.