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BILL ANALYSIS

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Senate Bill 1108 (Substitute S-3 as passed by the Senate)
Senate Bill 1109 (Substitute S-1 as passed by the Senate)
Senate Bill 1110 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Jeremy Moss (S.B. 1108 & 1109)
 Senator Ed McBroom (S.B. 1110)
Committee: Elections and Ethics

Date Completed: 12-30-24

CONTENT

Senate Bill 1110 (S-2) would amend the Michigan Election Law to do the following:

- Provide that, if an elector signed a petition, nominating petition, qualifying petition for a candidate without political party affiliation, a petition to form a new State political party, or a recall petition more than once, only the first valid signature of that elector would be counted.
- Allow the Board of State Canvassers (Board) to use a statistical random sampling methodology, as approved by the Board, to determine whether a petition complied with petition circulator requirements.
- Require the Secretary of State (SOS) to create a petition form, with the approval of the Board, to be used by petitioners, and require the Bureau of Elections (Bureau) to issue and make publicly available a digitally editable version.
- Require the petition form to include an area designated solely for the sponsor, the full text of the proposed amendment, law, or referendum on the reverse side of the form, a table for signatures, and an identification statement as required by the Michigan Campaign Finance Act.
- Prescribe specific textual requirements for constitutional amendment, initiated law, and referendum petition forms.
- Require a petition form also to include a petition circulator certification.
- Reorganize misdemeanor and felony penalties.

Senate Bill 1108 (S-3) would amend the Michigan Election Law to prohibit an individual employed to circulate a petition, a nominating petition, a qualifying petition, or a recall petition from being paid a fixed rate or amount for each petition signature collected or for each completed petition signature sheet.

Senate Bill 1109 (S-1) would amend the Michigan Election Law to require the circulator of a petition to read to or allow an individual to read the summary of the purpose of a petition's proposed amendment or question before the individual signed the petition.

Senate Bill 1110 would take effect 90 days after its enactment. Senate Bills 1110 and 1109 are described in detail below.

Senate Bill 1110 (S-2)

The bill would provide that, if a petition, nominating petition, qualifying petition for a candidate without political party affiliation, a petition to form a new State political party, or a recall

petition contained the signature of the same elector more than one time, only the first valid signature of that elector could be counted.

The bill also would allow the Board of State Canvassers to use a statistical random sampling methodology, as approved by the Board of State Canvassers, to determine the validity and sufficiency of signatures and petition form requirements on petitions to form a new political party.

Petition Form; Generally

Among other things, the Law provides for the form of petitions. Currently, each petition must be 8-1/2 inches by 14 inches in size. A petition's written content must be written in size 14 font. The bill would delete these provisions. Instead, it would require the SOS to create a petition form, with the approval of the Board, to be used by petitioners. The Bureau of Elections would have to issue and make publicly available a digitally editable model of this form.

The text on a petition form would have to be printed in at least 8-point type. The sponsor of a petition could include on the petition form union symbols, bar codes, QR codes, websites, or any other similar information in the area on the petition form that was designated solely for the sponsor.

Currently, the full text of the proposed constitutional amendment, initiated law, or referendum must follow the petition's summary of purpose. The bill would delete this provision and require the full text of the amendment, law, or referendum to be printed on the reverse side of the petition form. If the full text of the proposed constitutional amendment, initiated law, or referendum were too lengthy to be printed on the reverse side of the petition form, the text would have to be continued on a fold-over extension of the same petition form.

The bill would require a table for signatures of those signing a petition to be printed on the petition form that included a space for 1) signatures, 2) the printed names of the signers, 3) the street address or rural route of the signers, 4) the city or township of the signers, 5) the zip code of the signers, 6) the county in which the signers reside, and 7) the date of the signatures. A missing element of the address of a petition signer, such as a missing or incomplete zip code, would not be sufficient cause to invalidate a signature if the information provided were sufficient to match the petition signer with an elector in the qualified voter file.

Additionally, the Michigan Campaign Finance Act requires printed matter that bears reference to an election, a candidate, or a ballot question, to display an identification that contains the name and address of the person paying for the matter. The bill would require a petition form to include this identification statement. Additionally, a petition would have to include any administrative act promulgated under the Act, if applicable.

Petition Form; Constitutional Amendment

Under the bill, the following would have to be printed below the required summary of the purpose of a proposed constitutional amendment:

- An indication of the sections of the State Constitution that would be amended, repealed, or added by the proposed amendment.
- If the petition sponsor maintained an internet website, an address for the internet website that included the summary of purpose, the full text of the proposed amendment, and the

full text of any existing provision of the State Constitution that would be altered or repealed by the proposed amendment.

- The following statement: "See reverse side of this petition for the full text of the proposed constitutional amendment and any existing provisions of the State Constitution that would be altered or abrogated by the proposed constitutional amendment."

Petition Form; Initiated Law

Under the bill, the following would have to be printed below the required summary of the purpose of a proposed initiated law:

- The full legal name included in the proposed law.
- The full legal name enacted by the Legislature, if any, for an existing law that would be amended or repealed by the proposed law.
- If applicable, the public act number and year of the existing law that would be amended or repealed by the proposed law.
- If applicable, the range of sections in the compiled laws of the law that would be amended or repealed in the proposed law.
- An address for an internet website that included the summary of purpose and the full text of the legislation proposed by the law.

Petition Form; Referendum

Under the bill, the following would have to be printed below the required summary of the purpose of a proposed referendum:

- The public act number and year of the public act subject to the proposed referendum.
- An address for an internet website that included the summary of the purpose and the full text of the law subject to the referendum.

Petition Circulator Certification

The bill would require a petition circulator certification to appear on a petition form. Generally, this statement would certify that the circulator was a United States citizen 18 years of age or older, that each signature was signed in the circulator's presence, that the circulator had no knowledge that an individual signed the petition more than once, and that each signature was genuine to the best of the circulator's knowledge.

If the circulator of a petition proposing a constitutional amendment, initiated law, or referendum were not a resident of the State, the circulator would have to indicate where provided on the petition circulator certification that the circulator agreed to accept the jurisdiction of the State for the purpose of any legal proceeding or hearing that concerned a petition sheet executed by the circulator and agreed that legal process served on the SOS or a designated agent of the SOS would have the same effect as if personally served on the circulator. If the SOS or a designated agent of the SOS were served with legal process, the SOS would have to promptly notify the circulator by personal service or certified mail at the circulator's residential address as indicated in the petition circulator certification.

Additionally, the Act requires petitions to clearly indicate, in 12-point type, below the compensation statement that if the petition circulator does not comply with all the requirements of the Act for petition circulators, any signature obtained by that petition

circulator on that petition is invalid and will not be counted. The bill would delete this provision.

Petition Prohibitions

Currently, an individual cannot do any of the following regarding a petition, including a nominating petition:

- Sign a petition with a name other than the individual's own.
- Make a false statement in a certificate on a petition.
- If not a circulator, sign a petition as a circulator.
- Sign a name as circulator other than the individual's own.

An individual who violates this prohibition by doing any of the above is guilty of a misdemeanor. An individual who signs a petition with multiple names is guilty of a felony. Instead, under the bill, an individual who made a false statement in a certification on a petition or, if not a circulator, signed a petition as a circulator, would be guilty of a misdemeanor punishable by a fine of not more than \$500 or imprisonment for not more than 93 days, or both. An individual who signed a petition with a name other than the individual's own or signed a name as circulator other than the individual's own would be guilty of a felony.

Additionally, the bill would provide that, if an individual were to sign a petition more than once, only one signature could be counted. Currently, a person circulating a recall petition must fill out a certificate of circulator. Among other things, the circulator must certify that the circulator had neither caused nor permitted a person to sign the recall petition more than once and has no knowledge of a person signing the recall petition more than once. The bill would delete this provision.

Senate Bill 1109 (S-1)

The bill would require the circulator of a petition to do either of the following before having an individual sign the petition:

- Indicate to the individual where the summary of the purpose of the proposed amendment or question proposed was located on the petition and give that individual the opportunity to read the summary.
- Read to the individual the summary of the purpose of the proposed amendment or question proposed.

If a circulator failed to comply with this requirement when obtaining a signature on a petition, the sponsor of the petition would be subject to a civil fine of up to \$1,500, or \$50 for each violation, whichever was greater.

Proposed MCL 168.483b & 168.957a (S.B. 1108)

Proposed MCL 168.482g (S.B. 1109)

MCL 168.482 et al. (S.B. 1110)

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bill 1110 is similar to House Bill 5696 of the 2015-2016 Legislative Session, House Bill

5214 of the 2017-2018 Legislative Session, Senate Bill 1213 of the 2019-2020 Legislative Session, and Senate Bill 608 of the 2021-2022 Legislative Session. It also is similar to House Bill 5571 of the 2023-2024 Legislative Session.

Senate Bill 1108 is similar to House Bill 5210 of the 2017-2018 Legislative Session, Senate Bill 1212 of the 2019-2020 Legislative Session, and Senate Bill 607 of the of the 2021-2022 Legislative Session.

BRIEF RATIONALE

In 2022, Michigan's gubernatorial race faced increased scrutiny after the Bureau of Elections disqualified five primary candidates for failing to meet required signature thresholds. Though each candidate submitted a nominating petition with the required number of signatures, the Bureau found that many, an estimated 68,000 signatures, submitted across 10 nominating petitions were fraudulent, an unprecedented number.¹ Testimony before the Senate Committee on Elections and Ethics indicates that other, less prominent instances of signature fraud also exist. Some are concerned that fraud is incentivized because petition circulators may be paid per signature and that petition circulators may engage in deceit by misrepresenting the nature of a petition to convince electors to sign it. Accordingly, it has been suggested that the Law be amended to remove these incentives and penalize bad actors for spreading misinformation.

Legislative Analyst: Abby Schneider

FISCAL IMPACT

Senate Bills 1108 (S-3) and 1110 (S-2) would have no fiscal impact on State or local government.

Senate Bill 1109 (S-1) could have a positive fiscal impact on the State and local units of government. The bill would impose a civil fine of up to \$1,500. Revenue collected from civil fines is used to support local libraries. Additionally, \$10 of the civil fine would be deposited into the State Justice System Fund, which supports justice-related activities across State government in the Departments of Corrections, Health and Human Services, State Police, and Treasury. The Fund also supports justice-related issues in the Legislative Retirement System and the Judiciary. The amount of revenue to the State or for local libraries is indeterminate and dependent on the actual number of violations.

Fiscal Analyst: Joe Carrasco, Jr.
Michael Siracuse

¹ Mauger, Craig, "Board of canvassers deadlocks, blocking 5 candidates for governor from ballot", *The Detroit News*, May 26, 2022.

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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.