



Senate Fiscal Agency  
P.O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bills 5571 and 5573 (Substitute H-4 as passed by the House)  
House Bill 5572 (as passed by the House)  
House Bills 5574 and 5575 (Substitute H-3 as passed by the House)  
House Bill 5576 (Substitute H-2 as passed by the House)  
Sponsor: Representative Penelope Tsernoglou (H.B. 5571)  
Representative Donavan McKinney (H.B. 5572)  
Representative Jason Morgan (H.B. 5573)  
Representative Joey Andrews (H.B. 5574)  
Representative Jasper Martus (H.B. 5575)  
Representative Jaime Churches (H.B. 5576)

House Committee: Elections  
Senate Committee: Elections and Ethics

Date Completed: 12-4-24

### **INTRODUCTION**

Generally, the bills would amend Michigan's petition procedures. The State Constitution allows residents to initiate laws, approve or reject laws enacted by the Legislature (referendum), or amend the Constitution by petition. Residents also may nominate non-partisan individuals to partisan office or create a new political party by petition.

The bills would require the Secretary of State (SOS) to create a petition form to be used by petitioners. The form would have to include a summary of purpose; the full text of the proposed amendment, law, or referendum; a table for signatures; an identification statement as required by the Michigan Campaign Finance Act; and a petition circulator certification. The bills also would allow the Board of State Canvassers (Board) to use an approved statistical random sampling methodology to determine the validity and sufficiency of signatures and petition form requirements. Additionally, the bills would require the Board to refer any signature that it determined as fraudulent to the Department of Attorney General (AG) for further investigation. The bills also would allow the Board to disqualify an obviously fraudulent signature without checking registration records or the qualified voter file (QVF). The bills also would reorganize misdemeanor and felony penalties and require the SOS to update petition information on the Department of State's website (MDOS).

### **BRIEF FISCAL IMPACT**

The bills would have an indeterminate, but likely negative fiscal impact on the State and local governments. New felony arrests and convictions under the bills could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The AG could incur investigation costs as the bills would require the Board to refer obviously fraudulent signatures to the AG. On the other hand, the MDOS could see a reduction in costs as fewer petitions would require review and evaluation by Department staff under the bills. Local government could see a negative fiscal impact, likely negligible, in administrative time spent on signature verification.

MCL 168.32 et al. (H.B. 5571); 168.552 (H.B. 5572) Legislative Analyst: Abby Schneider  
168.472a et al. (H.B. 5723); 168.474a et al. (H.B. 5724) Fiscal Analyst: Bobby Canell  
168.471 (H.B. 5725); 168.685 (H.B. 5726) Joe Carrasco, Jr.; Michael Siracuse

## **INTRODUCTION**

**House Bill 5571 (H-4) would amend the Michigan Election Law to do the following:**

- Require a petition proposing a constitutional amendment, an initiated law, or a referendum to include a summary of purpose and prescribe requirements of those summaries.
- Allow the sponsor of a petition to submit the summary of purpose to the Board for approval.
- Require the Director of Elections to review the submission and prepare a proposed summary for approval by the Board.
- Require the Board to issue a determination approving or rejecting the petition form and the content of the proposed summary of purpose within 30 days after the petitioner's final submission.
- If the summary of purpose and the petition form used were approved by the Board before the petition were circulated, prohibit the Board from considering a challenge to the sufficiency of a submitted petition based on the summary of purpose or the petition form.
- Require the 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.
- Allow the Board to use a statistical random sampling methodology, as approved by the Board, to determine whether a petition complied with petition circulator requirements.
- Reorganize misdemeanor and felony penalties.
- Provide that, if an individual signed a petition more than once, only one signature could be counted.
- Prescribe the circumstances under which the State Constitution could be added to, deleted from, or changed by a proposed constitutional amendment.
- Repeal Sections 482b, 482c, and 482d of the Michigan Election Law, which generally concern petition circulation.

**House Bill 5572 would amend Chapter XXIV (Primary Elections) of the Michigan Election Law to do the following:**

- Allow the Board to use a statistical random sampling methodology, as approved by the Board, to determine the validity and sufficiency of signatures and petition form requirements on nominating petitions.
- Delete a requirement that the Board submit a petition that contained unverifiable signatures to a city or township clerk to compare and allow the Board to disqualify an obviously fraudulent signature without checking the signature against the local registration records or the QVF.
- Allow the Board to use a statistical random sampling methodology, as approved by the Board, to determine the validity and sufficiency of signatures and petition form requirements on nominating petitions.
- Require the Board to refer any signature that it determined was obviously fraudulent to the AG for further investigation.

- Require the Board to act on a complaint within seven days after a nominating petition was filed or, if the Board used statistical random sampling, within seven days after the random sample was made available to the public.
- Require a county clerk to act on a complaint for a nominating petition filed within seven days after the filing of nominating petitions.

**House Bill 5573 (H-4)** would amend Chapters XXII (Initiative and Referendum) and XXIVA (Candidates Without Political Party Affiliation) to do the following:

- Require Bureau staff to begin reviewing the submitted petition signatures in the order the petitions were received from petitioners.
- Require the Bureau to make copies of filed petitions available to petitioners and challengers, upon request, and allow the Bureau to charge a reasonable fee to produce and transmit copies.
- Require the Bureau to make original petition sheets available for review by petitioners and challengers, upon request, and allow the Bureau to charge a reasonable fee to ensure petition security.
- Allow the Board to use a statistical random sampling methodology, as approved by the Board, to determine the validity and sufficiency of signatures and petition form requirements on petitions.
- Require the Board to post on its website the Board's approved process and procedures for canvassing a petition, indicate on its website when completing each step of the canvassing process, and indicate on its website the completion percentage of the canvass of randomly sampled signatures.
- Require the Board to adopt and publish standards necessary to rebut a finding that a signature was not genuine or was not the signature of a registered elector.
- Require the Board to complete the canvas of signatures at least 60 days before the election during which the proposal would appear on the ballot.
- Require the Bureau to make public the Bureau's staff report concerning disposition of challenges filed against a petition within five days before the Board meets to make a final determination on challenges to and sufficiency of a petition, instead of two days before the meeting.
- Require the Board or the Bureau to refer an obviously fraudulent signature to the AG.
- Require the Board to make an official declaration of the sufficiency or insufficiency of a petition at least 60 days before the election at which the proposal was to be submitted, instead of two months before the election.
- Prescribe requirements for a petition to be determined sufficient.
- Delete a provision limiting signatures that would validate the sufficiency of a petition at 15% from one congressional district.
- Allow any person submitting a petition, a ballot question committee, or a person submitting documents regarding petition signature validity aggrieved by the Board's determination or the failure to perform a duty to seek judicial relief in the Court of Appeals within seven days after the action or inaction by the Board.
- Allow the Supreme Court to expedite or consider a matter as provided in the Michigan Court Rules.
- Allow the Board to use a statistical random sampling methodology, as approved by the Board, to determine the validity and sufficiency of signatures for petitions.
- Delete a provision allowing the SOS to grant one 15-day extension to the Board concerning the canvass of a referendum petition.

**House Bill 5574 (H-3)** would amend Chapter XXII of the Michigan Election Law to do the following:

- **Require the SOS to post on its website, on the first business day of every month after the date a petition and signatures were filed, an update on the status of that petition.**
- **Modify requirements for the numbered designation of ballots.**
- **Repeal Section 709 of the Michigan Election Law, which requires the SOS to furnish the State's county clerks with at least two copies of a summary of a constitutional amendment and county clerks to distribute this summary to municipal clerks and boards of election inspectors.**

**House Bill 5575 (H-3) would amend Chapter XXII of the Michigan Election Law to do the following:**

- **Delete a provision prohibiting more than 15% of a constitutional amendment, initiated law, or referendum petition's signatures from being from individuals in the same congressional district.**
- **Require a petitioner, when filing a petition, to certify that the petitioner had made a good-faith effort to sort the petitions based on the number of signatures contained on each petition sheet and that the petitioner was submitting at least the minimum number of required petition signatures.**
- **Repeal Section 472 of the Michigan Election Law, which requires initiated law petitions to be filed with the SOS at least 10 days before the beginning of a session of the Legislature.**

**House Bill 5576 (H-2) would amend Chapter XXVIII (Holding of Elections) of the Michigan Election Law to do the following:**

- **Allow the Board to use an approved statistical random sampling methodology to determine the validity and sufficiency of signatures and form requirements on petitions to form a new political party.**
- **Reorganize misdemeanor and felony penalties.**

House Bill 5571 is tie-barred to House Bills 5572 through 5576. House Bills 5571, 5572, 5573, and 5576 are tie-barred. House Bill 5573 also is tie-barred to House Bill 5575, which is tie-barred to House Bill 5571. House Bill 5576 also is tie-barred to House Bill 5571.

#### **House Bill 5571 (H-4)**

Among other things, the Law provides for the creation and processing of petitions. The bill would require a petition proposing a constitutional amendment, an initiated law, or a referendum to include a summary of purpose for the proposed constitutional amendment, initiated law, or referendum. The summary would have to meet the following requirements:

- **Be limited to at most 100 words, exclusive of numerals, and consist of a true and impartial statement of the purpose of the proposed constitutional amendment, initiated law, or referendum in language that created no prejudice for or against the proposed constitutional amendment, initiated law, or referendum.**
- **Be worded to inform the petition signers of the subject matter of the proposed constitutional amendment, initiated law, or referendum; however, the summary would not have to be legally precise.**
- **Be clearly written using words that had a common everyday meaning to the general public.**

An individual who circulated a petition for a proposed constitutional amendment, initiated law, or referendum could, before circulating any petition, submit the petition form and the summary of the purpose to the Board for approval as to the contents of the summary and to

the form of the petition. The bill would require the Director of Elections to review the submission and prepare a proposed summary of the purpose of the proposed constitutional amendment, initiated law, or referendum for approval by the Board.

The Board would have to issue a determination approving or rejecting the petition form and the content of the proposed summary of purpose within 30 days after the final submission from the petitioner. If the summary of purpose and the petition form used were approved before the petition were circulated, the Board could not consider a challenge to the sufficiency of a submitted petition based on the summary of purpose or the petition form.

#### Petition Form; Generally

The Law also 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 or 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 (QVF).

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.

The bill also would modify certain headings and warnings that must appear on various petitions. Generally, these changes are not substantive.

#### 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 agree 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.

Currently, each petition form must provide at the top of the page check boxes and statements printed in 12-point type to clearly indicate whether the circulator of the petition is paid or a

volunteer. The bill would remove references to the *placement* of these boxes and the required font size.

The Act also 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. If an individual who circulates a petition is a paid signature gatherer, then that individual must, before circulating any petition, file a signed affidavit with the SOS that indicates the individual is a paid signature gatherer. Any signature obtained on a petition by an individual who has not filed the required affidavit is invalid and must not be counted. The bill would delete these provisions.

Currently, if the circulator of a petition provides or uses a false address or provides any fraudulent false information on the certificate of circulator, any signature obtained by that circulator on that petition sheet is invalid and must not be counted. The bill would extend this provision to include the circulator's omitted name, address, signature, or date signed.

Under the bill, any signature obtained on a petition sheet that was filed without the circulator's name, signature, street address or rural address, and date on the petition circulator certification would be invalid and could not be counted. A missing element of the address of a circulator would not be sufficient cause to invalidate a signature if the information provided was sufficient to locate the circulator, if necessary.

The invalidity of one or more signatures on a petition sheet proposing a constitutional amendment, initiated law, or referendum would not affect the validity of the remainder of the signatures on the petition sheet.

The bill would allow the Board to use a statistical random sampling methodology, as approved by the Board, to determine whether a petition complied with these requirements.

#### 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, the sponsor of a petition proposing a constitutional amendment or to initiate a law is prohibited from circulating a petition or an amended petition for signatures until the petition or amended petition is filed with the SOS. The bill would delete this provision.

### Additional Provisions; Nominating Petitions

Concerning nominating provisions, the Law states that a printed name located in the space prescribed for printed names does not constitute the signature of the circulator or elector. The bill would delete this provision.

If, after a canvass and a hearing on a petition, the Board determines that an individual has knowingly and intentionally failed to comply with the prohibitions described under Petition Prohibitions, or if an individual filed a petition knowing that it contained false information, the Board may disqualify obviously fraudulent signatures on a petition form on which the violation occurred, without checking the signatures against local registration records. The bill would allow the Board to also disqualify obviously fraudulent signatures without checking the QVF.

If an individual refuses to comply with a subpoena of the Board in an investigation of an alleged violation of the prohibition described previously, the Board may pause the canvass of petitions until the individual complies. Under the bill, the Board also could disqualify the candidate from the ballot if the individual did not comply by the deadline to complete the canvass.

### Constitutional Amendment Petitions

The bill would specify that an existing provision of the Constitution would be altered by a proposed constitutional amendment *only* if the proposed constitutional amendment would add to, delete from, or change the actual text of the existing wording of that provision.

An existing provision of the Constitution would be repealed by a proposed constitutional amendment only if the existing provision would be rendered wholly inoperative by the proposed constitutional amendment. An existing provision would be rendered wholly inoperative if the proposed constitutional amendment would make the existing provision a nullity or if it would be impossible for the proposed constitutional amendment to be harmonized with the existing provision when the two provisions were considered together. An existing provision would not be rendered wholly inoperative if the existing provision were not incompatible with and could be reasonably construed in a manner consistent with the proposed constitutional amendment.

An existing provision of the Constitution would not be altered or repealed by a proposed constitutional amendment if the proposed constitutional amendment would affect or could affect the existing provision and 1) both the proposed constitutional amendment and the existing provision could be harmoniously construed or 2) if the proposed constitutional amendment would affect or could affect the existing provision in a manner that required both the proposed constitutional amendment and the existing provision to be interpreted together.

The text of a proposed constitutional amendment, not the characterization or interpretation of the meaning or purpose of the proposed constitutional amendment, would control whether an existing provision of the Constitution would be altered or repealed.

### Repeal

The bill would repeal Sections 482b, 482c, and 482d of the Michigan Election Law. Section 482b allows a person who circulates a petition to submit the required summary of purpose for a proposed amendment or question to the Board for approval before circulating any petition. It also prescribes requirements for a summary. Section 482c provides that the circulator of a petition who knowingly makes a false statement concerning the circulator's



status of compensation is guilty of a misdemeanor. Section 482d defines "paid signature gatherer".

### **House Bill 5572**

Under the Michigan Election Law, within five days after the last day for the filing of nominating petitions, the SOS must notify the Board. Currently, the notification must be by first-class mail. The bill would delete the latter requirement.

Upon the receipt of the nominating petitions, the Board must canvass the petitions to ascertain if the petitions have been signed by the requisite number of qualified and registered electors. If the Board is unable to verify the genuineness of a signature on a petition, the Board must cause the petition to be forwarded to the proper city clerk or township clerk to compare the signatures on the petition with the signatures on the registration record, or in some other manner determine whether the signatures on the petition are valid and genuine. After receiving such a request from the Board, the clerk of a political subdivision must cooperate fully in determining the validity of doubtful signatures by rechecking the signatures against registration records in an expeditious and proper manner. The bill would delete the provisions involving a local clerk, effectively removing the requirement that the Board submit the petition to a city or township clerk to compare signatures.

The bill would allow the Board to use a statistical random sampling methodology, as approved by the Board, to determine the validity and sufficiency of signatures and petition form requirements on nominating petitions. If the Board determined that any signature affixed to a petition was obviously fraudulent, the Board could disqualify that signature without checking the signature against the local registration records or the QVF. If disqualified, the Board would have to refer that signature to the AG for further investigation. The bill would require the Board to refer any signature that it determined was obviously fraudulent to the AG for further investigation.

If the Board receives a sworn complaint, in writing, questioning the registration of or the genuineness of the signature of the circulator or of an individual who signed a nominating petition filed with the SOS, the Board must commence an investigation. The Board is not required to act on a complaint respecting the validity and genuineness of signatures on a petition unless the complaint is specific and received by the Board within seven days after the deadline for the filing of nominating petitions. The bill would modify this provision to require the Board to act on a complaint within seven days after a nominating petition was filed or, if the Board used statistical random sampling, within seven days after the random sample was made available to the public.

Currently, the Board may hold a hearing on a complaint filed or for a purpose considered necessary by the Board to investigate the petitions. The Board may adjourn periodically awaiting receipt of returns from investigations that are being made or for other necessary purposes. The bill would delete a provision requiring the Board to complete the canvass at least nine weeks before the primary election at which candidates are to be nominated.

Before making a final determination, the Board may consider any deficiency found on the face of the petition that does not require verification against data maintained in the QVF or in the voter registration files maintained by a city or township clerk. The bill also would delete this provision.

#### County or City Clerks

A county or city clerk, after the last day for receiving and filing nominating petitions, must

immediately certify to the proper board or boards of election commissioners in the city, county, district, or State the name and post office address of each party candidate whose petitions meet the requirements of the Act, together with the name of the political party and the office for the individual is a candidate. The county clerk, through its own initiative or in response to a sworn complaint, may investigate a signature to determine its validity.

The Law requires the clerk of a political subdivision to cooperate fully with a county clerk in a request made to the clerk by the county clerk in determining the validity of doubtful signatures by checking the signatures against registration records. The bill would specify that these registration records would include the QVF.

The county clerk must investigate a complaint if the complaint is specific and received by the county clerk within seven days after the deadline for the filing of the nominating petitions. The bill would modify this provision to require a clerk to act on such a complaint for a nominating petition filed within seven days after the filing of nominating petitions.

#### **House Bill 5573 (H-4)**

Under Michigan Election Law, upon receiving notification of the filing of petitions, the Board must canvass the petitions to determine if the petitions have been signed by the requisite number of qualified and registered electors. Under the bill, the Board would have to canvass the petitions to determine if the petitions had been signed by the requisite number of registered electors under Section 9 Article II<sup>1</sup> or Section 2 of Article XII<sup>2</sup> of the State Constitution, as applicable, and if the petitions substantially complied with the Law's petition requirements.

The bill would require the Bureau of Elections staff to begin reviewing the submitted petition signatures in the order the petitions were received from petitioners. The Bureau would have to, upon request, make copies of the filed petitions available to petitioners and challengers. The Bureau could charge a reasonable fee to produce or transmit the copies of the filed petitions. In addition, the Bureau would have to, upon request, make the original petition sheets available for review by petitioners and challengers. The Bureau also could charge a reasonable fee to ensure the security of the original petition sheets by required staff during the review of the original petition sheets.

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

The Board also would have to post on its website the Board's approved process and procedures for canvassing a petition that included each specific step of the canvassing process. When canvassing a petition, the Board would have to notify the public on its website when completing each step during the canvassing process for that petition. It also would have to notify the public on its website concerning the completion percentage of the canvass of randomly sampled signatures for that petition.

Currently, if the QVF indicates that, on the date the elector signed the petition, the elector was not registered to vote in the city or township designated on the petition, there is a rebuttable presumption that the signature is invalid. The bill would delete this provision.

---

<sup>1</sup> Generally, Article II Section 9 grants citizens of the State the power to propose, enact, and reject laws (initiative) and to approve or reject laws enacted by the Legislature (referendum).

<sup>2</sup> Generally, Article XII Section 2 grants citizens the power to amend the Constitution by petition.

The bill would require the Board to adopt and publish standards necessary to rebut a finding that a signature was not genuine or was not the signature of a registered elector. The Board could not issue a determination on the sufficiency of a petition without considering the documents received concerning the staff determination.

The Law allows the Board to adjourn its meetings from time to time awaiting receipt of returns from investigations that are being made or for other necessary purposes but must complete the canvass at least two months before the election at which the proposal is to be submitted. The bill would expand this to allow the Board to adjourn while awaiting information necessary to determine the sufficiency of a petition. Instead of two months, the Board would have to complete the canvas at least 60 days before the election during which the proposal would appear on the ballot.

Currently, at least two business days before the Board meets to make a final determination on challenges to and sufficiency of a petition, the Bureau must make public the Bureau's staff report concerning disposition of challenges filed against the petition. The bill would modify the time limit to at least five days before the Board meets.

Under the bill, if the Board or the Bureau determined that any signature affixed to a petition was fraudulent, the Board or the Bureau would have to refer that signature to the AG.

Currently, the Board 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 modify this timeline to 60 days before the election at which the proposal would appear on the ballot.

A petition would have to meet the following requirements to be determined sufficient:

- The petition substantially complied with the requirements applicable to the form of the petition.
- The petition sheets submitted included the valid signatures of a sufficient number of registered electors under Section 9 of Article II or Section 2 of Article XII of the State Constitution, as applicable.

Currently, the Law provides that, for a constitutional amendment, initiated law, and referendum petition, not more than 15% of the signatures to be used to determine the validity of a petition must be of registered electors from any one congressional district. The bill would delete this provision.

If the Board declares that the petition is sufficient, the SOS must send copies of the statement of purpose of the proposal as approved by the Board to the daily and weekly newspapers published in the State, with the request that the newspapers give as wide publicity as possible to the proposed amendment or other question. Publication of any matter by any newspaper would have to be without expense or cost to the State. The bill would delete these provisions. Instead, the SOS would have to post the statement of purpose of the proposal as approved by the Board on the MDOS's website.

#### Judicial Approval

Any person who feels aggrieved by any determination made by the Board may have the determination reviewed by mandamus or other appropriate remedy in the Supreme Court. Under the bill, any person or persons submitting a petition, a ballot question committee, or a person submitting documents regarding petition signature validity aggrieved by a determination or the failure to perform a duty by the Board could seek judicial relief in the

Court of Appeals within seven days after the action or inaction by the Board. The Supreme Court could expedite or consider a matter as provided in the Michigan Court Rules. This matter should be of the highest priority and be resolved expeditiously to facilitate the timely administration of elections.

Currently, if a person feels aggrieved by any determination made by the Board regarding the sufficiency or insufficiency of an initiative petition, the person must file a legal challenge to the Board's determination in the Supreme Court within seven business days after the date of the official declaration of the sufficiency or insufficiency of the initiative petition or not later than 60 days before the election at which the proposal is to be submitted, whichever occurs first. Any legal challenge to the official declaration of the sufficiency or insufficiency of an initiative petition has the highest priority and must be advanced on the Supreme Court docket to provide for the earliest possible disposition. The bill would delete these provisions.

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

### Referendum

The Law requires the Board to complete the canvass of a referendum petition within 60 days after the petition is filed with the SOS. The SOS may grant one 15-day extension to the Board if it is necessary to complete the canvass. The bill would delete the provision allowing the SOS to grant an extension.

Referendum petitions must be presented to and filed with the SOS within 90 days after the final adjournment of the Legislature. The bill specifies that referendum petitions would have to be presented to and filed with the SOS within 90 days after the final adjournment of the *legislative session at which the law subject to referendum was enacted*.

### **House Bill 5574 (H-3)**

Under the Michigan Election Law, upon the filing of a petition, the SOS must immediately notify the Board of the filing of the petition. The notification must be by first-class mail. The bill would delete the latter requirement.

In addition, within two business days after the filing of a petition, the SOS must post on the MDOS's website a summary of the proposed amendment or question proposed and the date the petition was filed with the SOS. The bill would modify this provision to require the SOS to post the petition itself, not a summary of the petition, and the date the petition was submitted to the SOS. As such, the bill would delete the following provisions:

- If a summary of the purpose of the proposed amendment or question presented was submitted to and approved by the Board, that approved summary must be used as the summary posted on the MDOS's website.
- At least once every 30 days after the date the petition was filed, the SOS must post on the MDOS's website an update on the status of that petition.

Upon the filing of a petition with signatures, the bill would require the SOS to immediately notify the Board of that filing.

Currently, after the day on which a petition is filed, the SOS cannot accept further filings of that petition to supplement the original filing. The bill specifies that the SOS could not accept additional signatures to supplement a filed petition. The bill also would require the SOS to

post on the MDOS's website an update on the status of a petition on the first business day of every month after the date that petition and its signatures were filed. The SOS could update the status of a petition on a more frequent basis than the bill required.

Currently, at the time of filing a petition, the individual or individuals who filed the petition may request a notice of the petition's approval or rejection by the Board. It is the duty of the SOS, immediately upon the Board's determination, to transmit by registered or certified mail to the individual or individuals an official notice of the sufficiency or insufficiency of said petitions. The bill would delete the mailing requirements.

### Ballot Designation

The Law requires the Board to assign a number designation to appear on the ballot for each question to be submitted on a statewide basis. The designation must be assigned at least 60 days before the election. Currently, if the question is to appear on a general election ballot the designation cannot be assigned earlier than the primary election preceding that general election. The bill would delete this provision.

Currently, a petition's number designation must consist of three or four digits. The first two digits must be the last two digits of the year of the election. The bill would require a number designation to consist of *five* or *six* digits, with the last four digits corresponding with the year. Additionally, the bill would require a -P or -S, as applicable, to be added to the end of the number designation for a primary or special election, respectively.

Additionally, the bill would provide that a proposed constitution or amendment adopted by a convention would have to be considered filed to appear on the ballot upon the final adjournment of the convention that proposed the constitution or amendment.

### Constitutional Amendments

If a proposed constitutional amendment or other special question is to be submitted to the electors of State for popular vote, the Law requires the SOS to furnish the State's county clerks with two copies of the text of each proposed constitutional amendment or other special question and two copies of each statement for each voting precinct in their respective counties. The bill specifies that this would have to be done as soon as possible after the Board certified the petition. Additionally, the SOS only would have to provide one copy of the constitutional amendment.

Each county clerk must furnish the copies of the statement to the township and city clerks in the clerk's county at the time other supplies for the election are furnished. The bill would delete this provision.

### Repeal

The bill would repeal Section 709 of the Michigan Election Law. The Law requires the SOS to prepare a concise statement setting forth the nature of a proposed constitutional amendment or other proposition. Under Section 709, the SOS must furnish the State's county clerks with at least two copies of this statement on paper suitable for posting for each voting precinct in their respective counties. The county clerk must furnish these copies to city and township clerks in the county's clerk's county at the time other supplies for the election are furnished. The State's city and township clerks must, before the opening of the polls on election day, deliver two copies of such statement to the board of election inspectors of each voting precinct in the clerk's city or township, who must post the same in conspicuous places in the room where such election is held.

### **House Bill 5575 (H-3)**

The Law provides that, for a constitutional amendment, initiated law, and referendum petition, not more than 15% of the signatures to be used to determine the validity of a petition may be of registered electors from any one congressional district. Any signature submitted on a petition above this limit must not be counted. When filing a petition with the SOS, a person must sort the petition so that the petition signatures are categorized by congressional district. In addition, when filing a petition with the SOS, the person who files the petition must state in writing a good faith estimate of the number of petition signatures from each congressional district. The bill would delete these provisions.

Instead, the bill would require a petitioner to state in writing that the petitioner had made a good-faith effort to sort the petitions based on the number of signatures contained on each petition sheet and that the petitioner was submitting at least the minimum number of required petition signatures.

#### **Repeal**

The bill would repeal Section 472 of the Michigan Election Law, which requires initiated law petitions to be filed with the SOS at least 10 days before the beginning of a session of the Legislature.

### **House Bill 5576 (H-2)**

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

The Law prohibits an individual from doing any of the following:

- Signing a petition to form a new political party with a name other than the individual's own.
- Making a false statement in a certificate on a petition to form a new political party.
- If not a circulator, signing a petition to form a new political party as a circulator.
- Signing a name as circulator other than the circulator's own.

Currently, an individual who violates this prohibition is guilty of a misdemeanor punishable by a fine of not more than \$500 or imprisonment for not more than 93 days, or both. The bill would apply the current misdemeanor penalty to individuals who made a false statement in a certificate on a petition to form a new political party or, if the individual were not a circulator, signed a petition to form a new political party as a circulator. It would make the other prohibit actions a felony and remove the felony punishment for signing a petition to form a new political party with multiple names.

#### **FISCAL IMPACT**

The bills could result in a cost savings for the MDOS as fewer petitions would require review and evaluation by Department staff. The result could be a savings on staff costs related to the evaluation of petitions. The amount of savings is indeterminate and dependent on the number of petitions evaluated by staff.

Additionally, there could be an indeterminate but likely negative fiscal impact on the State and local governments. New felony arrests and convictions under the proposed bills could

increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities; however, it is unknown how many people would be prosecuted under provisions of the bill. The average cost to State government for felony probation supervision is approximately \$5,600 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$48,700. Per diem rates range from \$100 to \$431 per day (average per diem is \$135), depending on the security level of the facility. Any associated increase in fine revenue would increase funding to public libraries.

The AG could incur investigation costs were the Board to refer obviously fraudulent signatures. Depending on the volume of referrals and investigation necessary by the AG, additional full-time equivalents (FTEs) and attorney staff could be needed. Support staff FTEs cost approximately \$100,000 annually and attorney FTEs cost approximately \$200,000 annually.

House Bill 5572 could have a small, likely negligible, indeterminate fiscal impact on local government units in the form of changes in administrative time spent on signature verification.

SAS\S2324\s5571sa

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.