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Senate Bill 1167 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Dave Robertson
Committee: Local Government and Elections

Date Completed: 12-19-14

CONTENT

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

- **Delete a requirement that the circulator of a petition be a registered elector of this State at the time of circulation (except as allowed for certain statewide petitions).**
- **Require a nonresident circulator to indicate on the Certificate of Circulator that he or she agreed to accept the jurisdiction of this State, instead of submitting an irrevocable written stipulation of that agreement.**
- **Include a warning on the nominating petition form that signing more than once would be in violation of the Law.**
- **Include in the Certificate of Circulator an assertion that the circulator had not allowed or caused a person to sign more than once.**
- **Delete a misdemeanor penalty for certain violations by petition signers and circulators involving a petition that has been filed, and for others who fail to report a violation.**
- **Delete provisions that allow the Board of State Canvassers to impose sanctions for certain violations.**

Registered Elector Requirement; Nonresidents

The Election Law requires the circulator of a petition to be a registered elector of this State at the time of circulation. A circulator also must be registered in the city or township indicated in the Certificate of Circulator on the petition, at the time of executing the certificate. The circulator of a petition under Section 482, a qualifying petition for an office named in Section 590b(4), or a petition to form a new political party, however, must be a registered elector of this State or qualified to be a registered elector of the State at the time of circulating the petition and executing the certificate, or, if not a resident of the State, must be at least 18 years old and a United States citizen, and must sign an irrevocable written stipulation concerning legal process. The bill would delete all of these provisions.

(Section 482 pertains to an initiative petition to amend the State Constitution or initiate legislation, or a petition for a referendum on legislation. The offices named in Section 590b(4) are the U.S. President, U.S. Senator, Governor, Attorney General, Secretary of State, State Board of Education, Supreme Court justice, or board of the University of Michigan, Michigan State University, or Wayne State University.)

As noted above, a nonresident circulator must submit to the sponsor of the petition a signed, irrevocable written stipulation agreeing to accept the jurisdiction of the State for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator, and agreeing that legal process served on the Secretary of State or his or her

designated agent has the same effect as if personally served on the circulator. Under the bill, a nonresident circulator would have to agree to the same provisions where provided on the Certificate of Circulator, instead of submitting an irrevocable written stipulation.

The bill also would delete related language that must be added to the Certificate of Circulator of a petition under Section 482, a qualifying petition for an office named in Section 590b(4), or a petition to form a new political party.

The bill would add language to the Certificate of Circulator requiring the circulator, if not a resident of Michigan, to make a cross or check mark on a line provided, and stating that, otherwise, each signature on the petition sheet would be invalid and the signatures would not be counted by a filing official. This language also would contain the circulator's acceptance of the jurisdiction of the State and the circulator's agreement regarding service on the Secretary of State, as described above.

Currently, the Certificate must state that the circulator asserts that he or she is qualified to circulate the petition. Under the bill, instead, the circulator would assert that he or she was 18 years of age or older and a U.S. citizen.

Signing More Than Once

Currently, a nominating petition must contain a warning that a person who knowingly signs more petitions for the same office than there are individuals to be elected to the office, or signs a name other than his or her own, is violating the Election Law. Under the bill, this warning also would refer to signing a petition more than once.

In addition, the bill would include in the Certificate of Circulator an assertion that the circulator had neither caused nor permitted a person to sign the petition more than once and had no knowledge of a person doing so.

Sanctions

The Election Law prohibits an individual from doing any of the following: signing a petition with a name other than his or her own; making a false statement in a certificate on a petition; signing a petition as a circulator, if not a circulator; or signing a name as circulator other than his or her own. A violation is a misdemeanor punishable by a fine of up to \$500 or imprisonment for up to 93 days, or both.

If the Board of State Canvassers determines, after a canvass and a hearing, that an individual has knowingly and intentionally failed to comply with these provisions, the Board may disqualify obviously fraudulent signatures without checking the signatures against local registration records, and may disqualify from the ballot a candidate who committed, aided or abetted, or knowingly allowed the violation on a petition to nominate him or her. The bill would delete these sanctions.

The Law also makes a violation a misdemeanor punishable by a \$500 maximum fine and/or up to one year's imprisonment, if the affected petition sheet is filed. That penalty also applies to various other individuals if they knew of the violation and failed to report it. In addition, the Board of State Canvassers may impose an administrative of up to \$5,000 on the organization or person sponsoring the petition; charge the organization or person for the costs of canvassing a petition form; disqualify the organization or person from collecting petition signatures for up to four years; and disqualify signatures or a candidate as described above. The bill would delete all of these provisions.

The bill also would delete a provision that allows the Board to hold the canvass of petitions in abeyance until an individual complies with a subpoena of the Board in an investigation of an alleged violation.

MCL 168.544c

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill could have a negative impact on local units of government. The bill would eliminate the misdemeanor penalty of up to \$500 and/or one year's imprisonment for violations by petition signers and circulators involving a petition that has been filed, and for others who fail to report a violation. Penal fine revenue is distributed to local libraries and, to the extent that fines are currently imposed, eliminating them would result in libraries' receiving less revenue. The amount of revenue loss is assumed to be minimal. Eliminating the penalty also would reduce costs of prosecution and incarceration, to the extent that the violations are currently prosecuted.

The bill could result in a loss of revenue to the Department of State by eliminating the power of the Board of State Canvassers to impose an administrative fine of up to \$5,000 on individuals or organizations that commit certain petition-related violations of the Michigan Election Law. The potential loss of revenue is indeterminate and dependent on the number of violations that would occur and the amount of administrative fines that the Board otherwise would levy.

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.