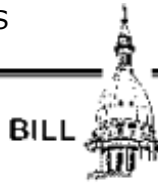




Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 1087 (Substitute S-4 as reported)
Sponsor: Senator Mark C. Jansen
Committee: Campaign and Election Oversight

Date Completed: 5-15-08

RATIONALE

Under the Michigan Election Law, the Secretary of State (SOS) must certify proposed constitutional amendments and other special questions that are to be submitted to the voters, and give copies of proposed amendments and questions to the county clerks. The SOS must do this at least 49 days before the election. Because absentee ballots must be printed at least 45 days before the election, however, the SOS in practice must complete the certification of proposed amendments and other special questions much earlier than 49 days before the election. Some people have suggested that, in order to ensure the timely certification of proposed amendments and special questions, and printing of ballots, the Secretary should be required to provide copies of certified proposed amendments and questions at least 60 days before the election.

Currently, the circulator of a nominating petition must be a registered elector of the State at the time of circulation and, at the time of executing the certificate of circulator on the petition, he or she must be registered in the city or township indicated in the certificate of circulator. The circulator of a petition proposing a constitutional amendment, initiation of legislation, or referendum of legislation, however, need only be qualified to be a registered elector of this State at the time of circulation and executing the certificate of circulator. Some people believe that the criteria used to determine who is eligible to circulate such petitions should be the same as those used to determine who is a qualified elector, which require voters to have resided in a

city or township in the State for at least 30 days.

CONTENT

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

- **Require the Secretary of State to certify and distribute a proposed constitutional amendment or other special question at least 60 days, rather than 49 days, before an election.**
- **Delete a provision under which the circulator of a petition that proposes a constitutional amendment, initiation of legislation, or referendum of legislation must be qualified as a registered elector of this State at the time of circulation and execution of the certificate of circulator.**
- **Require the circulator of such a petition to be a qualified elector of this State, as defined under Section 10 of the Law (which includes a local residency requirement).**
- **Specify that the circulator of a petition who was a qualified elector would not lose his or her eligibility to collect petition signatures if he or she moved to a different city or township within this State during the circulation process.**
- **Repeal sections that pertain to the certification of ballots regarding proposed constitutional amendments and ballot proposals by the Secretary of State.**

Ballot Question Certification

Currently, when a proposed constitutional amendment or other special question is to be submitted to the electors of the State for a popular vote, the Secretary of State, at least 49 days before the election, must certify the question to the clerk of each county in the State, together with the form in which the constitutional amendment or other special question is to be submitted. The SOS also must give the county clerks two copies of each amendment or question and two copies of each statement for each voting precinct in their respective counties. Each county clerk must furnish the copies of the statements to the township and city clerks in his or her county at the time other supplies for the election are furnished.

The bill would require the Secretary of State to certify a proposed constitutional amendment or other special question within 60 days before the election in which the amendment or special question was to be submitted to the electors.

Petition Circulator

Under Section 544c of the Law, at the time of circulation, the circulator of a nominating petition must be a registered elector of the State, and be registered in the city or township indicated in the certificate of circulator on the petition, at the time of executing the certificate. This section specifies that the circulator of a petition under Section 482, however, "need only be qualified to be a registered elector of this state at the time of circulation and at the time of executing the certificate of circulator". (Section 482 describes requirements for measures proposing constitutional amendments, initiation of legislation, or referendum of legislation.)

The bill would delete the provision regarding the circulator of a petition under Section 482. Under the bill, the circulator of such a petition would have to be a qualified elector of this State, as defined under Section 10 of the Law. The circulator of a petition who was a qualified elector would not lose his or her eligibility to collect petition signatures if he or she moved to a different city or township within this State during the petition circulation process. (Under Section 10, a qualified elector is any person who possesses the qualifications of an elector as

prescribed in the State Constitution and who has resided in the city or township for 30 days.)

Repealed Sections

The bill would repeal Sections 649 and 707 of the Election Law.

Under Section 649, whenever a proposed constitutional amendment or other special question is to be submitted to the electors of the State for popular vote, the Secretary of State, within 49 days before the election, must certify the question to the clerk of each county and prescribe the form in which the amendment or question must be submitted. (These requirements also are contained in Section 480.)

Section 707 requires the Secretary of State to certify to county clerks the form of ballots to be prepared in connection with a proposed constitutional amendment or other proposition to be submitted to the electors of this State for popular vote, within 49 days before the date of the election. The section also describes the required content of the ballots.

Under both sections, any city ordinance that has been or is adopted by the common council in a city of over 500,000 and that is subject to referendum must be submitted to the people of that city at the next general election unless submitted to a special election by action of the common council.

MCL 168.480 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The four-day window between the date by which the Secretary of State must certify proposed constitutional amendments and special questions, and the date by which clerks must print absentee ballots is too short and should be extended. Even though, in practice, the SOS certifies the amendments and questions earlier than the date required by the Act, it is possible that he or she might not certify proposed constitutional amendments and special questions in enough time to allow clerks to

print absentee ballots at least 45 days before the election. By requiring certification at least 60 days before an election, the bill would ensure that clerks had adequate time to print absentee ballots.

Supporting Argument

Because of his or her role in the initiative and referendum processes, a petition circulator should be subject to the criteria that apply to a qualified elector, which include a requirement that the person has resided in the city or township for 30 days. It is reasonable to require a person to possess the same qualifications to be a circulator of an initiative or referendum petition as he or she would have to possess in order to vote on the initiative or referendum. The residency requirement would not be a hardship for circulators.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

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.