

HOUSE BILL No. 5893

February 24, 2010, Introduced by Reps. Lemmons, Polidori, Johnson, Jackson and Dean and referred to the Committee on Judiciary.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 413, 414, 415, 424a, 467b, 467d, 467e, and
544b (MCL 168.413, 168.414, 168.415, 168.424a, 168.467b, 168.467d,
168.467e, and 168.544b), sections 413, 414, 424a, 467b, and 467d as
amended by 1999 PA 218, sections 415 and 467e as amended by 1990 PA
32, and section 544b as amended by 1999 PA 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 413. (1) ~~To~~**SUBJECT TO SUBSECTION (2), TO** obtain the
2 printing of the name of a person as a candidate for nomination for
3 the office of judge of the circuit court upon the official
4 nonpartisan primary ballots, there shall be filed with the
5 secretary of state nominating petitions containing the signatures,

1 addresses, and dates of signing of a number of qualified and
2 registered electors residing in the judicial circuit as determined
3 under section 544f or by the filing of an affidavit according to
4 section 413a. The secretary of state shall receive the nominating
5 petitions up to 4 p.m. of the fourteenth Tuesday ~~preceeding~~**BEFORE**
6 the primary. The provisions of sections 544a and 544b apply.

7 **(2) INSTEAD OF FILING NOMINATING PETITIONS, A CANDIDATE FOR**
8 **JUDGE OF THE CIRCUIT COURT MAY PAY A NONREFUNDABLE FILING FEE OF**
9 **\$1,000.00 TO THE SECRETARY OF STATE. IF THE FILING FEE IS PAID BY**
10 **THE DUE DATE FOR FILING NOMINATING PETITIONS, THE PAYMENT OF THE**
11 **FILING FEE HAS THE SAME EFFECT UNDER THIS SECTION AS THE FILING OF**
12 **NOMINATING PETITIONS.**

13 Sec. 414. After the filing of a nominating petition, **FILING**
14 **FEE**, or affidavit of candidacy by or in behalf of a proposed
15 candidate for the office of judge of the circuit court, the
16 proposed candidate is not permitted to withdraw unless he or she
17 serves a written notice of withdrawal on the secretary of state or
18 his or her duly authorized agent. The notice ~~must~~**SHALL** be served
19 not later than 3 days after the last day for filing nominating
20 petitions if a nominating petition was filed **OR FILING FEE PAID** for
21 the proposed candidate, and not later than 3 days after the last
22 day for filing affidavits of candidacy if an affidavit of candidacy
23 was filed for the proposed candidate. If the third day falls on a
24 Saturday, Sunday, or legal holiday, the notice of withdrawal may be
25 served on the secretary of state or his or her duly authorized
26 agent at any time on or before 4 p.m. ~~, eastern standard time,~~ on
27 the next secular day.

1 Sec. 415. (1) The candidates for the office of judge of the
2 circuit court receiving the largest number of votes at any primary
3 election, to a number equal to twice the number of persons to be
4 elected as ~~set forth~~ **PROVIDED** in the report of the board of state
5 canvassers, based on the returns from the various county boards of
6 canvassers and election precincts or as determined by the board of
7 state canvassers as the result of a recount, shall be declared the
8 nominees for the office at the next general election. The board of
9 state canvassers shall certify the nomination to the county
10 election commissions.

11 (2) If, after the deadline for filing nominating petitions
12 under section 413, there are fewer candidates for nomination or
13 nominees for the office of judge of the circuit court than there
14 are persons to be elected at the general November election because
15 of the death or disqualification of a candidate more than 65 days
16 before the general November election, then a person, whether or not
17 an incumbent, may qualify as a nominee for that office at the
18 general November election by filing nominating petitions **OR PAYING**
19 **THE FILING FEE** as required by section 413. However, the filing **OR**
20 **PAYMENT** shall be made before 4 p.m. on the twenty-first day
21 following the death or disqualification of the candidate or 4 p.m.
22 on the sixtieth day ~~preceding~~ **BEFORE** the general November election,
23 whichever is earlier, and the minimum number of signatures required
24 **FOR NOMINATING PETITIONS** is 1,000 or 1/2 the minimum number
25 required under section 413, whichever is less.

26 (3) The secretary of state shall certify the nomination of
27 each person who qualifies as a nominee under subsection (2) to the

1 board of election commissioners specified by section 687 for the
2 general November election.

3 Sec. 424a. (1) In the primary and general election for 2 or
4 more judgeships of the circuit court, each of the following
5 categories of candidates shall be listed separately on the ballot,
6 consistent with subsection (3):

7 (a) The names of candidates for the judgeship or judgeships
8 for which the incumbent is seeking election.

9 (b) The names of candidates for an existing judgeship or
10 judgeships for which the incumbent is not seeking election.

11 (c) The names of candidates for a newly created judgeship or
12 judgeships.

13 (2) Nominating petitions filed under section 413 are valid
14 only if they clearly indicate for which of the following offices
15 the candidate is filing, consistent with subsection (3):

16 (a) An unspecified existing judgeship for which the incumbent
17 judge is not seeking election.

18 (b) A new judgeship.

19 (c) An unspecified existing judgeship for which the incumbent
20 judge is seeking election.

21 (3) If the death or disqualification of an incumbent judge
22 triggers the application of section 415(2), then for the purposes
23 of subsections (1) and (2), that judgeship shall be regarded as a
24 judgeship for which the incumbent judge is not seeking election.
25 The application of this subsection includes, but is not limited to,
26 circumstances in which the governor appoints an individual to fill
27 the vacancy and that individual seeks to qualify as a nominee under

1 section 415(2) .

2 (4) A person who files nominating petitions **OR PAYS THE FILING**
3 **FEE** for election to more than 1 circuit judgeship ~~shall have~~ **HAS**
4 not more than 3 days following the close of filing to withdraw from
5 all but 1 filing.

6 (5) In a primary and general election for 2 or more judgeships
7 where more than 1 of the categories in subsection (2) could be
8 selected, a candidate shall apply to the bureau of elections for a
9 written statement of office designation to correspond to the
10 judgeship sought by the candidate. The office designation provided
11 by the secretary of state shall be included in the heading of all
12 nominating petitions. Nominating petitions containing an improper
13 office designation are invalid.

14 (6) The secretary of state shall issue an office designation
15 of incumbent position for any judgeship for which the incumbent
16 judge is eligible to seek reelection. If an incumbent judge does
17 not file an affidavit of candidacy by the deadline, the secretary
18 of state shall notify all candidates for that office that a
19 nonincumbent position exists. All nominating petitions circulated
20 for the nonincumbent position ~~subsequent to~~ **AFTER** the deadline
21 shall bear an office designation of nonincumbent position. All
22 signatures collected ~~prior to~~ **BEFORE** the affidavit of candidacy
23 filing deadline may be filed with the nonincumbent nominating
24 petitions.

25 Sec. 467b. (1) ~~To~~ **SUBJECT TO SUBSECTION (6), TO** obtain the
26 printing of the name of a person as a candidate for nomination for
27 the office of judge of the district court upon the official

1 nonpartisan primary ballots, there shall be filed with the
2 secretary of state nominating petitions containing the signatures,
3 addresses, and dates of signing of a number of qualified and
4 registered electors residing in the judicial district or division
5 as determined under section 544f. An incumbent district court judge
6 may also become a candidate by the filing of an affidavit in lieu
7 of petitions according to section 467c. The secretary of state
8 shall receive nominating petitions up to 4 p.m. on the fourteenth
9 Tuesday ~~preceding~~ **BEFORE** the primary. The provisions of sections
10 544a and 544b apply.

11 (2) Nominating petitions filed under this section are valid
12 only if they clearly indicate for which of the following offices
13 the candidate is filing, consistent with section 467c(4):

14 (a) An unspecified existing judgeship for which the incumbent
15 judge is seeking election.

16 (b) An unspecified existing judgeship for which the incumbent
17 judge is not seeking election.

18 (c) A new judgeship.

19 (3) A person who files nominating petitions **OR PAYS THE FILING**
20 **FEE** for election to more than 1 district judgeship ~~shall have~~ **HAS**
21 not more than 3 days following the close of filing to withdraw from
22 all but 1 filing.

23 (4) In a primary and general election for 2 or more judgeships
24 where more than 1 of the categories in subsection (2) could be
25 selected, a candidate shall apply to the bureau of elections for a
26 written statement of office designation to correspond to the
27 judgeship sought by the candidate. The office designation provided

1 by the secretary of state shall be included in the heading of all
2 nominating petitions. Nominating petitions containing an improper
3 office designation are invalid.

4 (5) The secretary of state shall issue an office designation
5 of incumbent position for any judgeship for which the incumbent
6 judge is eligible to seek reelection. If an incumbent judge does
7 not file an affidavit of candidacy by the deadline, the secretary
8 of state shall notify all candidates for that office that a
9 nonincumbent position exists. All nominating petitions circulated
10 for the nonincumbent position ~~subsequent to~~ **AFTER** the deadline
11 shall bear an office designation of nonincumbent position. All
12 signatures collected ~~prior to~~ **BEFORE** the affidavit of candidacy
13 filing deadline may be filed with the nonincumbent nominating
14 petitions.

15 (6) **INSTEAD OF FILING NOMINATING PETITIONS, A CANDIDATE FOR**
16 **JUDGE OF THE DISTRICT COURT MAY PAY A NONREFUNDABLE FILING FEE OF**
17 **\$500.00 TO THE SECRETARY OF STATE. IF THE FILING FEE IS PAID BY THE**
18 **DUE DATE FOR FILING NOMINATING PETITIONS, THE PAYMENT OF THE FILING**
19 **FEE HAS THE SAME EFFECT UNDER THIS SECTION AS THE FILING OF**
20 **NOMINATING PETITIONS.**

21 Sec. 467d. After the filing of a nominating petition, **FILING**
22 **FEE**, or affidavit of candidacy by or in behalf of a proposed
23 candidate for the office of judge of the district court, the
24 proposed candidate is not permitted to withdraw unless he or she
25 serves a written notice of withdrawal on the secretary of state or
26 his or her duly authorized agent. The notice ~~must~~ **SHALL** be served
27 not later than 3 days after the last day for filing nominating

1 petitions if a nominating petition was filed **OR FILING FEE PAID** for
2 the proposed candidate, and not later than 3 days after the last
3 day for filing affidavits of candidacy if an affidavit of candidacy
4 was filed for the proposed candidate. If the third day falls on a
5 Saturday, Sunday, or legal holiday, the notice of withdrawal may be
6 served on the secretary of state or his or her duly authorized
7 agent at any time on or before 4 p.m. ~~, eastern standard time,~~ on
8 the next secular day.

9 Sec. 467e. (1) The candidates for the office of judge of the
10 district court receiving the largest number of votes at any primary
11 election, to a number equal to twice the number of persons to be
12 elected as ~~set forth~~ **PROVIDED** in the report of the board of state
13 canvassers, based on the returns from the various county boards of
14 canvassers and election precincts or as determined by the board as
15 the result of a recount, shall be declared the nominees for the
16 office at the next general November election. The board of state
17 canvassers shall certify the nomination to the county election
18 commissions.

19 (2) If, after the deadline for filing nominating petitions
20 under section 467b, there are fewer candidates for nomination or
21 nominees for the office of judge of the district court than there
22 are persons to be elected because of the death or disqualification
23 of a candidate more than 65 days before the general November
24 election, then a person, whether or not an incumbent, may qualify
25 as a nominee for that office at the general November election by
26 filing nominating petitions **OR PAYING THE FILING FEE** as required by
27 section 467b. However, the filing **OR PAYMENT** shall be made before 4

1 p.m. on the twenty-first day following the death or
2 disqualification of the candidate or 4 p.m. on the sixtieth day
3 ~~preceding~~ **BEFORE** the general November election, whichever is
4 earlier, and the minimum number of signatures required **FOR THE**
5 **NOMINATING PETITIONS** is 1,000 or 1/2 the minimum number required
6 under section 467b, whichever is less.

7 (3) The secretary of state shall certify the nomination of
8 each person who qualifies as a nominee under subsection (2) to the
9 board of election commissioners specified by section 687 for the
10 general November election.

11 Sec. 544b. (1) Except as provided in subsection (2), a person
12 shall not qualify as a candidate for any judicial office of this
13 state unless the person files an affidavit, with his or her
14 nominating petitions **OR, IF APPLICABLE, FILING FEE**, on a form
15 prescribed by the secretary of state stating that he or she
16 possesses the constitutional qualifications set forth in section 19
17 of article VI of the state constitution **OF 1963**.

18 (2) ~~In cases where~~ **WHEN** candidates for judicial office are
19 nominated at political party conventions, the chairperson and
20 secretary of the party shall file the affidavit with the secretary
21 of state not more than 1 business day after the conclusion of the
22 convention.