

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

***** 168.552.amended THIS AMENDED SECTION IS EFFECTIVE JANUARY 1, 2007 *****

168.552.amended Nominating petitions; certification by county or city clerk; sworn complaint; investigation to determine validity of signatures and genuineness of petition; examination of petitions; declaration of sufficiency or insufficiency of petitions; review; filing of nominating petitions with secretary of state; notification; canvass of petitions; hearing; subpoenas; oaths; adjournment; completion of canvass; availability to public; declaration; request for notice of approval or rejection of petition; judicial review; use of qualified voter file; certification to boards of election commissioners.

Sec. 552. (1) The county or city clerk, after the last day specified in this act for receiving and filing nominating petitions, shall 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 this act, together with the name of the political party and the office for which he or she is a candidate.

(2) If the county clerk receives a sworn complaint, in writing, questioning the registration or genuineness of the signature of the circulator or of a person signing a petition filed with the county clerk for an office, the county clerk shall commence an investigation. The county clerk shall cause the petition that he or she considers necessary to be forwarded to the proper city clerk or township clerk to compare the signatures appearing on the petition with the signatures appearing on the registration record as required by subsection (13). The county clerk may conduct the signature comparisons as required by subsection (13) using the digitized signatures in the qualified voter file, in lieu of requesting the local clerk to conduct the signature comparison. If the request has been made by the county clerk, the city clerk or township clerk shall complete the investigation and report his or her findings to the county clerk within 7 days after the request. The investigation shall include the validity of the signatures and the genuineness of a petition as is specified in the sworn complaint and may include any other doubtful signatures or petitions filed on behalf of the candidate against whose petitions the sworn complaint is directed, as the county clerk considers necessary. The county clerk is not required to act on a complaint respecting the validity and genuineness of signatures on a petition unless the complaint sets forth the specific signatures claimed to be invalid and the specific petition for which the complaint questions the validity and genuineness of the signature or registration of the circulator, and unless the complaint is received by the county clerk within 7 days after the deadline for the filing of the nominating petitions.

(3) In addition to the duty specified in subsection (2) for the examination of petitions, the county clerk, on his or her own initiative, on receipt of the nominating petitions, may examine the petitions, and if after examination the county clerk is in doubt as to the validity of the registration or genuineness of the signature of the circulator or persons signing or purported to have signed the petitions, the county clerk shall commence an investigation. Subject to subsection (13), the county clerk shall cause the petitions in question to be forwarded to the proper city clerk or township clerk to compare the signatures appearing on the petitions with the signatures appearing on the registration records. The county clerk may conduct the signature comparisons as required by subsection (13) using the digitized signatures in the qualified voter file, in lieu of requesting the local clerk to conduct the signature comparison.

(4) The clerk of a political subdivision shall cooperate fully with the 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 in an expeditious and proper manner.

(5) At least 2 business days before the county clerk makes a final determination on challenges to and sufficiency of a petition, the county clerk shall make public its staff report concerning disposition of challenges filed against the petition. Beginning with the receipt of any document from local election officials under subsection (2) or (3), the county clerk shall make that document available to petitioners and challengers on a daily basis.

(6) Upon the completion of the investigation or examination, the county clerk shall immediately make an official declaration of the sufficiency or insufficiency of nominating petitions for which a sworn complaint has been received or of the sufficiency or insufficiency of nominating petitions that the county clerk has examined or investigated on his or her own initiative. A person feeling aggrieved by a determination made by the county clerk may have the determination reviewed by the secretary of state by filing a written request with the secretary of state within 3 days after the official declaration of the county clerk, unless the third day falls on a Saturday, Sunday, or legal holiday, in which case the request may be filed not later than 4 p.m. on the

next day that is not a Saturday, Sunday, or legal holiday. Alternatively, the aggrieved person may have the determination of the county clerk reviewed by filing a mandamus, certiorari, or other appropriate remedy in the circuit court. A person who filed a nominating petition and feels aggrieved by the determination of the secretary of state may then have that determination reviewed by mandamus, certiorari, or other appropriate remedy in the circuit court.

(7) A city clerk with whom nominating petitions are filed may examine the petitions and investigate the validity and genuineness of signatures appearing on the petitions. Subject to subsection (13), the city clerk may check the signatures against registration records. The city clerk shall make a determination as to the sufficiency or insufficiency of the petitions upon the completion of the examination or investigation, and shall make an official declaration of the findings. A person feeling aggrieved by the determination has the same rights of review as in case of a determination by the county clerk.

(8) Upon the filing of nominating petitions with the secretary of state, the secretary of state shall notify the board of state canvassers within 5 days after the last day for filing the petitions. The notification shall be by first-class mail. Upon the receipt of the nominating petitions, the board of state canvassers shall canvass the petitions to ascertain if the petitions have been signed by the requisite number of qualified and registered electors. Subject to subsection (13), for the purpose of determining the validity of the signatures, the board of state canvassers may cause a doubtful signature to be checked against the qualified voter file or the registration records by the clerk of a political subdivision in which the petitions were circulated. If the board of state canvassers receives a sworn complaint, in writing, questioning the registration of or the genuineness of the signature of the circulator or of a person signing a nominating petition filed with the secretary of state, the board of state canvassers shall commence an investigation. Subject to subsection (13), the board of state canvassers shall verify the registration or the genuineness of a signature as required by subsection (13). If the board is unable to verify the genuineness of a signature on a petition, the board shall 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. The board of state canvassers is not required to act on a complaint respecting the validity and genuineness of signatures on a petition unless the complaint sets forth the specific signatures claimed to be invalid and the specific petition for which the complaint questions the validity and genuineness of the signature or the registration of the circulator, and unless the complaint is received by the board of state canvassers within 7 days after the deadline for filing the nominating petitions. After receiving a request from the board of state canvassers under this subsection, the clerk of a political subdivision shall cooperate fully in determining the validity of doubtful signatures by rechecking the signatures against registration records in an expeditious and proper manner. The board of state canvassers may extend the 7-day challenge period if it finds that the challenger did not receive a copy of each petition sheet that the challenger requested from the secretary of state. The extension of the challenge deadline under this subsection does not extend another deadline under this section.

(9) The board of state canvassers may hold a hearing upon a complaint filed or for a purpose considered necessary by the board of state canvassers to conduct an investigation of the petitions. In conducting a hearing, the board of state canvassers may issue subpoenas and administer oaths. The board of state canvassers may also adjourn periodically awaiting receipt of returns from investigations that are being made or for other necessary purposes, but shall complete the canvass not less than 9 weeks before the primary election at which candidates are to be nominated. Before making a final determination, the board of state canvassers may consider any deficiency found on the face of the petition that does not require verification against data maintained in the qualified voter file or in the voter registration files maintained by a city or township clerk.

(10) At least 2 business days before the board of state canvassers meets to make a final determination on challenges to and sufficiency of a petition, the board shall make public its staff report concerning disposition of challenges filed against the petition. Beginning with the receipt of any document from local election officials under subsection (8), the board of state canvassers shall make that document available to candidates and challengers on a daily basis.

(11) An official declaration of the sufficiency or insufficiency of a nominating petition shall be made by the board of state canvassers not less than 60 days before the primary election at which candidates are to be nominated. At the time of filing a nominating petition with the secretary of state, the person filing the petition may request a notice of the approval or rejection of the petition. If a request is made at the time of filing the petition, the secretary of state, immediately upon the determination of approval or rejection, shall transmit by registered mail to the person making the request an official notice of the sufficiency or insufficiency of the petitions.

(12) A person who filed a nominating petition with the secretary of state and who feels aggrieved by a

determination made by the board of state canvassers may have the determination reviewed by mandamus, certiorari, or other appropriate process in the supreme court.

(13) The qualified voter file may be used to determine the validity of petition signatures by verifying the registration of signers. If the qualified voter file indicates that, on the date the elector signed the petition, the elector was not registered to vote, there is a rebuttable presumption that the signature is invalid. If the qualified voter file 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 qualified voter file shall be used to determine the genuineness of a signature on a petition. Signature comparisons shall be made with the digitized signatures in the qualified voter file. The county clerk or the board of state canvassers shall conduct the signature comparison using digitized signatures contained in the qualified voter file for their respective investigations. If the qualified voter file does not contain a digitized signature of an elector, the city or the township clerk shall compare the petition signature to the signature contained on the master card.

(14) Not less than 60 days before the primary election at which candidates are to be nominated, the secretary of state shall certify to the proper boards of election commissioners in the various counties in the state, the name and post office address of each partisan or nonpartisan candidate whose petitions have been filed with the secretary of state and meet the requirements of this act, together with the name of the political party, if any, and the office for which he or she is a candidate.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1956, Act 125, Imd. Eff. Apr. 13, 1956;—Am. 1958, Act 25, Imd. Eff. Apr. 3, 1958;—Am. 1963, Act 193, Eff. Sept. 6, 1963;—Am. 1978, Act 338, Imd. Eff. July 11, 1978;—Am. 1990, Act 7, Imd. Eff. Feb. 12, 1990;—Am. 1999, Act 220, Eff. Mar. 10, 2000;—Am. 2003, Act 188, Imd. Eff. Oct. 31, 2003;—Am. 2005, Act 71, Eff. Jan. 1, 2007.

Compiler's note: Enacting section 4 of Act 71 of 2005 provides:

"Enacting section 4. If any portion of this amendatory act or the application of this amendatory act to any person or circumstances is found invalid by a court, the invalidity shall not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if the remaining portions are not determined by the court to be inoperable, and to this end this amendatory act is declared to be severable."

Popular name: Election Code