

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

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MICHIGAN ELECTION LAW LIBRARY

Senate Bill 1025 (as enrolled)

Sponsor: Senator Phil Arthurhultz

Senate Committee: Government Operations

House Committee: Elections

**PUBLIC ACT 329 of 1990**

Date Completed: 1-11-91

**RATIONALE**

Two candidates for statewide office, one for governor and one for U.S. Senate, were placed on the 1990 Republican primary election ballot by the Board of State Canvassers even though their petitions did not meet statutory requirements for the geographic distribution of petition signatures. The Michigan Election Law requires candidates for those offices to submit petitions containing signatures equal to at least 1% of the votes cast for the party's candidate for secretary of state at the preceding election, with at least 100 signatures from each of at least 20 counties, and with no more than 25% of the minimum required signatures from one county. Although the 1990 candidates in question failed to collect sufficient signatures in at least 20 counties, according to the Department of State, the Board of State Canvassers nevertheless placed them on the ballot, partly on the basis of information suggesting that the statutory requirement would likely not survive a court test.

Reportedly, it was pointed out to the Board that, while there had been no State or Federal court decisions that addressed the specific petition requirements of the Michigan Election Law, similar petition requirements in other states have frequently and consistently been ruled unconstitutional by state and Federal courts. The basis for the rulings has been, in general, that petition signature requirements that demand a certain number of signatures from more than one county violate the principle of "one person, one vote", because the population from one county to the next can vary dramatically. It also was pointed out that Federal courts have held unconstitutional other

states' signature requirements that were similar to the Election Law's requirement that no more than 25% of the required number of signatures be from one county; these decisions held that such a requirement dilutes the power of the voters in the most populated counties. On the other hand, some courts apparently have held that petition signature requirements based upon congressional districts are constitutional because congressional districts are similar in population. It has been suggested that the Election Law be amended to base petition signature requirements on congressional districts.

Another situation that arose during the 1990 election concerns the registration requirements for petition circulators. Under Section 544c(2) of the Election Law, the circulator of a petition must be a "qualified and registered elector of the state"; however, in Section 544c(1), which describes the form of the nominating petition and the "certificate of circulator" that must accompany the petition, the certificate contains a line that requires the circulator to reveal the city or township where he or she is registered. According to the Secretary of State, a candidate for Congress filed nominating petitions that were circulated by a circulator who was not a registered elector of the city named on the petition. The petitions were challenged, but upon appeal the Court of Appeals ruled that the challenged petitions were "in substantial compliance with the election code" because there was "no legitimate dispute that the circulators in question were at all times qualified and registered electors of the state (Docket #129867)". It has been suggested that the Election Law be amended to make it clear that

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at the time a circulator executed a certificate, he or she would have to be registered in the city or township where he or she claimed to be registered.

### CONTENT

The bill would amend the Michigan Election Law to revise current nominating petition signature requirements for candidates for the office of governor or U.S. senator, independent candidates (those without party affiliation) for statewide office, and candidates of a new political party; and to revise registration requirements for petition circulators.

The bill would eliminate the current requirement that petitions submitted for the office of governor or U.S. senator contain signatures of at least 100 registered electors in each of at least 20 counties, and that not more than 25% of the minimum number of required signatures be from any one county. The bill would require, instead, that nominating petitions contain signatures of at least 100 registered electors in each of at least half of the congressional districts.

Currently, nominating petitions for an independent candidate for statewide office, or a candidate of a new political party, must contain at least 100 signatures from voters in each of nine congressional districts, and no more than 35% of the signatures can be from any one congressional district. The bill would eliminate the requirement that no more than 35% of the signatures be from any one congressional district, and provide instead that such petitions would have to contain signatures of at least 100 registered electors in each of at least half of the congressional districts.

Finally, under current law, a petition circulator is required to be a qualified and registered elector of the State, and must sign a certificate on each petition attesting to the circulator's eligibility to circulate the petition. The bill specifies that at the time of executing a certificate of circulator, a petition circulator would have to be registered in the city or township indicated on the circulator's certificate on the petition.

MCL 168.53 et al.

### FISCAL IMPACT

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

### ARGUMENTS

#### Supporting Argument

The bill would remove from the Election Law petition signature requirements for candidates for statewide office that are considered unconstitutional, and replace them with requirements that would reflect broad statewide support in areas of the State having a population equivalent to that of other areas of the State. The current petition requirements were ruled inapplicable by election officials in the 1990 election because they feared that the requirements would not survive a legal challenge. Under the bill, candidates for governor and U.S. senator would have to gather at least 100 signatures from each of at least half of the State's congressional districts in order to demonstrate a broad base of support, rather than having to obtain the same number of signatures from at least 20 counties. Congressional districts are nearly equal in population size, whereas counties differ dramatically. The congressional district standard already is in use for petitions of independent candidates for statewide office and petitions of minor parties seeking access to the ballot. Imposing this requirement on gubernatorial and U.S. senatorial candidates would avert future challenges to the existing petition requirements.

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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.