



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 788 (as introduced 12-9-21)
Sponsor: Senator Jim Runestad
Committee: Elections

Date Completed: 2-23-22

CONTENT

The bill would amend the Michigan Campaign Finance Act to do the following:

- **Define "recall candidate" and "recall committee" and amend other definitions.**
- **Prescribe requirements for a recall committee, including a requirement for a committee to have a treasurer and to designate a financial institution as an official depository for funds.**
- **Specify that an account in a financial institution would not be required until the recall committee received a contribution or made an expenditure.**
- **Prohibit a recall committee from accepting a contribution or making an expenditure if that committee did not have a treasurer.**
- **Allow a recall candidate to serve as treasurer in a recall committee.**
- **Require an individual acting on behalf of a recall committee to report any contributions he or she received to the treasurer at least five days before the closing date of any campaign statement required to be filed by the committee.**
- **Prohibit contributions received by a recall committee from being comingled with other funds of an agent of the recall committee or of any other person.**
- **Require a recall committee to be terminated within 30 days after the results of a recall election were certified.**
- **Require all unspent funds in the recall committee to be returned to donors.**
- **Specify that a person who violated the bill would be subject to a civil fine of up to \$1,000.**
- **Require a recall committee to include certain information in its statement of organization.**

Definitions

Under the Act, "candidate" means an individual who meets one or more specified criteria, including that he or she is an officeholder who is the subject of a recall vote. The bill would amend this criterion to specify that he or she "is a recall candidate". "Recall candidate" would mean an officeholder for whom a recall petition has been determined to be sufficient under Section 963 of the Michigan Election Law. (Under Section 963, within 35 days after the filing of a recall petition, the filing official with whom the petition is filed must make an official declaration of the sufficiency of the petition. If the petition is sufficient, the filing official must call the applicable type of recall election, depending on the elective officer subject to recall.)

"Recall committee" would mean the committee designated in a recall candidate's filed statement of organization as that individual's recall committee.

"Candidate committee" means the committee designated in a candidate's filed statement of organization as that individual's candidate committee. A candidate committee must be under the control and direction of the candidate named in the same statement or organization. Notwithstanding the definition of "committee", an individual must form a candidate committee if the individual becomes a candidate. Under the bill, an individual *except for a recall candidate*, would have to form a candidate committee.

"Political committee" means a committee that is not a candidate committee, political party committee, House or Senate political party caucus committee, independent committee, independent expenditure committee, or ballot question committee. The bill would amend the definition to exclude a recall committee, as well.

Recall Committees

The bill would require a recall candidate, within 10 days after becoming a recall candidate, to form a recall committee. A recall candidate could not form more than one committee. The recall committee would have to have a treasurer who was a qualified Michigan elector. A candidate could appoint himself or herself as the recall committee treasurer.

Except as otherwise provided by law, a recall committee would have to have one account in a financial institution in Michigan as an official depository to deposit all contributions received by the recall committee in the form of or that were converted to money, checks, or other negotiable instruments and to make all expenditures. The committee would have to designate that financial institution as its official depository. The establishment of an account in a financial institution would not be required until the recall committee received a contribution or made an expenditure.

A recall committee could not accept a contribution or make an expenditure if that committee did not have a treasurer. When the office of treasurer in a recall committee was vacant, the recall candidate would be the treasurer until the candidate appointed a new treasurer. A recall committee could not make an expenditure without the authorization of the treasurer or the treasurer's designee. The contributions received or expenditures made by a recall candidate or his or her agent would be considered received or made by the committee.

Contributions received by an individual acting on behalf of a recall committee would have to be reported promptly to the recall committee's treasurer at least five days before the closing date of any campaign statement required to be filed by the committee, and would have to be reported to the treasurer immediately if the contribution were received less than five days before the closing date.

A contribution would be considered received by a recall committee when it was received by the treasurer or his or her designated agent, although the contribution could not be deposited in the official depository by the reporting deadline. Contributions received by a recall committee could not be comingled with other funds of an agent of the recall committee or of any other person.

The recall committee would have to be terminated within 30 days after certification of the recall election results. Notwithstanding Section 45, all unspent funds in the recall committee would have to be returned to donors. (Section 45 of the Act allows a person to transfer any unspent funds from one candidate committee to another committee of the same person if the contributions limits for the committee receiving the funds are equal to or greater than the limits for the committee transferring the funds. The Act also specifies that unspent funds that are not eligible for transfer to another candidate committee of that candidate would have to be disbursed to specified entities.)

A person who violated the above provisions would be subject to a civil fine up to \$1,000.

Statement of Organization; Recall Committee

Under the Act, a committee must file a statement of organization with the applicable filing officials to receive the committee's campaign statements. The statement of organization must include specified information, including the name, address, and the email address and telephone number of the committee and the candidate's email address. If the committee is a candidate committee, the committee name must include the first and last name of the candidate. The latter provision also would apply to a recall committee.

A statement of organization also must identify the committee as a candidate committee, political party committee, independent committee, independent expenditure committee, political committee, or ballot question committee if it is identifiable as that type of committee. This provision also would apply to a recall committee.

Candidate Committee Requirements; Exclude Recall Committees

The Act requires a candidate to form a candidate committee. A committee other than a candidate committee must have a treasurer who is a qualified elector in Michigan if it conducts business through an office or other facility located in Michigan. These requirements would not apply to a recall committee.

MCL 169.203 et al.

Legislative Analyst: Dana Adams

FISCAL IMPACT

The bill could provide additional revenue for local libraries with the imposition of a \$100 civil fine for violations of the bill. Revenue collected from civil fines is used to support local libraries. Additionally, \$10 of the civil fine would be deposited into the State Justice System Fund. The Fund supports justice-related activities across State government in the Departments of Corrections, Health and Human Services, State Police, and Treasury. The Fund also supports justice-related issues in the Legislative Retirement System and the Judiciary. The amount of revenue to the State or for local libraries is indeterminate and would depend on the actual number of violations.

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.