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Senate Bill 788 (Substitute S-3)
Sponsor: Senator Jim Runestad
Committee: Elections

Date Completed: 3-23-22

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.**
- **Prescribe requirements for when a recall committee would have to be terminated.**
- **Require all unspent funds in the recall committee to be returned to donors in the order they were received or, if an individual donor were deceased, to the donor's next of kin.**
- **Specify that a person who violated the bill would be subject to a maximum civil fine of \$1,000.**
- **Require a recall committee to include certain information in its statement of organization.**
- **Increase certain campaign contribution limits.**

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 submitted to the Board of State Canvassers or the board of county election commissioners.

"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.

Campaign Expenditures

Under the bill, a candidate committee of a candidate who was elected or appointed to an elective office could make a contribution to the recall committee of the candidate.

Recall Committees

The bill would require a recall candidate, within 10 days after becoming a recall candidate, to form a recall committee, even if one or more than one recall petition were submitted to the Board or a board of county election commissioners. 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 recall 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 for any disbursement or donation to a person, except for an expenditure for administrative services for the recall committee or to challenge a recall petition until the filing official with whom the recall petition was filed made an official declaration of the sufficiency or insufficiency of the recall petition under Section 963 of the 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.)

If a recall petition were determined to not be valid for circulation, the recall committee could not, except as otherwise provided, accept a contribution or make an expenditure after that date of determination. If another recall petition were not filed, or an existing recall petition were not submitted, against the recall candidate before the last day that a recall petition could be filed against that recall candidate, the recall committee would have to terminate within 30 days after the last day that a recall petition could be filed against that recall candidate. If another recall petition were filed, or an existing recall petition were resubmitted, against the recall candidate before the last that a recall petition could be filed against that recall candidate, the recall committee could accept contributions and make expenditures as provided in the bill.

If the filing official with whom a recall petition was filed made an official declaration of the insufficiency of the recall petition, the recall committee could not, except as otherwise provided, accept a contribution or make an expenditure after the date of that official declaration. If another recall petition were not filed, or an existing recall petition were not resubmitted, against the recall candidate before the last day that a recall petition could be filed against a recall candidate, the recall committee would have to terminate within 30 days after the last day that a recall petition could be filed against the recall candidate. If another recall petition were filed, or an existing petition were resubmitted, against the recall candidate before the last day that a recall petition could be filed against that recall candidate, the recall committee could accept contributions and make expenditures as provided in the bill.

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.

If a recall election were held, the recall committee would have to be terminated within 30 days after the later of the following:

- The certification of the recall election results.
- The completion of any recount regarding the recall election or the exhaustion of any appeals regarding the recall election.

Notwithstanding Section 45, before termination of a recall committee, all unspent funds in the recall committee would have to be returned to donors in the order they were received or, if an individual donor were deceased, to the donor's next of kin. (Section 45 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 maximum civil fine of \$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. Under the bill, 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. Under the bill, these requirements would not apply to a recall committee.

Campaign Contribution Limits

Section 52 of the Act limits the amount of contributions a person may make to a candidate committee of a candidate with respect to an election cycle. For a person other than an independent committee or a political party committee, the limits are as follows:

- \$1,000 for a candidate for State Representative, or for a candidate for local elective office if the district from which he or she is seeking office a population of 85,000 or less.
- \$2,000 for a candidate for State Senator, or for a candidate for local elective office if the district from which he or she is seeking office has a population of more than 85,000 but 250,000 or less.
- \$6,800 for a candidate for State elective office other than the office of a State legislator, or for a candidate for local elective office if the district from which he or she is seeking office has a population of more than \$250,000.

The bill would increase those limits to \$1,050, 2,100, and \$7,150, respectively.

Section 52 prohibits a candidate committee, a candidate, or a treasurer or agent of a candidate committee from accepting a contribution with respect to an election cycle that exceeds the limitations prescribed in Section 52. Under the bill, Section 52 would apply to contributions a person could make to a recall committee. (A person who knowingly violates Section 52 is guilty of a misdemeanor punishable by a maximum fine of \$1,000 or up to 90 days' imprisonment, or both, if the violator is an individual, or by a maximum fine of \$10,000, if the violator is not an individual.)

MCL 169.203 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill's criminal penalties could have a negative fiscal impact on the State and local government. Violations of the bill would be punishable as misdemeanors and felonies of varying severity. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,400 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government would be approximately \$5,800 per prisoner per year. Any associated increase in fine revenue would increase funding to public libraries.

Fiscal Analyst: Joe Carrasco, Jr.

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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.