



STATE OF MICHIGAN
 RUTH JOHNSON, SECRETARY OF STATE
 DEPARTMENT OF STATE
 LANSING

August 23, 2012

**STAFF REVIEW
 OF "THE PEOPLE SHOULD DECIDE" PETITION**

SPONSOR: The People Should Decide, 12225 Stephens Road, Warren, MI 48089.

DATE OF FILING: July 9, 2012, 3:37 p.m.

NUMBER OF VALID SIGNATURES REQUIRED: 322,609 signatures.

TOTAL FILING: At the time of filing, the sponsor estimated that it filed 86,892 sheets containing an estimated 609,220 signatures. According to the staff review, the actual filing consisted of 85,485 sheets containing 596,533 signatures.

SIGNATURE SAMPLE

NOT INCLUDED IN SAMPLE: 351 sheets containing 1,369 signatures. Petition sheets discounted for defective circulator certificates; defective petition headings; torn, mutilated, or incomplete petition sheets; and blank petition sheets.

INCLUDED IN SAMPLE: 85,134 sheets containing 595,164 signatures.

NUMBER OF SAMPLED SIGNATURES: 519 signatures.

SAMPLE RESULT: 416 valid signatures; 103 invalid signatures.

Valid signatures

Registered signers; signatures verified: 416

Invalid signatures

Facially defective signatures: 26

Signatures determined invalid due to signer's registration status: 77

Total 519

RESULT OF SIGNATURE SAMPLE

ESTIMATED NUMBER OF VALID SIGNATURES CONTAINED ON PETITION:

477,048 signatures.

STAFF FINDING: The petition contains a sufficient number of valid signatures.

CHALLENGE

A challenge was timely filed by Taxpayers Against Monopolies (TAM) on August 22, 2012. The challenge asserts that the sponsor omitted three sections of the Constitution “altered or abrogated” by the proposal in violation of Const Art XII, §2 and MCL 168.482(3), namely Art II, §9 (reserving the powers of initiative and referendum to the people); Art III, §6 (governing public internal improvements); and Art VII, §16 (authorizing the Legislature to construct, improve, and maintain bridges and other structures). TAM Challenge, pp. 14-21. One of the leading Michigan cases discussing whether a proposed constitutional amendment alters or abrogates another constitutional provision is *Ferency v Secretary of State*, 409 Mich 569, 597 (1980). Under *Ferency* and related cases, courts consider whether the proposed constitutional amendment would “add to, delete from, or change the existing wording of the provision, or would render it wholly inoperative.”

TAM also alleges that the petition restricts “the State’s constitutional authority to construct and finance bridges of any kind – whether international or otherwise [,]” on the basis that the proposal’s definition of the term “new international bridges or tunnels for motor vehicles” includes “any bridge or tunnel which is not open to the public and serving traffic as of January 1, 2012.” TAM Challenge, pp. 3-4; The People Should Decide petition at §6a(2)(d).

TAM’s challenge is limited to the form and substance of the petition and does not dispute that the petition sponsor submitted a sufficient number of valid signatures. This petition was approved as to form by the Board at its April 26, 2012 meeting.

STAFF FINDING: The staff expresses no opinion regarding the merits of TAM’s challenge.