



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

July 21, 2014

STAFF REPORT OF
"RAISE MICHIGAN"
INITIATIVE PETITION

SPONSOR: Raise Michigan, 622 Walnut Avenue, Royal Oak, Michigan 48068.

DATE OF FILING: May 28, 2014.

NUMBER OF VALID SIGNATURES REQUIRED: 258,088 signatures.

TOTAL FILING: 39,092 sheets containing 319,641 signatures.

SIGNATURE SAMPLE

NOT INCLUDED IN SAMPLE: 330 sheets containing 1,216 signatures.

	<u>Sheets</u>	<u>Signatures</u>
Circulator certificate defective:	84	431
Heading defective (Improper county entry, unable to determine county of circulation):	18	79
Torn, mutilated or missing pages:	43	186
Signer errors (improper dates, multiple jurisdictions):	185	520

INCLUDED IN SAMPLE: 38,762 sheets containing 318,425 signatures.

NUMBER OF SAMPLED SIGNATURES: 2,731 signatures.

SAMPLE RESULT: 2,228 valid signatures; 503 invalid signatures.

Valid signatures

Registered signers; signatures verified: 2,228

Invalid signatures

Facially defective signatures: 103
Signatures determined invalid due to signer's registration status: 400

Total 2,731

To determine that the petition contains a sufficient number of valid signatures, the minimum number of valid signatures required to be found within the sample is 2,214. Staff finds that the sample contained 2,228 valid signatures, or 14 more than the minimum number required.

This result incorporates the results of staff's review of 383 signatures that were challenged for facial defects (described in further detail below).

RESULT OF SIGNATURE SAMPLE

ESTIMATED NUMBER OF VALID SIGNATURES CONTAINED ON PETITION:

259,776 signatures (1,688 more than the minimum number required).

STAFF FINDING: Staff finds that the petition contains a sufficient number of valid signatures.

CHALLENGE

A challenge was timely filed by People Protecting Michigan Jobs (PPMJ) on July 11, 2014; PPMJ's arguments asserting that the proposal is ineligible for placement on the ballot are summarized below.

Repeal. The challenge asserts that the initiative petition is ineligible to appear on the ballot due to the recent repeal of the Minimum Wage Law of 1964, which the petition proposes to amend. The repeal was effectuated by the enactment of 2014 PA 138 (Senate Bill 934 of 2014), effective May 27, 2014; Raise Michigan filed its petition on May 28, 2014. According to PPMJ, Raise Michigan seeks to do what the Legislature cannot – amend a repealed act.

These arguments are legal issues for which staff takes no position.

Sheets containing some portion of the "tear-off" extension. In addition, PPMJ argues that 3,088 sheets (representing 23,435 signatures) should have been summarily excluded from the filing because the petition sponsor failed to completely detach the "tear off" extension from these sheets prior to filing. According to PPMJ, these sheets do not comply with the mandatory language of MCL 168.482(1), requiring that "[e]ach petition under this section shall be 8 ½ inches by 14 inches in size."

While PPMJ asks the Board to discount all 23,435 signatures appearing on 3,088 sheets from the filing, it fails to identify these sheets by page number, so it is impossible to tell whether and to what extent they might be included within the sample. Instead, PPMJ argues that these sheets

represent 7.35% of the entire filing and that assuming the sample contains the same proportion of these sheets, an unidentified 200 signatures from the random sample (7.35% of 2,731 sampled signatures) should be invalidated.

Staff carefully reviewed the sample and found the following containing some portion of the tear-off¹: 476 signatures appear on these sheets. Of these, 79 signatures have already been discounted because the signer is not registered to vote; 16 signatures have already been discounted due to facial defects (such as an incomplete or incorrect address, date, etc.); and 381 were determined to be valid signatures belonging to registered voters. Thus, contained within the sample there are 381 otherwise valid signatures (476 minus 95 signatures that have already been discounted for other reasons) that could arguably be invalidated for this reason. Examples of these sheets are provided at the end of this Staff Report.

The Staff Report does not discount these 381 signatures for two reasons. First, the Secretary of State's Prescribed Format² for statewide petition forms recognizes that the sponsors of statewide proposal petitions may elect to use such an extended tear-off:

II. APPROVED PETITION DESIGN OPTIONS

Extension for Instructional and/or Promotional Language

The petition may contain an extension for the presentation of instructional and/or promotional language. The extended portion of the sheet must be detached or otherwise removed prior to the filing of the petition. If a detachable stub or other type of petition sheet extension is used, the sponsor of the petition is responsible for the accuracy of the instructional and/or promotional language placed on the extension.

The fact is that the tear-off was present when voters signed the petition. The tear-off was designed to collect signers' email addresses, which is appropriate. Prior to filing, the petition sponsor left a small portion of the tear-off attached to a number of petition sheets. While this does not follow the instruction above, it is not clear how this would be fatal to the petitions involved as it is clear the tear-off was present when the voters signed and now a small portion remains attached to the petition. In no way was the voter's ability to sign adversely affected. The petition that was approved by the Board as to form on February 19, 2014 did not include a tear-off extension.

Second, the size of the petition referred to in MCL 168.482(1) relates to the signature portion of the petition. A petition to initiate legislation includes all of the language of the proposed legislation. It is not uncommon for the text of the legislation on a petition to initiate legislation or the text of an amendment on a petition to amend the constitution to substantially exceed 8 ½ by 14 inches when the entire petition is unfolded. For example, the Reform Michigan Government Now petition measures 24 inches by 29 inches (or equivalent to 6 legal sized sheets of paper with printing on both sides). The Secretary of State's instructions direct that all extensions due to the text of a proposal must fold down to 8 ½ by 14 inches; however, that does not change the actual size of the petition, which exceeds 8 ½ by 14 inches. The Secretary of State's Prescribed Format states:

¹ Staff review of the entire filing identified a total of 7,425 sheets (representing 55,168 total signatures) that had some portion of the tear-off still attached.

² Available at http://www.michigan.gov/documents/sos/Ini_Ref_Pet_Website_339487_7.pdf, see p. 11 of the pdf.

II. APPROVED PETITION DESIGN OPTIONS

Accommodation of Lengthy Initiatives and Referendums

If the full text of the constitutional amendment, legislative proposal or legislation being subjected to a referendum is too lengthy to be contained on the reverse side of the petition sheet, the language of the petition shall be continued on a fold over extension to the sheet. The fold over extension must not be removed prior to the filing of the petition. With the extension folded down, the petition must measure 8 ½ inches by 14 inches in size.

The signature side of the petition which was approved as to form by the Board remains 8 ½ by 14 inches. As noted above, the Secretary's instructions contemplate tear-offs that are not part of the petition. The fact that some portion of the tear-off remains attached to the petition does not change the size of the petition.

The staff recommends that this aspect of the challenge be rejected.

Defective petition format. PPMJ faults the sponsor for omitting from the introductory language on the *signature side* of the petition:

- (1) A statement that the law the petition seeks to amend was repealed by 2014 PA 138, which took effect one day before the petition was filed with the Secretary of State; and
- (2) Citations for the two sections of the Minimum Wage Law of 1964 which it seeks to amend (sections 4 and 7a, MCL 408.384 and 408.387a), despite the fact that the introduction complies with Secretary of State's Prescribed Format,³ requiring the inclusion of the citations only on the *reverse side* of the petition.

The petitions submitted match that which was approved to form by the Board on February 19, 2014. Issue 1 above is a legal issue for which staff takes no position. Regarding issue 2 above, the petition form conforms to the Secretary of State's prescribed format, and staff recommends that this aspect of the challenge be rejected.

Facially defective signatures. PPMJ challenged 383 signatures for various facial defects such as incomplete or incorrect addresses, dates, and so on. Staff carefully reviewed each of the 383 signatures identified by PPMJ and the results of staff's review are incorporated in the "Sample Result" section above. In particular, staff found that 214 of these were valid signatures of registered voters; 62 challenged signatures were discounted due to miscellaneous facial defects⁴; 65 challenged signatures had already been discounted by staff because the signers were not registered to vote; and 42 challenges were rejected as invalid.

³ Available at http://www.michigan.gov/documents/sos/Ini_Ref_Pet_Website_339487_7.pdf, see p. 7 of the pdf ("If there is not sufficient space at the top of the signature side of the petition sheet to print the legislative proposal, the introduction shall be followed by a brief synopsis of the proposal and reference shall be made to the reverse side of the sheet for the full text of the proposal. The full text of the proposal shall appear *on the reverse side of the petition sheet* after an introduction which specifies the title and *the provision or provisions of Michigan law which the proposal is designed to alter, eliminate or create.*") (Emphasis added.)

⁴ A portion of these 62 challenged signatures were found to be facially defective by staff prior to receipt of the challenge.

Duplicate signatures. PPMJ asserts that the Raise Michigan petition includes a number of duplicate signatures, though apparently none were discovered within the 2,731 signatures included in the sample.

According to PPMJ, it examined 171,044 signatures within the entire filing (or 53% of the filing) and found 2,918 duplicate signatures within this portion of the filing (or 1.7% of 171,044 signatures it examined). Applying its finding to the sample, PPMJ asks the Board to assume that 46 unidentified signatures (1.7% of 2,731 sampled signatures) are duplicates. The “Sample Result” section above does *not* accept this claim because there are no sampled signatures identified by PPMJ as duplicates.

The staff recommends that this aspect of the challenge be rejected.

and to \$10.10 per hour on January 1, 2017; to annually adjust the minimum wage based on the change in the cost of living, proposal if adopted would amend the "Minimum wage law of 1964," 1964 PA 154, as amended. The proposal is to be voted

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igan, respectively petition for initiation of legislation.

other than his or her own, signs when not a qualified and registered elector, signature was affixed, is violating the provisions of the Michigan election law.

STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING		
		MO	DAY	YEAR
3193 ARNOLD	48207	4	22	14
1900 EFFENE CT.	48207	4	22	14
9909 Brookfield	48150	4	22	14
6831444chertle	48185	4	22	14
37159S WESTLAND	48105	4	22	14
5276 BALEST	48224	4	22	14
9929 MIDDLESBORO	48150	4	22	14

CIRCULATOR—Do not sign or date certificate until after circulating petition.

Signature of Circulator: [Signature] Date: 4.22.14
 Printed Name of Circulator: DAVID M. BORG
 City or Township Where Qualified To Be Registered: FRANKLIN
 Complete Residence Address (Street Aird Number Or Rural Route): 48207
 Zip Code: 48207

age based on the change in the cost of living, 154, as amended. The proposal is to be voted

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qualified and registered elector, of the Michigan election law.

NAME	DATE OF SIGNING		
	MO	DAY	YEAR
0	04	06	2014
	04	06	2014
	04	06	2014
	04	06	2014
	04	06	2014
	04	06	2014

until after circulating petition.

Signature of Circulator: [Signature] Date: 4.6.2014
 Printed Name of Circulator: [Name]
 City or Township Where Qualified To Be Registered: [City]
 Complete Residence Address (Street Aird Number Or Rural Route): 48214
 Zip Code: 48214



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

July 24, 2014

**ADDENDUM TO STAFF REPORT
 RAISE MICHIGAN
 INITIATIVE PETITION**

Yesterday, July 23, 2014, challenger People Protecting Michigan Jobs (PPMJ) submitted additional materials that call into question the validity of 82 additional sampled signatures, asserting that these 82 petition signers actually signed the petition twice (or more times). Yesterday’s filing supplements PPMJ’s original challenge which raised the issue of duplicate signatures within the sample, by specifically identifying these 82 alleged duplicates by page and line number.

The challenge deadline expired on July 11, 2014. However, in 2006, the Board of State Canvassers voted to accept additional duplicate signature challenges filed well after the challenge deadline but a day or two in advance of the Board meeting. The legal basis for the Board’s action in 2006 is found in MCL 168.552(9), governing the canvass of candidates’ nominating petitions:

(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. ... **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.**

(Emphasis added). This provision creates a limited exception to the challenge deadline and authorizes the Board to consider information that is completely restricted to the four corners of the petition. Duplicate signatures satisfy the “four corners” condition. Further, nothing in MCL 168.476 (the section that governs the canvass of initiative petitions) prohibits the Board from considering supplemental material.

Staff carefully reviewed the 82 alleged duplicates and confirmed that 48 sampled signatures are duplicates of signatures within the entire petition filing. If the Board accepts the materials submitted yesterday, then 48 additional signatures are discounted from the sample. See chart below:

	Staff Report Finding (published 7/21/14)	Staff Review of Supplemental Duplicate Filing (filed by challenger on 7/23/14)
Minimum number of valid sampled signatures required = 2,214	2,228 (+14)	2,180 (-34)
Minimum number of valid signatures required = 258,088	259,776 (+1,688)	254,180 (-3,908)
Validity rate required = 81.1%	81.6%	79.8%
RESULT:	SUFFICIENT	INSUFFICIENT