



STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

**STAFF REVIEW
OF "STAND UP FOR DEMOCRACY" PETITION**

SPONSOR: Stand Up for Democracy, 1034 N. Washington Ave., Lansing, MI 48906.

DATE OF FILING: February 29, 2012.

NUMBER OF VALID SIGNATURES REQUIRED: 161,305 signatures.

TOTAL FILING: 24,209 sheets containing 226,339 signatures.

SIGNATURE SAMPLE

NOT INCLUDED IN SAMPLE: 58 sheets containing 454 signatures.

	<u>Sheets</u>	<u>Signatures</u>
Circulator certificate defective:	27	180
Heading defective (Improper County entry, unable to determine County of circulation):	4	7
Torn, mutilated or missing pages	25	452
Submitted blank or all signatures crossed out	2	0

INCLUDED IN SAMPLE: 24,151 sheets containing 225,885 signatures.

NUMBER OF SAMPLED SIGNATURES: 3,451 signatures.

SAMPLE RESULT: 3,105 valid signatures; 346 invalid signatures.

Valid signatures

Registered signers; signatures verified: 3,105

Invalid signatures

Facially defective signatures: 64
Signatures determined invalid due to signer's registration status: 282

Total 3,451

SIGNATURE CHALLENGE

No challenges against signatures contained within the sample or the filing received.

Citizens for Fiscal Responsibility filed a challenge to the form of the petition which is described below.

FINAL RESULT OF SIGNATURE SAMPLE

ESTIMATED NUMBER OF VALID SIGNATURES CONTAINED ON PETITION:

203,238 signatures.

RECOMMENDATION: Certify petition as sufficient.

CHALLENGE TO PETITION FORM

On April 9, 2012, the ballot question committee Citizens for Fiscal Responsibility (CFR) submitted a challenge to the form of the referendum petition filed by Stand Up for Democracy.

Summary of challenge. CFR's challenge is based on five alleged defects in the format of the petition:

- (1) The type size of the petition heading,

**REFERENDUM OF LEGISLATION
PROPOSED BY INITIATIVE PETITION**

purportedly does not comply with the requirement of MCL 168.482(1) that it be "printed in capital letters in 14-point boldfaced type [.]"

- (2) The summary that appears on the signature side of the petition form is, in their view, "incomplete and misleading."
- (3) The petition omits the prior law, 1990 PA 72, which will be revived if 2011 PA 4 is suspended.
- (4) The petition omits the effective date of 2011 PA 4.
- (5) The petition omits 2011 PA 9, which was tie-barred to 2011 PA 4.

This petition form was not presented to the Board of State Canvassers (Board) for approval as to form prior to circulation.

Approval-as-to-form process. When the Board grants its approval as to the form of a petition, it expressly states that its approval does not extend to the substance of the proposal, the substance of the summary, or the manner in which the proposal language is affixed to the petition. The Board's examination typically is limited to whether the format of the petition satisfies the technical requirements of the Michigan Election Law including, for example, whether required statements and warnings are worded correctly, whether all of the required fields are included for petition signers and circulators (signature, printed name, address, date of signing, etc.), whether the petition sponsor has provided a printer's affidavit attesting that the type size requirements have been met, and so on.

Challenge to type size. The type size of the heading is one of the elements subject to the Board's review in the approval-as-to-form process through the printer's affidavit requirement. CFR's challenge to the type size of the heading (Item 1 above) necessarily involves a determination of whether the form of the petition complies with the technical requirements of MCL 168.482(1). Thus, it would appear to be proper for the Board to render a decision regarding the sufficiency of the referendum petition on this basis. The legal standard by which courts measure compliance with the technical requirements of the Michigan Election Law is described in the attached memorandum.

Challenges to summary and omission of prior law, effective date, and tie-barred legislation. However, CFR's other challenges to the petition form (Items 2 – 5 above) appear to relate to the substance of the proposal's summary, the substance of the proposal itself, and the manner in which the language is affixed to the petition. When approving a petition as to form, the Board explicitly states that its approval does not extend to any of these subjects. In addition, and in contrast to the type size requirement of MCL 168.482(1), there is no statute that governs the content of the summary, nor is there a statutory duty imposed on the petition sponsors to include a reference to the prior law, actual effective date, or tie-barred legislation. Accordingly, it is not clear that the Board possesses the authority to consider whether the summary is adequate or whether the omission of the prior law, effective date, and tie-barred legislation constitute fatal defects to the form of this petition.

Recommendation. The Board may entertain a challenge to the type size of the petition heading, but should reject the remaining challenges as exceeding the scope of its authority.