



STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

October 13, 2023

STAFF REPORT:
RAISE THE WAGE MI

SPONSOR: Raise the Wage MI, 8100 E. Jefferson B810, Detroit, MI 48214

DATE OF FILING: July 26, 2022

NUMBER OF VALID SIGNATURES REQUIRED: 340,047¹

TOTAL FILING: 567,934²

	Signatures	Sheets
Total number of signatures filed	567,934	105,341
Signatures identified as invalid³ in face review	66,010	14,784
DMG: Torn, mutilated, or damaged petition sheet	739	116
HEAD: fatal defect in petition heading rendering entire sheet invalid	230	80
CIRC: circulator did not date the petition sheet; failure of out-of-state circulator to check box accepting Michigan jurisdiction; failure to identify whether the circulator was paid or unpaid	7,823	1,267
CO: signature was crossed out prior to filing, resulting in no signatures on petition sheet	1,274	836
NS: no signature given or all signatures crossed out	24	20
IN: incomplete signature	4	3
DUP: signer signed petition multiple times	29	10

¹ Because the petition was submitted prior to the 2022 gubernatorial election, the minimum number of valid signatures required is based upon the 2018 gubernatorial election.

² The total number of signatures filed represents a cushion of 67.0% over the minimum number required. Once wholly invalid sheets were excluded from the universe, the sponsor needed to attain a signature validity rate of at least 70.9% for staff to recommend immediate certification of the petition (i.e., 397/560), or a 64.8% validity rate to land in the “sample more signatures” range (i.e., 363/560). The validity rate found in this sample is 72.0% (403/560).

³ During both face review and the review of the sample, staff used the reasons for rejection and accompanying codes that were used in the 2022 election cycle. The Board has since approved changes to some reasons for rejection and accompanying codes, which will be applied to future petitions, but this petition was submitted while the previous standards were in effect.

DUAL: dual jurisdiction entry, meaning the signer wrote the names of two or more jurisdictions in the space for the city or township where registered	379	268
NC: no city or township by that name located within the county listed on petition	1,188	749
NA: no street address or rural route given	127	118
OC: address given is located outside of the city or township listed	25	17
ND: no date given by signer or incomplete date given	40	36
ED: date given by signer is earlier than first date allowed ⁴	21,518	4,360
SDC: signature is dated after the circulator dated their signature	454	107
MC: incorrect petition sheet included in submission	44	7
MC: Petition circulated on an unapproved form (Petition sheet circulated not filed with the Secretary under section 483a prior to circulation) ⁵	32,060	6,759
MC: miscellaneous identification problem	52	31
Total “universe” of potentially valid signatures remaining after face review	501,924⁶	90,557

SAMPLING PROCEDURE

On February 7, 1980, the Board of State Canvassers adopted the following procedure for canvassing petitions seeking an initiative, referendum, or state constitutional amendment.⁷

Initially, staff conduct a “face review” of all petition sheets. Face review involves checking that the mandatory elements of each petition sheet are present and correct, which is also done for candidate nominating petitions.⁸ Sheets that do not pass face review are removed from the petition.⁹ Then, staff count the total number of potentially valid signatures on all remaining sheets and stamp an identifying number on each sheet.

After face review, counting of signatures and sheets, and stamping of sheets, staff begin the two-step random sampling process. A sample of approximately 500 signatures is drawn at the first stage. Each of those signatures is compared against the corresponding signature contained in the

⁴ See explanation in Timeline, below.

⁵ See explanation in Timeline, below.

⁶ The announcement at the completion of face review inadvertently reported the number of face valid signatures as 501,194 rather than 501,914; that correction is reflected in this report. When determining the initial validity rate the ranges for certify, pull more, and deny, staff used 501,914 as the universe of potentially valid signatures. Additionally, 10 signatures across 10 sheets were returned to the universe following the full review of the petition, resulting in a final number of face valid signatures of 501,924. Those 10 signatures were inadvertently pulled during face review and did not have an effect on the required number of valid signatures needed for certification. However, they did lower the number needed to “pull more” from 364 to 363.

⁷ See *Random Sample Signature Canvassing in Michigan*, Michigan Department of State (1980), which describes in more detail the process summarized here.

⁸ Mandatory elements include ensuring that the paid or volunteer checkbox is completed, that the county of circulation is indicated or apparent from the cities and townships indicated on the petition, and that the circulator certificate is properly completed.

⁹ Staff also remove sheets if every signature affixed to the sheet is obviously invalid (for example, if every signature line omitted the date, city, or some other mandatory element).

Qualified Voter File (QVF), and the result of those comparisons determines whether there is a sufficient level of confidence in the result to immediately recommend certification or the denial of certification.

The second and final step of the petition canvassing process is employed only when the number of valid signatures falls into the span between the acceptance and rejection thresholds—the “pull more” range. If the result of the small sample indicates a close call, a second random sample of approximately 2,000 signatures is selected using the approved formula, and those signatures are also compared against the signature contained in the QVF. If a second sample is selected, the result of the comparison between the signatures in the second sample and the signatures contained in the QVF determines whether staff recommend certification or denial of certification.

TIMELINE

On December 22, 2021, RTW submitted the text of its proposed amendment and summary of purpose for optional approval by the Board.¹⁰

On [January 19, 2022](#), the Board approved the 100-word summary of the RTW petition as drafted by the Director of Elections.

On February 9, 2022, RTW submitted its petition proof and printer’s affidavit to the Secretary of State under MCL 168.483a and requested approval as to form.

On [February 11, 2022](#), the Board considered the form of the petition submitted by RTW, but deadlocked over the Michigan Election Law’s applicability to the size of font to the text on the union’s logo, or “union bug,” on the petition and the petition was not approved. **(Version A)**

On March 10, 2022, RTW submitted a revised petition proof and printer’s affidavit, on which the union logo had been placed on the back of the petition in size 8 font, to the Secretary of State under MCL 168.483a.

On March 21, 2022, the Michigan Supreme Court found that the union logo at issue “does not violate the type-size requirements of MCL 168.482, which neither expressly nor implicitly precludes the inclusion of a printer’s mark.”¹¹ Accordingly, RTW was able to re-submit its petition without removing the union logo.

On [March 23, 2022](#), the Board again considered the form of the RTW petition and approved the form of the petition unanimously. **(Version B)**

In order to be placed on the November 8, 2022, ballot, initiative petitions had to be filed at least 160 days before the election at which the proposed law would appear on the ballot if the legislature rejects or fails to enact the proposed law,¹² or June 1, 2022. RTW submitted its filing on July 26, 2022, meaning that it would be placed on the November 5, 2024, ballot if determined to be sufficient (unless enacted by the legislature).

RTW’s submission included three different versions of the petition: the version rejected by the Board on February 11 (Version A), the version approved by the Board on March 23 (Version B), and

¹⁰ [MCL 168.482b](#)

¹¹ *Raise the Wage MI v Bd of State Canvassers*, 509 Mich 876; 970 NW2d 677 (2022)

¹² [MCL 168.471](#)

a version that was never submitted to the Secretary as a section 483a filing, which did not include the full language on the front of the petition (Version C). As a part of its face review process, staff removed the sheets representing Version A (21,518 signatures over 4,360 sheets) and Version C (32,060 signatures over 6,759 sheets), leaving only Version B sheets in the universe (501,924 signatures over 90,557 sheets, following the removal of sheets that were wholly invalid for other reasons).

SIGNATURE SAMPLE:

Total number of sampled signatures		560
Total number of signatures determined to be invalid	Less:	154
Signatory not registered to vote	Less:	93
Jurisdiction name given by signer does not align with address	Less:	10
No city in county known by name given by signer	Less:	7
No address given by signer	Less:	3
More than one jurisdiction indicated (dual)	Less:	6
No signature given by signer	Less:	7
Incomplete signature	Less:	1
Heading error	Less:	3
No date given by signer	Less:	3
Signature dated after circulator date	Less:	1
Signature dated before first date authorized	Less:	1
Miscellaneous error: signature does not match signature in QVF	Less:	19
Total number of valid signatures in sample (registered signers; signatures verified)		406

MICHIGAN OPPORTUNITY’S CHALLENGE TO SIGNATURES:

On August 24, 2023, Michigan Opportunity (MO) filed a challenge to specific signatures in the sample, alleging that 173 of Raise the Wage’s 560 sampled signatures should be rejected for various reasons, including all of the following:

- Circulator’s signature is incomplete, invalid, or crossed out
- Circulator’s date is invalid
- Signed before 483a filing
- Both the paid and volunteer checkboxes are marked and it is unclear which one is correct
- Signer printed name twice
- Paid/volunteer checkboxes are not clearly marked
- Not an approved jurisdiction abbreviation per “Circulating and Canvassing Countywide Petition Forms” (April 2020)
- Circulator was identified in the Fraudulent Nominating Petitions Staff Report (2022)

MO also indicated that three signatures were collected by circulators identified in the *Fraudulent Nominating Petitions Staff Report* issued by staff in 2022 following a large number of fraudulent signatures submitted by candidates. Two of those challenged signatures were collected by a circulator with a similar name but different signature from a circulator in the report; the third was by a circulator who was initially suspected but who was not identified in the report. Regardless, signatures would not be excluded from the universe for that reason. The sampling process is

designed to identify signature errors in the sample that represent a representative number of errors in the universe.¹³ As part of the sampling process, staff reviews each signature in the sample and compares the signature against the QVF to determine whether the signature in the petition matches the signature in the QVF.

STAFF EVALUATION OF CHALLENGE TO SIGNATURES:

Of the challenged signatures, 68 challenges overlapped with signatures already excluded by staff in their processing of the petition, though often for different reasons (for instance, a signature challenged as “no signature;” upon review, the signature is light on the scan but is visible on the original sheet, but the signature was rejected for another reason.)

102 challenges were rejected. Several of these were invalid on their face. For instance, the vast majority of challenges based on a circulator’s signature being incomplete, invalid, or crossed out—the most common reason for a challenge—were rejected. Because out-of-state individuals can serve as circulators, staff does not have the ability to verify their signatures and does not verify the signatures of in-state circulators. Most of the challenges alleging that a circulator name was “crossed out” was made in reference to a “scrawled” signature, typically including a crossed “t.”

Staff accepted 3 challenges that did not overlap with signatures already deemed invalid by staff. One “dual” signature, one signature in which the jurisdiction name given by the signer did not align with the address, and one signature in which the date was illegible, resulting in a “no date” error code. These accepted challenges dropped the number of valid signatures from 406 to 403.

RAISE THE WAGE’S RESPONSE TO CHALLENGE TO SIGNATURES:

RTW attempted to rebut 157 of the 173 signatures challenged by MO. As noted above, 170 of the challenged signatures either overlapped with signatures likewise identified as invalid by staff or the challenges were rejected by staff. Of the three challenges that were accepted by staff, RTW attempted to rebut two. For one, RTW argued that a date challenged by MO as illegible was legible. For the other, RTW argued that a signature indicating “Leoni Township/Jackson” as its city or township was not a “dual” jurisdiction, because “City/Twp. and Address is clearly within Jackson County.” Staff rejected both of these rebuttals. As to the first, the date could be determined by reviewing other dates on the petition sheet but was, itself, illegible. As to the second, while the Board will remove the “dual” code for future petitions, it was still in place at the time the petition was circulated and filed and precludes the indication of multiple jurisdictions in the city/township field.

This resulted in the following final number of valid signatures in the sample:

Total number of sampled signatures		560
Total number of signatures determined to be invalid	Less:	157
Signatory not registered to vote	Less:	93
Jurisdiction name given by signer does not align with address	Less:	11
No city in county known by name given by signer	Less:	7
No address given by signer	Less:	3
More than one jurisdiction indicated (dual)	Less:	7

¹³ For more information about detection of fraudulent-petition circulators in sampling, see [Craig Sample Staff Report \(michigan.gov\)](https://www.michigan.gov/craig-sample-staff-report)

No signature given by signer	Less:	7
Incomplete signature	Less	1
Heading error	Less:	3
No date given by signer	Less:	4
Signature dated after circulator date	Less:	1
Signature dated before first date authorized	Less:	1
Miscellaneous error: signature does not match signature in QVF	Less:	19
Total number of valid signatures in sample after challenge was processed		403

CHALLENGE TO PETITION’S SUMMARY AND SUBSTANCE:

Additionally, MO challenged the petition itself, arguing that the petition that was circulated differed in substantive ways from the language initially proposed by RTW and reviewed by the Board in January 2022, on which the 100-word summary was based.

Currently, the Improved Workforce Opportunity Wage Act defines an employer as one “who employs 2 or more employees at any 1 time within a calendar year.” MCL 408.932(d). The proposed language submitted December 22, 2021, would have struck the number 2 in “2 or more employees” and replaced it with a 1 so the definition would apply to those with “1 or more employees.” MO argues that the petition that was circulated added the 1 but did not strike the 2, resulting in an application of the definition to those who employ “21 or more employees.”

If adopted, MO argues, the petition would exempt small businesses—those employing 20 or fewer employees—from Michigan’s minimum wage. This would mean that they would only be guaranteed the *federal* minimum wage, which at \$7.25 is 28% lower than Michigan’s \$10.10 minimum wage. Given that those employed by exempt employers would experience a minimum pay *reduction*, MO argues that the 100-word description describing an “*increase* [to the] minimum wage” is inaccurate and misleading.

Additionally, MO argues that RTW petition failed to comply with the notice requirement, arguing that failure to **bold** and ~~strike~~ each amendment to statute (i.e. the threshold change for employers from the employment of 2 to 21 employees) violates the requirement to show the changes proposed by the petition. In support of this argument, MO argues that the Constitution provides that “[n]o law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.”¹⁴

MO acknowledges that the Michigan Election Law provides that “The board of state canvassers may not consider a challenge to the sufficiency of a submitted petition on the basis of the summary being misleading or deceptive if that summary was approved before circulation of the petition.” MCL 168.482b(1) However, MO argues that the prohibition “can only possibly apply if the summary of purpose was prepared and approved based on the same version of the petition that was later circulated, which is not the case here.”

Finally, MO argues that the Board should wait to issue a decision on certification until a related court case is concluded. RTW seeks to amend statutory provisions that were the subject of an initiative petition circulated and filed by One Fair Wage. The Legislature adopted the One Fair Wage

¹⁴ [Const 1963, art 4 §25](#)

initiative petition in September 2018 (Public Act 337 of 2018), but then amended its provisions, after which the revised Act was signed by the Governor (Public Act 368 of 2018).

In May 2021, several parties filed an action challenging the Legislature's ability to adopt and amend a measure in this manner. On June 21, 2023, the Michigan Supreme Court granted plaintiffs leave to appeal a decision by the Court of Appeals that PA 368 was constitutional. If plaintiffs succeed and the initial acts are no longer in effect, MO argues, the RTW petition would be void because it would seek to amend statutory provisions that no longer exist.

RAISE THE WAGE'S RESPONSE TO CHALLENGE TO PETITION'S SUMMARY AND SUBSTANCE:

RTW responded, arguing that the Board already unanimously approved the form and summary of the petition, and that the only possible action by the Board could be to certify the proposal for the ballot, assuming a determination that sufficient signatures were submitted.

In response to MO's challenge to the 100-word summary, RTW argued that the summary was approved unanimously on January 19, 2022 and Michigan Election Law provides that when petitioners take advantage of the optional filing, "[t]he board of state canvassers may not consider a challenge to the sufficiency of a submitted petition on the basis of the summary being misleading or deceptive if that summary was approved before circulation of the petition." MCL 168.482b. RTW argues that MO has had 19 months to address any perceived inaccuracies in the summary and has not done so, and is forestalled by sec 482b(1) of the MEL from doing so at this time.

In contesting MO's argument that the failure to bold and strike the proposed amendments to the statute must result in a rejection of the petition, RTW cites staff's "non-binding 'guidance,'" which states the following:

If the petition offers a legislative proposal or a referendum of legislation which involves alterations to existing portions of Michigan law, the alterations *may* be presented by showing any language that would be added to the provision or provisions in capital letters and any language that would be deleted from the provision or provisions struck out with a line.¹⁵ (emphasis added)

Finally, in response to MO's request that the Board defer its decision pending resolution of a related court case, RTW argues that there is no authority or precedent for the Board to act in this manner.

STAFF EVALUATION OF CHALLENGE:

MO's arguments are twofold: (1) that the Board should reject the petition because the text of the petition is misleading, because RTW did not indicate that the threshold for qualifying employers would rise from those with at least 2 employees to those with at least 21; and (2) that the Board should reject the petition because the summary approved by the Board does not accurately describe the petition as circulated, and that the legislature could not have intended a bar to a challenge to the summary in these circumstances.

As to the first argument regarding allegedly misleading text, MO seeks to distinguish the instant petition from the instance in *Reproductive Freedom for All*, arguing that while the spacing between words in that petition may have been insufficient, the court found that "the meaning of the words has not changed" by that alleged deficiency. In this petition, MO argues, "the RTW Proposal's

¹⁵ *Sponsoring a Statewide Initiative, Referendum or Constitutional Amendment Petition* (February 2022), p. 22

meaning is radically changed by two serious misrepresentations: *first*, that Michigan’s current minimum wage law only applies to employers with 21 or more workers; and *second*, that if the proposed initiative were enacted, it would not effect a 28 percent reduction in the minimum wage rate payable to employees in smaller companies.”

As to the second argument regarding the challenge to the summary, while MO acknowledges that section 482b of the MEL provides that petitioners who avail themselves of that process are insulated from a later challenge to the summary, they also argue that the same section requires that the summary must be “a true and impartial statement of the purpose of the proposed amendment or question”—something that they argue is violated when the summary does not accurately represent the petition as circulated.

Staff makes no recommendation as to the merits of these arguments because they are legal arguments raising the question of whether the summary, as pertains to the *substance* of the petition, is misleading or deceptive; this decision is within the discretion of the Board.

FINAL RESULT OF SIGNATURE SAMPLE:

<u>Number of valid signatures</u>	<u>Formula result</u>	<u>Sample result</u>
397 or more	Certify	403
364-396	Sample more signatures	
363 or fewer	Deny certification	

ESTIMATED NUMBER OF VALID SIGNATURES FOR PETITION: Based on the results of the random sample, it is estimated that the petition contains 360,309 valid signatures (at a confidence level of 98.2%),¹⁶ an excess of 20,262 signatures.

STAFF RECOMMENDATION: Staff recommends that the Board approve certification of this petition.

Note that while the information provided in this staff report is current as of this writing, additional information may be submitted by the petition sponsor or challenger after the date of publication.

This staff report is being published on October 13, 2023, at least two business days prior to the October 20, 2023 meeting at which the Board of State Canvassers will consider the sufficiency of the Raise the Wage petition in accordance with MCL 168.476(3) (“At least 2 business days before the board of state canvassers meets to make a final determination on challenges to and sufficiency of a petition, the bureau of elections shall make public its staff report concerning disposition of challenges filed against the petition.”).

¹⁶ The formula result confidence level is 0.9816, meaning there is a 98.2% chance that the petition contains sufficient signatures. In other words, the there is a 98.2% probability that approving certification is the correct result.