



**Local Ballot Initiatives:  
An overview, a 2024 case study  
and discussion on preparing for 2026.**

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ATTORNEYS AT LAW



# Agenda:

## 1) Introductions and Overview

By Philip Strom – Grand Rapids, Interim City Attorney

## 2) Must Know 2026 Deadlines and Dates

By Joel Hondorp – Grand Rapids, City Clerk

## 3) Back the Blue 2024 Case Study

By Marc Kaszubski – Sterling Heights, O'Reilly Rancilio

## 4) Discussion and Questions

# Ballot Initiatives Overview:

The Michigan Constitution provides:

**“The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum.”  
Article 2, § 9 of the 1963 Michigan Constitution.**

# What is a local ballot initiative?

- Petition signed by local registered voters
- Typically involves a proposed charter amendment or ordinance, or nomination for office
- Confirm the underlying legal authority relied on for local initiatives. For example:
  - ❑ The Home Rule City Act, Act 279 of 1909, MCL 117.1 *et seq.*, contains initiative rights and requirements for charter amendments, but also subject's petitions to additional requirements found under the Michigan Election Law, Act 116 of 1954, MCL 168.21 *et seq.* See MCL 117.25a
- The State of Michigan maintains a Petition Manual for Statewide Initiative, Referendum, and Constitutional Amendment Petitions: <https://www.michigan.gov/sos/elections/ballot-access>.

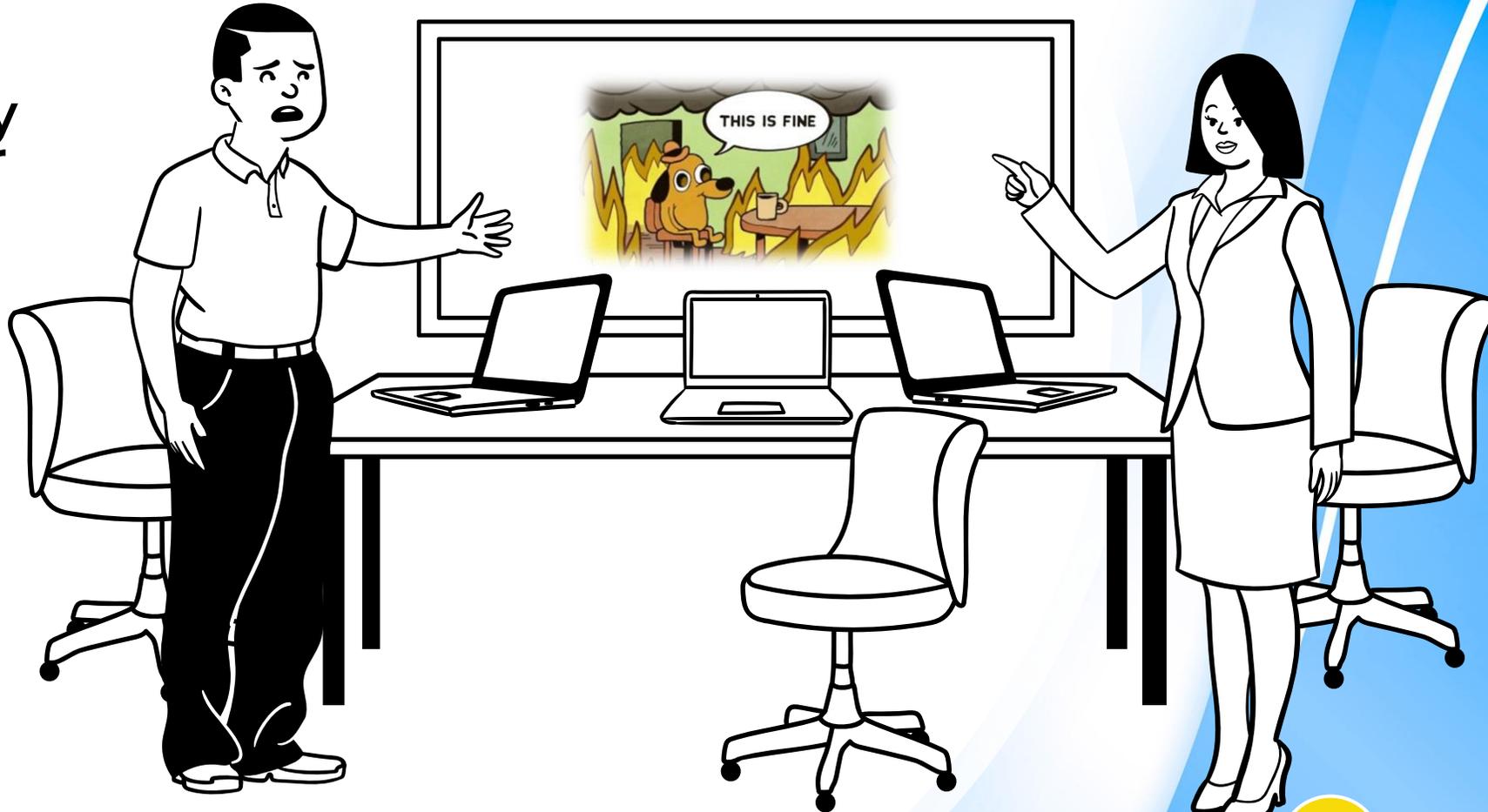
Local  
Initiative  
Petition

≠

Statewide  
Initiative  
Petition

# What to do if you know petitions are being circulated?

- Don't Panic
- Check the Secretary of State timeline for elections
- Communicate with your Elected Officials and Staff
- Research to better understand the dynamics





## What to do when your clerk receives a petition?

- Ensure the petition is timely
- Review the petition for any glaring issues
- Check your charter and/or other underlying enabling legislation for compliance with statutory requirements
  - ❑ It is generally understood that Michigan courts review petition deficiencies under a strict compliance standard with respect to compliance with form and content requirements. See, e.g., *Stand Up v Secy of State*, 492 Mich 588, 602; 822 NW2d 159 (2012).

# Attention to Detail is Necessary – Charter Amendments are a big deal

In *Stand Up v Secy of State*, 492 Mich 588; 822 NW2d 159 (2012), the Michigan Supreme Court held that the grant of mandamus was an error when a petition failed to adhere to a 14–point boldfaced type heading requirement. In that case, the Michigan Supreme Court stated:

“In Michigan, we have enacted into our State Constitution an exception: The right of the people by initiative or referendum directly to enact laws or to repeal those validly enacted by our Legislature. Thus, . . . it is possible for a small minority of citizens to suspend a validly enacted law and require that that law be voted on in a general election. [There exists a] tension between constitutional interests: the right to a republican form of government versus a constitutional process that allows a small minority to suspend the enactments of that government.

In the very constitutional provision creating this right of petition by initiative and referendum, the Legislature is required to prescribe the rules by which such petitions may validly be made. It has done so . . . . But, because the power of [initiative and] referendum affects duly enacted laws, these so-called ‘trivial’ requirements protect the citizens of Michigan from having their laws suspended by small factions . . .” *Stand Up*, 492 Mich at 599–600 (2012).

# MCL 168.488(2)

- MCL 168.482's subsections apply to a petition to place a question on the ballot before the electorate of a **political subdivision** under a statute that refers to this section, and to the circulation and signing of the petition.
  - Petition must be 8-1/2 inches by 14 inches in size. MCL 168.482(1)
  - The heading of each part of the petition must be prepared in the following form and printed in capital letters in 14-point boldfaced type. MCL 168.482(2)
  - Warning must be printed in 12-point type immediately above the place for signatures, on each part of the petition:
    - **WARNING**  
A person who knowingly signs this petition more than once, signs a name other than his or her own, signs when not a qualified and registered elector, or sets opposite his or her signature on a petition, a date other than the actual date the signature was affixed, is violating the provisions of the Michigan election law. MCL 168.482(5).

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# 2024 Local Ballot Initiatives that resulted in litigation\*

\*Some petitions for ballot initiatives (charter amendment) were received, and the issue was put to the voters. In those instances, no litigation resulted.

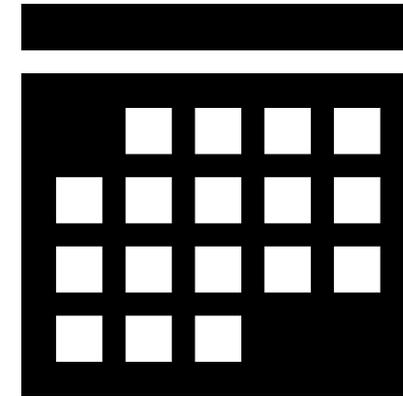
	Ballot Question
Warren	Back the Blue
Sylvan Lake	Marihuana Regulations
Livonia	Back the Blue
Fraser	Marihuana Regulations
Farmington et al.	Marihuana Regulations (4 different communities)
Grand Rapids	Back the Blue
Sterling Heights	Back the Blue

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Local Ballot Initiatives

# Home Rule City Act Timelines for Charter Amendments

## MCL 117.21(1)

... If the amendment is proposed by an initiatory petition, the amendment shall be submitted to the electors of the city at the next regular municipal or general state election held in the city not less than **90 days** after the filing of the petition.



# Michigan Election Law Timelines

## MCL 168.646a(2)

... If a ballot question of a political subdivision of this state including, but not limited to, a county, city, village, township, school district, special use district, or other district is to be voted on at a regular election date or special election, the ballot wording of the ballot question must be certified to the proper local or county clerk not later than **4 p.m. on the twelfth Tuesday before the election**. If the wording is certified to a clerk other than the county clerk, the clerk shall certify the ballot wording to the county clerk at least **82 days before the election**. Petitions to place a county or local ballot question on the ballot at the election must be filed with the clerk at least **14 days before the date the ballot wording** must be certified to the local clerk.



These deadlines apply to and control filings for all ballot questions of a political subdivision at any regular election, primary election, or special election notwithstanding any provisions of law or charter to the contrary. MCL 168.646a(3).

# Petition Signature Requirements (MCL 117.21 and 117.25)

An initiatory petition is filed with the city clerk. It shall be signed by **at least 5%** of the qualified and registered electors of the city. Upon receipt, the clerk shall certify the petition within 45 days. Signatures collected a year before filing are not counted.

If the petition contains the signatures of **20% of the registered voters**, and it requests submission of the proposal at a special election, the city clerk, within 90 days of receipt, shall call a **special election** to be held on the next regular election date that is not less than 120 days after the petition was filed.

# 2026 Deadlines

## August Primary – Tuesday, August 4

- 12 Weeks – May 12
- 82 Days – May 14
- 14 Days before May 12 – April 28

## November General – Tuesday, November 3

- 12 Weeks – August 11
- 82 Days – August 13
- 14 Days before August 11 – July 28

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Local Ballot Initiatives

# **Governor and Attorney General Review if petitions are accepted (Be careful what you ask for)**

## **Governor**

- Submitted to the Governor for approval
- Even if the Governor finds the amendment objectionable, if proposed by initiatory petition, proposal shall be submitted to the voters.

## **Attorney General**

- Statement of Purpose (not more than 100 words) is submitted to the Attorney General for review. It is necessary that it be submitted for such approval as early as conveniently possible.

# Case Study: Back the Blue, Sterling Heights

**“Back the Blue-Sterling Heights” was an organization that sought to place on the local ballot an amendment to the Sterling Heights City Charter, which sought to enshrine in the City’s Charter prioritizing the 1) honoring, 2) better protecting, and 3) providing victim compensation for police officers and firefighters through the adoption 6 separate and distinct “priorities,” which included:**

- **Training and equipping of body worn cameras, which the Sterling Heights Police Department already trains and equips;**
- **Providing additional life insurance for police officers and firefighters above and beyond what Sterling Heights already provides;**
- **Honoring fallen police officers and firefighters, which the Sterling Heights already honors;**
- **Sharing crowdfunding links for fallen police officers and firefighters, which Sterling Heights is already able to share;**
- **Creating a private cause action for injured police officers and firefighters against perpetrators, which Sterling Heights has no power to create and that already exists under state law; and**
- **Providing emergency cash benefits to the families of fallen police officers and firefighters, irrespective of the life insurance Sterling Heights already provides.**

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Local Ballot Initiatives

# Case Study: Back the Blue, Sterling Heights

- **Contact your Attorney ASAP**
  - Initially notified by a local elected official of a ballot petition being circulated
  - That official obtained a photograph of the petition (front and back)
  - City Clerk and City Attorney were notified, and City Administration was informed of proposal
  - City Attorney was immediately asked to begin review



# Case Study: Back the Blue, Sterling Heights

## Legal Review

### Check your Charter and State law:

- **The Sterling Heights City Charter provides:**
  - **“This Charter may be amended at any time in the manner provided by statute.”**
- **As a home rule city, Sterling Heights is governed by the Home Rule City Act, MCL 117.1, et seq. (the “HRCA”).**
- **The HRCA contains the “Rules” related to form and language that must be on the petitions to amend a City Charter**

# Case Study: Back the Blue, Sterling Heights

## Legal Review

- What duties does the Clerk have?**
- What duties does the State have?**
- What duties are required by Charter?**
- How do you keep politics out of the process?**
- Where do I start?**



# **Case Study: Back the Blue, Sterling Heights**

## **Legal Review**

### **Research Michigan Election Law**

- **The HRCA incorporates Michigan Election Law**
- **The Clerk is obligated (i.e., has a duty) under Michigan Law to reject petitions that do not comply with applicable Michigan Law.**
- **Does it Comply? Good question....**

# Case Study: Back the Blue, Sterling Heights

## Legal Review

### Issue Spotting

- Is there a defect in the form of the Petition?**
- Is there a defect in the information on the Petition?**
- Is there a defect Proposal, itself?**
- Does the Proposal violate Michigan/Federal Law?**

# Case Study: Back the Blue, Sterling Heights

## Legal Review

- **The BTB Petition was defective on its face**
  - **There is no “form” petition for a city charter amendment**
  - **Groups will borrow from other petitions to create their own**
  - **Election law is very specific and unforgiving, and failure to include specific language will invalidate the petition**
  - **BTB’s petition failed to provide the mandatory language required in MCL 168.482(4)**
  - **The violation MCL 168.482 invalidated the signatures obtained on that petition**

# Case Study: Back the Blue, Sterling Heights

## Legal Review Process (Cont.)

- **The BTB Petition failed to provide required information**
  - **BTB's petition failed to state what body, organization, or person was primarily interested in and responsible for the circulation of the petition and securing the amendment (MCL 117.25(1))**
  - **Failure to provide this information created a duty for the City Clerk to reject the petition**

# Case Study: Back the Blue, Sterling Heights

## Legal Review

- **The BTB Petition was not true and impartial and not confined to 1 subject**
  - **The BTB Petition contained 6 separate and distinct propositions, which were really six separate proposals**
  - **Section 21(3) of the HRCRA provides that each separate proposal must be stated separately so voters can make a decision on each separate proposal**
  - **BTB improperly and unlawfully grouped together in one ballot question a single “yes/no” question to approve all six propositions**

# Case Study: Back the Blue, Sterling Heights

## Legal Review

- **The BTB Petition's Petition proposed a Charter Amendment in violation of the State Constitution**
  - **Section 22 of Article VII of the Michigan Constitution provides a city the ability to adopt and amend its charter**
  - **Municipalities, however, are only granted the authority to enact resolutions/ordinances relating to municipal concerns, property, and government, subject to the constitution and law.**
  - **The proposal sought to amend the City Charter to create private causes of action against individuals for damages suffered as a result of a private individual's criminal acts**

# Case Study: Back the Blue, Sterling Heights

## Legal Review

### Violation of other laws

- **The BTB Petition may have violated the Public Employment Relations Act.**
  - **PERA imposes on public employers the duty to bargain with respect to wages, hours and other terms and conditions of employment.**
  - **PERA controls over conflicting legislation, charters, and ordinances**
  - **The BTB Petition mandated certain items that are considered mandatory subjects of bargaining under PERA and therefore cannot be compelled by the City Charter**

# Case Study: Back the Blue, Sterling Heights Litigation and Appeal

- **Argued all of the points above.**
- **Circuit Court held:**
  - **BTB failed to properly identify the body, organization, or person primarily interested and responsible for circulation of the petition and securing the amendment**
  - **BTB's Petition violated MCL 117.21(3) because it was not confined to one subject**
  - **The City Clerk had a duty to determine the legal sufficiency of the proposed petition**



# Case Study: Back the Blue, Sterling Heights

## Litigation and Appeal

- **Back the Blue filed an appeal with the Michigan Court of Appeals, filing a motion for immediate consideration and expedited proceedings**
- **Court of Appeals granted the motion for immediate consideration, but denied the motion to expedite proceedings**
- **Petitioner filed Motion for immediate consideration and to bypass the Court of Appeals.**
- **If granted this would allow Back the Blue to skip the Court of Appeals and go directly to the Michigan Supreme Court**
- **Tactics Matter - Delay by BTB was (in our opinion) fatal.**

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# Case Study: Back the Blue, Sterling Heights

## Litigation and Appeal

- **The Supreme Court granted the motion for immediate consideration, but denied the motion to bypass without further explanation**
- **The effect of the Order of the Supreme Court was to render any decision ineffective for the November election ballot**
- **Back the Blue, ultimately withdrew the appeal**

# Questions?

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