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Part-Time Legislature case 'a priority item'

By Tim Richard
staff writer

There's no decision yet in the months-long court battle over whether the Part-Time Legislature proposal should be forced onto the 1988 Michigan ballot.

"It is now a priority item," Oakland Circuit Judge Alice Gilbert told P-TL supporters Wednesday after another brief courtroom skirmish.

Dean Fitzpatrick, a Troy resident whose avocation is circulating petitions, wants Gilbert to order Secretary of State Richard Austin to place the P-TL proposal before voters this year.

Asked when she will decide on the order, Gilbert told Fitzpatrick's attorney, "Shortly."

"Can you be more definite?" asked attorney David Raafaub of Ann Arbor.

"Shortly," the judge said again.

P-TL FORCES had expected the order during Wednesday's session.

The group includes John Leve, Grosse Pointe area political activist best known for a years-long effort to recall Gov. James Blanchard; Rich-

ard Chrysler, Brighton Republican figure who chaired the P-TL effort; and Libertarian Party activists such as Raafaub, its 1986 Supreme Court nominee.

On Dec. 1 the judge found the secretary of state in default for failing to answer the suit. But Richard Gartner, an assistant attorney general representing Austin's department, filed a motion asking the judge to set aside the default judgment. Gilbert didn't rule on it.

"They (state officials) are trying to wear us down," said Raafaub after the hearing.

"I have no comment," said Gartner, turning his back and packing his briefcase.

IN AFFIDAVITS filed with the court, Austin and state elections director Christopher Thomas said the secretary of state lacks power to put the question on the ballot.

"Only the Board of Canvassers can put (it) on the ballot," Thomas said.

Replied Raafaub: "Christopher Thomas does not mention that he refused to accept the Part-Time Legislature petitions in May 1987."

He blocked the petitions from the Board of Canvassers and disen-

franchised 300,000 people of their constitutional rights."

Austin also said he "presumed" the statute under which his office refused to accept the petitions was constitutional.

LAST MAY the P-TL group won a ruling from Gilbert that the state Legislature in 1973 violated the Michigan Constitution in passing a "state signature" law saying petition signatures had to be collected in a 180-day period.

The constitution requires that "no bill shall be passed" until it has been printed and "in the possession of each house for at least five days." Gilbert found the Senate considered the bill just two days and the House just one day.

Raafaub wants Gilbert to follow through — "require the secretary of state to process the petitions not using the 180-day rule."

State's attorney Gartner cited a 1983 Court of Appeals decision that he said upheld the "state signature" law. Raafaub replied that the decision was on another point — the dating of signatures — and that the constitutionality of the 180-day provision was never examined.

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