

Act No. 74
Public Acts of 2024
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2024**

Introduced by Senators Chang and Moss

ENROLLED SENATE BILL No. 603

AN ACT to amend 1954 PA 116, entitled “An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act,” by amending sections 2, 822, 825, 827, 828, 842, 861, 862, 863, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 878, 879, 880, 880a, 881, 882, 883, 884, 887, 888, 889, 890, and 892 (MCL 168.2, 168.822, 168.825, 168.827, 168.828, 168.842, 168.861, 168.862, 168.863, 168.865, 168.866, 168.867, 168.868, 168.869, 168.870, 168.871, 168.872, 168.873, 168.874, 168.875, 168.876, 168.878, 168.879, 168.880, 168.880a, 168.881, 168.882, 168.883, 168.884, 168.887, 168.888, 168.889, 168.890, and 168.892), section 2 as amended by 2023 PA 87, sections 822, 842, and 882 as amended by 2023 PA 269, sections 862 and 879 as amended by 2018 PA 128, section 863 as amended by 2012 PA 586, sections 866 and 868 as amended by 2013 PA 51, sections 867 and 881 as amended by 2018 PA 130, section 871 as amended by 2012 PA 272, and sections 874, 875, and 890 as amended by 1995 PA 261, and by adding sections 861a and 883a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

- (a) “Absent voter” is a voter who utilizes the process described in section 759.
- (b) “Absent voter ballot” means a ballot that is issued to a voter through the absent voter process.
- (c) “Ballot container” is defined in section 14a.
- (d) “Ballot question committee” means that term as defined in section 2 of the Michigan campaign finance act, 1976 PA 388, MCL 169.202.
- (e) “Business day” or “secular day” means a day that is not a Saturday, Sunday, or legal holiday.
- (f) “Change the result of the election” means either of the following:
 - (i) Elect a different candidate.
 - (ii) Result in the opposite outcome for a ballot question.
- (g) “Clearly observable boundaries” is defined in section 654a.
- (h) “Common carrier” means a company that transports mail, on reasonable request, on regular routes and at set rates.

(i) "Educational institution" means a public or private institution, or a separate school or department of a public or private institution, that is authorized by law or an accrediting body to grant or issue a diploma, degree, certificate, or license, or to grant approval to practice a profession or engage in an enterprise, and includes, but is not limited to, an academy, high school, college, university, community college, junior college, secondary school, extension course, or a business, nursing, professional, secretarial, technical, or vocational school.

(j) "Election" means an election or primary election at which the electors of this state or of a subdivision of this state choose or nominate by ballot an individual for public office or decide a ballot question lawfully submitted to them.

(k) "Election precinct" is defined in section 654.

(l) "Fall" state and county conventions and "spring" state and county conventions are assigned meanings in section 596.

(m) "General election" or "general November election" means the election held on the November regular election date in an even numbered year.

(n) "Identification for election purposes" means, if issued to the individual presenting the card or document and if presented for voting purposes the name on the card or document sufficiently matches the individual's name in the individual's voter registration record so as to accurately identify the individual as the registered elector, or if issued to the individual presenting the card or document and if presented for voter registration purposes, any of the following:

(i) An operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an enhanced driver license issued under the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.301 to 28.308.

(ii) An official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, or an enhanced official state personal identification card issued under the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.301 to 28.308.

(iii) A current operator's or chauffeur's license issued by another state.

(iv) A current state personal identification card issued by another state.

(v) A current state government issued photo identification card.

(vi) A current United States passport or federal government issued photo identification card.

(vii) A current military photo identification card.

(viii) A current tribal photo identification card.

(ix) A current photo identification card issued by a local government.

(x) A current student photo identification card issued by an educational institution.

(o) "Immediate family" means an individual's father, mother, son, daughter, brother, sister, and spouse and a relative of any degree residing in the same household as that individual.

Sec. 822. (1) The board of county canvassers shall then proceed without delay to canvass the returns of votes cast for all candidates for offices voted for and all questions voted on at the election, according to the precinct returns, early voting returns, and absent voter counting board returns filed with the probate judge or presiding probate judge by the county, city, and township clerks, or for local elections according to the precinct returns filed with the county clerk, and must conclude the canvass at the earliest possible time and, except as otherwise provided in section 842(2), in every case no later than the fourteenth day after the election.

(2) Subject to section 842(2), if the board of county canvassers fails to certify the results of any election for any officer or proposition by the fourteenth day after the election as provided, the board of county canvassers shall immediately deliver to the secretary of the board of state canvassers all records and other information pertaining to the election. Subject to section 842(2) and (3), the board of state canvassers shall meet immediately and make the necessary determinations and certify the results not later than the twentieth day after the election. The board of county canvassers and all other county staff necessary to complete the canvass must be present at all times during the completion of the canvass by the board of state canvassers. All costs associated with the completion of the canvass must be borne by the county involved.

(3) It is the ministerial, clerical, and nondiscretionary duty of each board of county canvassers, and each of the members of the board of county canvassers, to certify election results based solely on the statements of returns from the election day precincts, early voting sites, and absent voter counting boards in the county and any corrected returns.

(4) As used in this section and section 842, "to certify" means to make a signed, written statement.

Sec. 825. Any statement prepared under section 824 must state the total number of votes given for each office, the names of the candidates and the number of votes given to each candidate, the total number of votes given on any proposed constitutional amendment or other proposition submitted to the electors at the election, and the number of votes given for and the number of votes given against the proposed amendment or other proposition in figures. Each statement must be certified to by the board of county canvassers, under the board of county canvassers' hands and the seal of the circuit court of the county, and must be attested by the clerk of the board. Once certified and attested, each statement must be filed with the county clerk and kept by the county clerk in the county clerk's office.

Sec. 827. The county clerk of each county that alone constitutes 1 or more senatorial or representative districts shall, on suitable blank forms furnished by the secretary of state, transmit without delay to the secretary of state a copy of the certificate of determination certified by the county clerk under the county clerk's hand and seal of office. The secretary of state shall specify to the county clerk whether the certificate of determination must be transmitted to the secretary of state electronically or by mail. The county clerk shall at the same time report to the secretary of state the post office address of each individual elected in the county to any county office or to the office of state senator or representative in the legislature.

Sec. 828. The clerk of the board of county canvassers forthwith, and in no case later than 24 hours after the completion of the canvass, on forms provided by the secretary of state, shall deliver in person or send to the secretary of state, by registered or certified mail with return receipt demanded, a certified copy of each of the statements prepared by the board as required by section 824, so far as the statements shall relate to the vote for any state office, electors of President and Vice President of the United States, United States Senator, Representative in Congress, supreme court justices, court of appeals judges, circuit court judges, probate judges, district court judges, state senators and representatives in the state legislature, members of the state board of education, members of the board of regents of the University of Michigan, members of the board of trustees of Michigan State University, members of the board of governors of Wayne State University, and any proposed amendment to the constitution or other question or proposition submitted at the election to the electors of this state at large, together with a certificate of authenticity signed by the clerk and the chairperson of the board of canvassers.

Sec. 842. (1) Except as otherwise provided under subsection (2), the board of state canvassers, for the purpose of canvassing the returns and ascertaining and determining the result of an election, shall meet on or before the twentieth day after the election. The secretary of the board of state canvassers shall appoint the day of the meeting, which must be as soon as practicable after the receipt of the returns from the boards of county canvassers, and shall notify the other members of the board. Except as otherwise provided under subsections (2) and (3), the board shall complete the canvass and announce the board's determination not later than the twentieth day after the election. The board may at the time of its meeting canvass the returns for any office for which the returns have been received.

(2) If the unofficial election returns show that the election of electors of President and Vice President of the United States is determined by a vote differential between the first place and second place candidates for President and Vice President of the United States of less than 25,000 votes, the secretary of state shall direct the boards of county canvassers to canvass returns on an expedited schedule. The secretary of state may direct the boards of county canvassers to complete the canvass and certify the statements as required by law not later than the tenth day after the election.

(3) The secretary of the board of state canvassers may appoint the day for the board of state canvassers to conduct the expedited canvass of the returns as required under subsection (2) and determine the results of that election. The day appointed for the expedited canvass must be as soon as practicable after receipt of the returns from the boards of county canvassers, but the board of state canvassers shall complete the canvass and announce the board's determination no later than the thirteenth day after the election.

(4) If any statewide primary election has an unofficial vote differential of 1,500 votes or less, the secretary of state shall direct the board of state canvassers to canvass the returns of that statewide primary election on an expedited schedule and shall appoint the day for the board of state canvassers to conduct the expedited canvass.

(5) It is the ministerial, clerical, and nondiscretionary duty of the board of state canvassers, and each of the members of the board of state canvassers, to certify election results based solely on the certified statements of votes from counties.

Sec. 861. (1) A board of canvassers is authorized to conduct postcertification recounts of election results under procedures described in this chapter, and all recounts in this state must be conducted under the procedures described in this chapter.

(2) A recount conducted under this chapter by a board of canvassers is an administrative process limited to determining the number of votes cast on ballots for each candidate seeking a particular office or determining the number of votes cast for or against a ballot question.

(3) A recount is not an investigation or an audit of the conduct of an election, and a recount does not assess the qualifications of electors participating in an election or the manner in which ballots are applied for or issued to electors. If a board of canvassers receives a petition to conduct an investigation or an audit of the conduct of an election, a petition to assess the qualifications of electors participating in an election or the manner in which ballots are applied for or issued to electors, or a petition to do anything other than conduct a recount as described in subsection (2), the board of canvassers must deny that petition.

(4) This chapter shall be liberally construed to achieve the purpose of fair, impartial, uniform, and expeditious recounts in this state.

(5) As used in this chapter, "precinct" means any of the following:

- (a) An election day precinct.
- (b) A precinct at an absent voter counting board.
- (c) A precinct at an early voting site.

Sec. 861a. Any proceeding intended to restrain, enjoin, modify, control, reverse, or otherwise interfere with the action of a board of county canvassers or any representative operating under the supervision of a board of county canvassers must be instituted only against the board of county canvassers and only by mandamus.

Sec. 862. A candidate for office who believes that the candidate is aggrieved on account of error in the canvass or returns of the votes may petition for a recount of the votes cast for that office in any precinct or precincts. A candidate is aggrieved if the candidate is able to allege a good-faith belief that, but for error in the canvass or returns of the votes, the candidate would have had a reasonable chance of winning the election. If a candidate for office files a recount petition, that candidate must file that recount petition in good faith and the number of votes requested to be recounted must, at a minimum, be greater than the difference in votes between the petitioning candidate and the winning candidate. The candidate must use the form as required under section 865(1).

Sec. 863. If a ballot question committee participates in an election in which there was a ballot question on the ballot and that ballot question committee believes that, but for error, the outcome of the ballot question would have been the opposite result, that ballot question committee may file a recount petition of the votes cast on that ballot question in any precinct. If a ballot question committee that participates in an election in which there was a ballot question on the ballot files a recount petition, that ballot question committee must file that recount petition in good faith and the number of votes requested to be recounted must, at a minimum, be greater than the difference between the "yes" votes and the "no" votes on the proposed ballot question. The ballot question committee must use the form as required under section 865(3). If a ballot question committee did not participate in an election in which there was a ballot question on the ballot, any elector who voted in that election may file a recount petition concerning that ballot question in the same manner as provided for a ballot question committee under this section.

Sec. 865. (1) A candidate petition for a recount must be in the following form:

CANDIDATE PETITION FOR A RECOUNT

I _____, the petitioner, reside at _____, and I petition the _____ (state/county) board of canvassers for a recount of the votes cast for the _____ (Office/District/Party) at the election. I am aggrieved on account of error in the canvass or returns of the votes. I have a good-faith belief that, but for error, I would have had a reasonable chance of winning the election. I am requesting a recount of sufficient votes to change the result of the election.

I request that the following precincts, absent voter counting board (AVCB) precincts, and early voting precincts within the listed jurisdictions be recounted:

Precinct/AVCB Precinct/Early Voting Precinct Number	Name of Jurisdiction
_____	_____
_____	_____
_____	_____

(List additional precincts/vote centers on the back or attach additional sheets)

Specifically explain the error in the canvass or returns of votes:

My deposit of \$_____ is enclosed.
Signature of candidate:_____
Date of signature:_____

Subscribed and sworn to before me this __ day of _____, 20____
Name of notary public:_____
Signature of notary public:_____
Notary public, State of Michigan, County of _____
Acting in the County of _____
My commission expires:_____

(2) A candidate counter petition for a recount must be in the following form:

CANDIDATE COUNTER PETITION FOR A RECOUNT

I _____, the counter petitioner, reside at _____, and I counter petition the _____ (state/county) board of canvassers for a recount of the votes cast for the _____ (Office/District/Party) at the election.

I request that the additional following precincts, absent voter counting board (AVCB) precincts, and early voting precincts within the listed jurisdictions be recounted:

Precinct/AVCB Precinct/Early Voting Precinct Number	Name of Jurisdiction
_____	_____
_____	_____
_____	_____

(List additional precincts/vote centers on the back or attach additional sheets)

Specifically explain the error in the canvass or returns of votes:

My deposit of \$_____ is enclosed.
Signature of candidate:_____
Date of signature:_____

Subscribed and sworn to before me this __ day of _____, 20____
Name of notary public:_____
Signature of notary public:_____
Notary public, State of Michigan, County of _____
Acting in the County of _____
My commission expires:_____

(3) Except as otherwise provided under subsection (5), a ballot question committee petition for a recount must be in the following form:

BALLOT QUESTION COMMITTEE PETITION FOR A RECOUNT

I _____, an authorized representative of _____, petition the _____ (state/county) board of canvassers for a recount of the votes cast for the _____ (ballot question) at the _____ election. The ballot question committee has a good-faith belief that, but for error, the result of the ballot question would have been the opposite. The ballot question committee is requesting a recount of sufficient votes to change the result of the election.

The ballot question committee requests that the following precincts, absent voter counting board (AVCB) precincts, and early voting precincts within the listed jurisdictions be recounted:

Precinct/AVCB Precinct/Early Voting Precinct Number	Name of Jurisdiction
_____	_____
_____	_____
_____	_____

(List additional precincts/vote centers on the back or attach additional sheets)
Specifically explain the error in the canvass or returns of votes:

My deposit of \$_____ is enclosed.
Signature of ballot question committee representative:

Date of signature:_____

Subscribed and sworn to before me this __ day of ____, 20__
Name of notary public:_____
Signature of notary public:_____
Notary public, State of Michigan, County of _____
Acting in the County of _____
My commission expires:_____

(4) Except as otherwise provided under subsection (5), a ballot question committee counter petition for a recount must be in the following form:

BALLOT QUESTION COMMITTEE COUNTER PETITION FOR A RECOUNT

I _____, an authorized representative of _____, counter petition the _____ (state/county) board of canvassers for a recount of the votes cast for the _____ (ballot question) at the election.

The ballot question committee requests that the additional following precincts, absent voter counting board (AVCB) precincts, and early voting precincts within the listed jurisdictions be recounted:

Precinct/AVCB Precinct/Early Voting Precinct Number	Name of Jurisdiction
_____	_____
_____	_____
_____	_____

(List additional precincts/vote centers on the back or attach additional sheets)
Specifically explain the error in the canvass or returns of votes:

My deposit of \$_____ is enclosed.
Signature of ballot question committee representative:

Date of signature:_____

Subscribed and sworn to before me this __ day of ____, 20__
Name of notary public:_____
Signature of notary public:_____
Notary public, State of Michigan, County of _____
Acting in the County of _____
My commission expires:_____

(5) The secretary of state shall modify the ballot question committee petition for a recount form under

subsection (3) and the ballot question committee counter petition for a recount form under subsection (4) as appropriate to allow an elector to file either petition as authorized under sections 863 and 880.

Sec. 866. (1) Except as otherwise provided in subsection (2), recount petitions, either for an office or ballot question, other than those filed with the secretary of state, must be filed with the clerk of the board of county canvassers that originally conducted the canvass.

(2) For a school district election, recount petitions, either for an office or ballot question, must be filed with the clerk of the board of county canvassers that certified the result of the school district election.

(3) Recount petitions must be filed within 48 hours after the certification of the canvass by the board of county canvassers.

Sec. 867. (1) A recount petition under section 862 or 863 must be filed with the clerk of the appropriate board of county canvassers. Except as otherwise provided in this section, at the time of filing the recount petition, the petitioner shall deposit with the clerk the sum of \$50.00 for each precinct referred to in the petitioner's recount petition.

(2) If 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate and the petitioner is more than 75 votes or 5.0% of the total number of votes cast in the race, whichever is greater, the petitioner shall deposit with the clerk the sum of \$500.00 for each precinct referred to in the petitioner's recount petition. For purposes of this subsection, the winning candidate in a primary for a nonpartisan office where only 1 candidate will be elected means the candidate nominated with the lesser number of votes.

(3) Subject to subsection (2), if 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate and the petitioner is more than 50 votes or 0.5% of the total number of votes cast in the race, whichever is greater, the petitioner shall deposit with the clerk the sum of \$250.00 for each precinct referred to in the petitioner's recount petition. For purposes of this subsection, the winning candidate in a primary for a nonpartisan office where only 1 candidate will be elected means the candidate nominated with the lesser number of votes.

(4) If more than 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate who received the least number of votes and the petitioner is more than 75 votes or 5.0% of the sum of the number of votes received by the 2 candidates, whichever is greater, the petitioner shall deposit with the clerk the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(5) Subject to subsection (4), if more than 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate who received the least number of votes and the petitioner is more than 50 votes or 0.5% of the sum of the number of votes received by the 2 candidates, whichever is greater, the petitioner shall deposit with the clerk the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(6) If the vote is on a ballot question and the official canvass of votes shows that the number of votes separating the "yes" votes and the "no" votes is more than 75 votes or 5.0% of the total number of votes cast on the ballot question, whichever is greater, the petitioner shall deposit with the clerk the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(7) Subject to subsection (6), if the vote is on a ballot question and the official canvass of votes shows that the number of votes separating the "yes" votes and the "no" votes is more than 50 votes or 0.5% of the total number of votes cast on the ballot question, whichever is greater, the petitioner shall deposit with the clerk the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(8) Beginning January 1, 2027 and every 4 years thereafter, the secretary of state shall adjust each deposit amount provided in subsections (1) to (7) by comparing the percentage increase or decrease in the Consumer Price Index for the preceding August by the corresponding Consumer Price Index 4 years earlier. The secretary of state shall multiply that percentage change by each deposit amount in subsections (1) to (7). The secretary of state shall round up each dollar value adjustment made to the nearest \$10.00. The secretary of state shall announce the adjustments made by December 15 of each year in which an adjustment is made. As used in this subsection, "Consumer Price Index" means the most comprehensive index of consumer prices available for this state from the Bureau of Labor Statistics of the United States Department of Labor.

(9) If, by reason of the recount, the petitioner establishes sufficient error to change the result of the election, the clerk of the board of county canvassers shall refund the money deposited to the petitioner.

(10) If a refund is not made as required under subsection (9), the sum deposited must be paid by the clerk of the board of county canvassers to the treasurer of the county.

(11) If a precinct referred to in the petition is determined “not recountable” as provided in section 871(3) or, subject to subsection (12), if a precinct referred to in the petition is not recounted due to the withdrawal of the petition, the money deposited for the recount of that precinct must be refunded to the petitioner.

(12) If the votes cast on the ballots voted in a precinct have been examined and recounted, the withdrawal of the petition must not result in a refund of the money deposited for the recount of that precinct.

Sec. 868. (1) If a petitioner files a recount petition under section 862 or 863 and makes the deposit under section 867, the clerk of the board of county canvassers shall give notice of the recount petition to the opposing candidates described in this subsection or ballot question committees within 24 hours after the filing of the recount petition by emailing to each candidate or ballot question committee a copy of the recount petition. The clerk of the board of county canvassers is not required to give notice to candidates other than the 2 candidates who, according to the return of the board of county canvassers, received the lowest number of votes among those candidates who were nominated or elected, and the 2 candidates who, according to the return of the board of county canvassers, received the highest number of votes among those candidates who were not nominated or elected.

(2) A candidate or ballot question committee may file a counter petition in the same manner as the original petition under section 866 within 48 hours after the original recount petition was filed with the board of county canvassers. At the time of filing the counter petition, the counter petitioner shall deposit the sum of money as required in section 867. The clerk of the board of county canvassers shall refund to the counter petitioner the money deposited by the counter petitioner if the recount does not change the result of the election. If a ballot question committee did not participate in an election in which a ballot question is on the ballot, any elector who voted in that election may file a recount counter petition in the same manner as provided for a ballot question committee under this section.

(3) Not later than 48 hours after a recount petition has been filed under section 866, an opposing candidate or ballot question committee may file objections to the recount petition with the appropriate board of county canvassers. The opposing candidate or ballot question committee shall set forth the objections to the recount petition in writing. Upon receipt of an objection under this subsection, the board of county canvassers shall notify the petitioner and the objecting candidate or ballot question committee of the date of the meeting of the board of county canvassers to consider the objections. Subject to this subsection, the board of county canvassers shall allow the recount petitioner and the objecting candidate or ballot question committee to present oral or written, or both, arguments on the objections raised to the recount petition at the meeting. In order to be presented at the meeting, written arguments on the objections raised to the recount petition must be submitted in writing to the board of county canvassers before the meeting. Not later than 4 calendar days following the deadline to file objections to the recount petition, the board of county canvassers shall rule on the objections raised to the recount petition.

(4) If the time designated for filing a recount petition or counter recount petition falls on a Saturday, Sunday, or legal holiday, the recount petition or counter recount petition may be filed on the next succeeding business day. Failure of the clerk of the board of county canvassers or the secretary of state to give notice to the opposing candidate or ballot question committee as required in this section does not affect the results of the recount.

(5) A candidate, ballot question committee, or elector may withdraw a recount petition or counter recount petition at any time.

Sec. 869. A recount must not be commenced until the board of county canvassers determines, by communicating with the secretary of state in a form and manner as provided by the secretary of state, that a petition has not been filed requesting a recount by the board of state canvassers of ballots cast in the same district. If the board of county canvassers is advised by the secretary of state that a petition has been filed with the secretary of state praying for a recount by the board of state canvassers of the ballots cast in the same county or district, then no action must be taken on the recount until the board of county canvassers receives instructions from the board of state canvassers. Nothing contained in this section shall act to delay any recount of the ballots cast at any city, ward, township, or village election if the ballots cast at that election are not sealed in the same ballot containers with the state and county offices. For any recount of ballots cast in any city, ward, township, village, school, or district election, the board of county canvassers shall charge the appropriate local unit the actual and necessary expenses of conducting the recount, and the local unit shall pay those charges to the county treasurer.

Sec. 870. (1) The individual in charge of the ballot containers for each precinct referred to in the recount petition, as well as the individual in charge of any other election materials that are considered necessary, shall bring those ballot containers and election materials to the board of county canvassers as requested by the board. The board shall safely guard the ballots, ballot containers, and other election materials, and when those are no longer required, shall return those ballots, ballot containers, and other election materials to the individuals in charge of those ballots, ballot containers, and other election materials.

(2) If an individual in charge of ballots, ballot containers, or election materials fails to deliver those ballots, ballot containers, or election materials to the board of canvassers, the board of canvassers may subpoena that individual to compel delivery of those ballots, ballot containers, or election materials. If an individual is subpoenaed and fails to appear or fails to produce any requested ballots, ballot containers, or election materials, that individual is guilty of a misdemeanor.

(3) The individuals who are required to appear before the board of canvassers shall be paid the same fees and mileage as are paid circuit court witnesses in the county.

Sec. 871. (1) Subject to subsection (6), the board of canvassers conducting a recount shall recount all ballots of a precinct if both of the following occur:

(a) The ballots are properly sealed in a ballot container, in a manner that does not allow a ballot to be added to or removed from the ballot container, and the seal number on the seal is accurately recorded in the poll book, on the ballot container certificate, or on the statement of results.

(b) One of the following occurs:

(i) The precinct is in balance by matching the number of ballots to be recounted and the number of ballots issued in the precinct as shown in the poll book, the number of ballots tabulated as shown on the tabulator tape, or the number of ballots cast as shown by the county canvass.

(ii) The precinct was certified as out of balance during the county canvass and remains out of balance by an identical or fewer number of ballots after review during the recount.

(2) If a board of canvassers conducting a recount under this chapter determines that the ballots of a precinct are not eligible for recount under subsection (1)(a) or (b), the board of canvassers conducting that recount may still conduct the recount if a satisfactory explanation in a sworn affidavit, in a form as prescribed by the secretary of state, is provided by an election inspector, a clerk, or a member of the clerk's staff to the board of canvassers. An explanation must not be accepted by a board of canvassers as satisfactory unless the explanation documents that the security of the ballots is otherwise preserved. The secretary of state shall prepare and issue instructions for a board of canvassers to follow when determining if an explanation in a sworn affidavit is satisfactory under this subsection.

(3) If a board of canvassers conducting a recount determines that the ballots of a precinct are not eligible for recount, the original return of the votes for that precinct must be taken as correct.

(4) A board of canvassers may conduct a recount by the following means:

(a) A manual tally of the ballots.

(b) A tabulation of the ballots on an electronic voting system using a software application designed to specifically count only the office or ballot question subject to the recount.

(c) A tabulation of the ballots on an electronic voting system using the same software application used on election day.

(d) Any combination of methods in subdivision (a), (b), or (c), as determined appropriate by the board of canvassers.

(5) If a board of canvassers intends to conduct a recount on an electronic voting system, the board of canvassers must first test the software application by use of a test deck to determine if the program accurately counts the votes for the office or ballot question subject to the recount. If the test fails to show that the software application accurately counts the votes for the office or ballot question subject to the recount, the board of canvassers must use another means prescribed in subsection (4) to conduct the recount.

(6) The only documents that a board of canvassers may use to determine whether a precinct may be recounted are the poll book, the poll lists, the statement of results, the ballot container certificate, the total ballots counted by a tabulator, the county canvass notations on the number of ballots and electors in the poll book, affidavits, and tabulator tapes.

Sec. 872. (1) If a board of canvassers conducting a recount has good reason to believe that any fraud or a violation of the law has been committed in the canvass or return of the votes, then that board of canvassers shall, subject to subsection (2), refer any matter the board of canvassers believes warrants investigation to the following:

(a) For a recount conducted by a board of county canvassers, the prosecuting attorney of the county in which the board of county canvassers is appointed.

(b) For a recount conducted by the board of state canvassers, the attorney general.

(2) The board of state canvassers shall refer a matter for investigation to the attorney general as provided under subsection (1) only if at least 1 member of each political party appointed to the board of state canvassers concurs in the decision to refer the matter for investigation.

(3) Any action taken in an investigation by a prosecuting attorney or the attorney general does not preclude any official recount of the ballots cast at any election, if otherwise allowed by the general election laws.

Sec. 873. Any individual who willfully interferes with a recount or activities relating to a recount is guilty of a felony.

Sec. 874. (1) The board of canvassers conducting the recount shall reject all previous returns from the precincts, townships, or wards, except the returns from a precinct that cannot be recounted as to that candidate or ballot question under section 871. In a public place where the candidates or ballot question committees participating in the ballot question and their counsel may be present, the board of canvassers shall proceed in the manner prescribed in section 871. The board of canvassers shall open the ballot containers from the precincts and make a recount of the ballots as to the candidates or ballot question. On completion of the recount, the board of canvassers shall make a full, complete, and correct return in writing, showing the full number of votes given to each candidate, or the total number of votes cast for and against any ballot question.

(2) The board of canvassers shall conduct the recount so that the complete procedure may be observed and noted by the candidates or ballot question committees participating in the ballot question, their counsel, and not to exceed 2 individuals at each table to check the work of the recount clerks. The secretary of state shall develop instructions consistent with this act for conducting a recount. Except as otherwise provided in subsection (3), all votes cast, whether for candidates or ballot questions, must be recounted in the following manner:

(a) One recount clerk shall call the votes for each candidate or ballot question involved in the recount.

(b) Two tally clerks shall simultaneously record the called votes on forms provided for that purpose.

(3) A recount may be conducted in an alternative manner other than provided under subsection (2) if that alternative manner is approved by the board of canvassers conducting the recount.

(4) The candidates or ballot question committees participating in the ballot question, their counsel, and those other individuals as described under subsection (2) must be allowed to observe each ballot as it is called, challenge the tabulation of a ballot, and take notes as desired for recordkeeping purposes. The board of canvassers shall identify by an exhibit number a ballot counted or rejected under challenge, keep a record of the challenge, and make a decision on all challenges before the conclusion of the recount.

Sec. 875. (1) Except as otherwise provided in subsection (2), all recounts must be completed for a primary election not later than the twentieth day and for any other election not later than the thirtieth day immediately following the last day for filing petitions.

(2) Except as otherwise provided in this subsection, if a recount involves the result of an election as to the electors of President and Vice President of the United States, the recount must be completed and certified before 3 p.m. on the sixth day before the date on which the electors for President and Vice President of the United States are to convene under section 47. If a recount involving the result of an election as to the electors of President and Vice President of the United States cannot be completed and certified before 3 p.m. on the sixth day before the date on which the electors for President and Vice President of the United States are to convene under section 47 because of a government-declared emergency or court order, that recount must be completed as soon as possible, but not later than 11:59 p.m. on the second day before the date on which the electors for President and Vice President of the United States are to convene under section 47.

(3) As soon as the recount is completed, the board shall return any ballots to the respective containers and seal the containers. The board shall then return the ballots and election materials to the individuals having the care and custody of those items.

Sec. 876. The returns made by a board of canvassers upon recount are considered to be correct, notwithstanding anything in the previous returns from the city, township, ward, or precinct to the contrary. However, if the person petitioning for a recount withdraws the recount petition or discontinues the recount before the recount is complete, then the original return is considered correct regardless of any change shown by the recount at the time of the withdrawal of the petition or the discontinuance of the recount. The final report on the results of any recount must be made public.

Sec. 878. (1) The certification of any election result by the board of state canvassers is final and subject only to either of the following:

(a) A postcertification recount of the votes cast in that election that is supervised by the board of state canvassers under procedures described in this chapter.

(b) A postcertification court order.

(2) Unless otherwise provided by law, any recount conducted under the direction, supervision, and control of the board of state canvassers must be conducted in the same manner as provided in this chapter for a recount conducted by a board of county canvassers.

(3) Any proceeding intended to restrain, enjoin, modify, control, reverse, or otherwise interfere with the action of the board of state canvassers or any representative operating under the supervision of the board of state canvassers must be instituted only against the board of state canvassers and only by mandamus.

(4) The board of state canvassers may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for conducting recounts.

Sec. 879. (1) Subject to subsection (2), a candidate voted for at an election for an office may petition the board of state canvassers for a recount of the votes if the candidate believes that, but for error, a different candidate would have been elected, and all of the following requirements are met:

(a) The office is an office for which the votes are canvassed by the board of state canvassers under section 841 or is the office of Representative in Congress, state representative, or state senator for a district located wholly within 1 county.

(b) The candidate meets the requirements under section 862.

(c) The petition for a recount is filed not later than 5 p.m. of the second day after the day the board of state canvassers certifies the results of the election.

(d) The petition is filed with the secretary of state.

(e) The petition is written or printed and is signed and sworn to by the candidate.

(f) The candidate uses the petition form required under section 865(1).

(2) If a state senatorial race is determined by a vote differential of 500 votes or less or a state representative race is determined by a vote differential of 200 votes or less, the chairperson of a state political party may petition for a recount of the votes on behalf of a candidate in that race in the manner prescribed in subsection (1). Notwithstanding subsection (1)(e), the petition must be signed by the chairperson of the state political party filing the petition.

(3) On the completion of a recount for a federal or state legislative office, the board of state canvassers, in addition to the certification required by section 892, shall forward to the appropriate federal or state legislative body a report of the results of the recount.

(4) This section does not limit the authority of the legislature under section 16 of article IV of the state constitution of 1963.

Sec. 880. If a ballot question committee that participates in a statewide ballot question believes that, but for error, the outcome of the ballot question would have been the opposite, that ballot question committee may, not later than 5 p.m. of the second day after the day the board of state canvassers certifies the results of the election, file with the secretary of state a recount petition. The ballot question committee must use the form as required under section 865(3). A ballot question committee must file a recount petition in good faith and the number of votes requested to be recounted must, at a minimum, be greater than the difference between the "yes" votes and the "no" votes on the ballot question. If a ballot question committee did not participate in an election in which there was a ballot question on the ballot, any elector who voted in that election may file a recount petition concerning that ballot question in the same manner as provided for a ballot question committee under this section.

Sec. 880a. (1) Except as otherwise provided in subsection (6), a recount of all precincts in this state must be conducted at any time a statewide primary or election is certified by the board of state canvassers as having been determined by a vote differential of 0.1% or less of the total number of votes cast in that statewide election. This section does not apply to partisan offices to which more than 1 individual is to be elected.

(2) Except as otherwise provided in subsection (6), a recount of all precincts in a state senate district must be conducted at any time a state senate election, other than a state senate primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of 75 votes or less.

(3) Except as otherwise provided in subsection (6), a recount of all precincts in a state representative district must be conducted at any time a state representative election, other than a state representative primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of 25 votes or less.

(4) Subject to subsection (6), if the election involves candidates, the board of state canvassers shall, as soon as practicable, notify all candidates whose vote could be affected by the recount that a recount must be conducted and of the time and place the board of state canvassers will meet to determine recount procedures.

(5) Subject to subsection (6), if the election involves a ballot question, the board of state canvassers shall, as soon as practicable, notify each ballot question committee that participated in the election that a recount must be conducted and of the time and place the board of state canvassers will meet to determine recount procedures. Individuals or groups interested in being authorized to have observers at the recount shall petition the board of

state canvassers at that meeting to be considered interested parties for this purpose. The board of state canvassers at that meeting shall determine which individuals or groups are considered interested parties for the recount of the ballot question.

(6) If the election involves candidates, the recount required under this section must not be conducted if, within 48 hours after the election is certified, the losing candidate files a written statement with the secretary of state requesting that the recount required under this section not be conducted. If the election involves a ballot question, the recount required under this section must not be conducted if, within 48 hours after the election is certified, the losing ballot question committee files a written statement with the secretary of state requesting that the recount required under this section not be conducted.

Sec. 881. (1) A petitioner filing a recount petition under section 879 or 880 shall file the petition with the state bureau of elections. Except as otherwise provided in this section, at the time of filing the petition, the petitioner shall deposit the sum of \$50.00 for each precinct in which a recount of the votes is demanded in cash or by check or other negotiable instrument made payable to the state of Michigan.

(2) If 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate and the petitioner is more than 75 votes or 5.0% of the total number of votes cast in the race, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition. For purposes of this subsection, the winning candidate in a primary for a nonpartisan office where only 1 candidate will be elected means the candidate nominated with the lesser number of votes.

(3) Subject to subsection (2), if 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate and the petitioner is more than 50 votes or 0.5% of the total number of votes cast in the race, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition. For purposes of this subsection, the winning candidate in a primary for a nonpartisan office where only 1 candidate will be elected means the candidate nominated with the lesser number of votes.

(4) If more than 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate who received the least number of votes and the petitioner is more than 75 votes or 5.0% of the sum of the number of votes received by the 2 candidates, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(5) Subject to subsection (4), if more than 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate who received the least number of votes and the petitioner is more than 50 votes or 0.5% of the sum of the number of votes received by the 2 candidates, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(6) If the statewide election for a statewide office is certified by the board of state canvassers as having been determined by a vote differential of more than 4,000 votes, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(7) If the statewide election for a statewide office is certified by the board of state canvassers as having been determined by a vote differential of more than 2,000 votes and less than 4,001 votes, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(8) If the statewide primary election for a statewide office is certified by the board of state canvassers as having been determined by a vote differential of more than 1,400 votes, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(9) If the statewide primary election for a statewide office is certified by the board of state canvassers as having been determined by a vote differential of more than 700 votes and less than 1,401 votes, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(10) If a state senate election, other than a state senate primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of more than 150 votes, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(11) If a state senate election, other than a state senate primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of more than 75 votes and less than 151 votes, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(12) If a state representative election, other than a state representative primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of more than 50 votes, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(13) If a state representative election, other than a state representative primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of more than 25 votes and less than 51 votes, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(14) Except as otherwise provided in section 880a, if the vote is on a ballot question and the official canvass of votes shows that the number of votes separating the "yes" votes and the "no" votes is more than 75 votes or 5.0% of the total number of votes cast on the ballot question, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(15) Except as otherwise provided in section 880a and subject to subsection (14), if the vote is on a ballot question and the official canvass of votes shows that the number of votes separating the "yes" votes and the "no" votes is more than 50 votes or 0.5% of the total number of votes cast on the ballot question, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(16) Beginning January 1, 2027 and every 4 years thereafter, the secretary of state shall adjust each deposit amount provided in subsections (1) to (15) by comparing the percentage increase or decrease in the Consumer Price Index for the preceding August by the corresponding Consumer Price Index 4 years earlier. The secretary of state shall multiply that percentage change by each deposit amount in subsections (1) to (15). The secretary of state shall round up each dollar value adjustment made to the nearest \$10.00. The secretary of state shall announce the adjustments made by December 15 of each year in which an adjustment is made. As used in this subsection, "Consumer Price Index" means the most comprehensive index of consumer prices available for this state from the Bureau of Labor Statistics of the United States Department of Labor.

(17) If, by reason of the recount, the petitioner establishes sufficient error to change the result of the election, the state bureau of elections shall refund the money deposited to the petitioner. The secretary of state shall refund the money deposited to a petitioner who is a chairperson of a state political party if the results of the race for which a recount was petitioned for under section 879 are changed. If a refund is not made as required by this section, then the secretary of state shall pay to the treasurer of each county its proportionate share of the deposit based on the number of precincts in the county in which the votes were recounted.

(18) If a precinct referred to in the petition is determined "not recountable" as provided in section 871(3) or, subject to subsection (19), if a precinct referred to in the petition is not recounted due to the withdrawal of the petition, the money deposited for the recount of that precinct must be refunded to the petitioner.

(19) If the votes cast on the ballots voted in a precinct have been examined and recounted, the withdrawal of the petition must not result in a refund of the money deposited for the recount of that precinct.

Sec. 882. (1) If a petitioner has filed a recount petition and paid the deposit under sections 879 and 881, the secretary of state shall give notice of the recount petition to each opposing candidate or participating ballot question committee within 24 hours after the filing of the petition by mailing or emailing to each candidate or ballot question committee a copy of the recount petition.

(2) A candidate or ballot question committee may file a counter petition in the same manner as the original petition under section 881 not later than 48 hours after the original recount petition is filed with the secretary of state. At the time of filing the counter petition, the counter petitioner shall deposit the sum of money as required in section 881 for the original petitioner. The secretary of state shall refund to the counter petitioner the money deposited by the counter petitioner if the recount does not change the result of the election. If a ballot question committee did not participate in an election in which a ballot question is on the ballot, any elector who voted in that election may file a recount counter petition in the same manner as provided for a ballot question committee under this section.

(3) Not later than 48 hours after an original recount petition is filed under section 881, an opposing candidate or ballot question committee may file objections to the recount petition with the board of state canvassers. The opposing candidate or ballot question committee shall set forth the objections to the recount petition in writing. Upon receipt of an objection under this subsection, the board of state canvassers shall notify the petitioner and the objecting candidate or ballot question committee of the date of the meeting of the board of state canvassers to consider the objections. The board of state canvassers shall allow the recount petitioner and the objecting candidate or ballot question committee to present oral or written, or both, arguments on the objections raised to the recount petition at the meeting. In order to be presented at the meeting, written arguments on the objections

raised to the recount petition must be submitted in writing to the board of state canvassers before the meeting. The board of state canvassers shall rule on the objections no later than 4 calendar days after the deadline for filing objections.

(4) Failure of the secretary of state to give notice to the opposing candidate or ballot question committee as required under this section does not affect the results of the recount.

(5) A candidate, ballot question committee, or elector may withdraw a recount petition or counter recount petition at any time.

Sec. 883. The secretary of state, upon receipt of any petition for recount, shall immediately notify the county clerk of each county in which are located any precincts included in the petition for recount that a petition for recount by the board of state canvassers has been filed and the ballots for the precincts must be carefully preserved. Ballots and ballot containers must remain in the possession of city or township clerks until requisitioned by the canvass board.

Sec. 883a. (1) A candidate or a ballot question committee that participated in a ballot question election may make a challenge to the board of county canvassers of a determination to count or not count a specific vote on a ballot for a candidate or for or against a ballot question subject to the recount. Before the completion of the recount in that county, the board of county canvassers must hear arguments on the challenge and decide, as provided under section 803, whether to accept or reject the challenge. A candidate or ballot question committee aggrieved by the decision of the board of county canvassers may appeal the decision to the representative designated by the board of state canvassers under section 890. The representative designated by the board of state canvassers may, as provided under section 803, confirm, reject, or modify the decision of the board of county canvassers.

(2) A candidate or ballot question committee that participated in a ballot question that is involved in the recount and that disagrees with the resolution of a challenge made under subsection (1) may petition the board of state canvassers for a de novo review of the challenge. The candidate or ballot question committee shall file a petition disagreeing with the resolution of the challenge with the representative designated by the board of state canvassers before the completion of the recount by the board of county canvassers. Subject to this subsection, the petition must specify the substance of the challenge and request a de novo review by the board of state canvassers. The board of state canvassers shall accept petitions for a de novo review only of challenges that concern the determination of how a specific vote on a ballot for a candidate or for or against a ballot question is counted.

(3) Upon receipt of a petition under subsection (2), the representative of the board of state canvassers shall make an exhibit detailing the resolution of the challenge that includes the ballot, which must be securely sealed in an exhibit envelope and retained by the representative. The representative of the board of state canvassers shall provide the county clerk with a receipt for the ballot that is subject to challenge.

(4) The board of state canvassers shall notify all candidates and ballot question committees involved in the recount, in the same manner that notice of the recount was given, of the date of the meeting of the board of state canvassers to consider the petition. The board of state canvassers shall allow the candidates and ballot question committees involved in the recount to present oral and written arguments on the challenges at the meeting. The board of state canvassers shall hear the challenge and rule on the challenge at the meeting only if the total number of challenges submitted to the board of state canvassers could change the result of the election.

Sec. 884. The boards of canvassers shall employ assistants and clerks as are considered necessary for conducting a recount.

Sec. 887. Any individual who willfully interferes with a recount or activities of a recount is guilty of a felony.

Sec. 888. The board of state canvassers has the right and authority to demand and cause the ballots and election materials returned in connection with any election, and any other documents and reports as are considered necessary, to be brought before the several boards of county canvassers, and shall order that a concurrent recount of the votes be conducted for any office or ballot question petitioned for under sections 861a to 876, if the votes appear on the same ballots as those which are to be recounted by the board of state canvassers. The concurrent recount must be under the exclusive jurisdiction and control of the board of state canvassers. All ballots and election materials must be safely guarded and when no longer required must be delivered to the individuals charged with the care and custody of those items.

Sec. 889. All recounts provided for under sections 878 to 894 must be conducted by the boards of county canvassers, subject to the direction, supervision, and control of the board of state canvassers. The board of state canvassers shall prescribe the time and the place where the recount of any votes must be conducted, which recount must be in public. The board of state canvassers shall provide each board of county canvassers with rules and regulations that in the opinion of the board of state canvassers are necessary to conduct the recount in a fair, impartial, and uniform manner. Observance of the rules and regulations must be enforced by the board of state canvassers or the board's representatives.

Sec. 890. It is not necessary for all of the members of the board of state canvassers to be present in order to direct, supervise, or control the recount conducted by a board of county canvassers. A member of the board of state canvassers or state officer, state employee, or member of the board of county canvassers may direct, supervise, and control the recount if designated by the board of state canvassers, so that fairness, impartiality, and uniformity in the conduct of the recount may be obtained and the result of the recount determined at the earliest possible time. A member of the board of state canvassers or other representative designated by the board of state canvassers has the same authority as the board of state canvassers to enforce and carry out the rules and regulations provided for the recount by the board of state canvassers.

Sec. 892. The boards of county canvassers shall immediately return the results of the recount to the board of state canvassers. The board of state canvassers shall compile the returns and certify the result. The returns made by the boards of county canvassers of any recount are considered to be correct, notwithstanding anything in the previous return of any board of election inspectors or any county canvassing board to the contrary. The final report on the results of any recount must be open to public inspection immediately following certification by the board of state canvassers.

Enacting section 1. Sections 871a, 877, 885, 886, and 891 of the Michigan election law, 1954 PA 116, MCL 168.871a, 168.877, 168.885, 168.886, and 168.891, are repealed.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor