

# Legislative Analysis



## **ELECTIONS: INCREASE DEPOSIT FOR RECOUNTED PRECINCTS**

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**House Bill 4833 (reported from committee as Substitute H-4)**

**Sponsor: Rep. Kurt Heise**

**Committee: Elections and Ethics**

### **First Analysis (6-20-13)**

**BRIEF SUMMARY:** The bill would increase from \$10 to \$25 the per precinct deposit required to initiate a recount of the votes cast in a state or local election. However, the bill would require a \$125 per precinct deposit if the election winner and loser (as determined by the official canvass of votes) were separated by more than 50 votes or 0.5 percent of the total number of votes cast, whichever was greater.

**FISCAL IMPACT:** House Bill 4833 would have a fiscal impact on the state and local units of government to the extent that the deposits increased by HB 4833 would generate additional revenue. The Department of State does not collect data on the number of petitions for recounts of local elections; however, it may be assumed that the number is marginal.

### **THE APPARENT PROBLEM:**

In 1963 the Michigan Legislature set a \$10 per precinct deposit fee to be charged to a petitioner who requested that the votes cast in a local or state election be recounted. In today's economy--fully 50 years later--that \$10 fee would equate to \$75 per precinct. Nevertheless, the \$10 per precinct deposit fee remains in effect.

According to committee testimony, the current deposit of \$10 per precinct neither covers nor substantially defrays the cost of an election recount. For example, the sponsor of the bill has said that if a recount had been necessary in the 20th Michigan House District (it was not), which he represents, the cost to taxpayers would have been \$10,000. Under current law, the petitioner who filed for the recount would pay \$500 (\$10 for each of 50 precincts), while the taxpayers would be responsible for paying the remaining \$9,500. Further, the Kent County Clerk testified a recount of 10 precincts within her jurisdiction after the fall 2012 election was conservatively estimated to cost taxpayers \$2,500, the petitioner's \$100 deposit covering a small portion of the total cost.

At times when state or local elections are close--when winners and losers are separated by few votes--a recount of the votes cast may be necessary to assure a fair and accurate outcome. However, recount petitions are sometimes filed for frivolous or malevolent reasons, requested by people angry with the election outcome.

Legislation has been introduced that would increase the \$10 per precinct deposit fee to \$25. Further, when the election was not close, and there was little likelihood that the

election results would change following a recount of the votes cast, then the per precinct deposit fee would increase to \$125.

### ***THE CONTENT OF THE BILL:***

House Bill 4833 (H-4) would amend the Michigan Election Law (MCL 168.867 and 168.881) to increase from \$10 to \$25 the per precinct deposit required to initiate a recount of the votes cast in those precincts in a state or local election.

Further, the bill would require a \$125 per precinct deposit if the election winner and loser (as determined by the official canvass of votes) were separated by more than 50 votes or 0.5 percent of the total number of votes cast, whichever was greater.

The proposed deposit fees would apply to petitioners seeking recounts of both local and state elections, including partisan elections, non-partisan elections, and votes on ballot proposals.

Under the bill, the petitioner seeking the recount would deposit the fee (accompanied by a petition) with the appropriate elections clerk (for local elections), or with the State Bureau of Elections (for state elections). If the precinct referred to in the petition was determined "not recountable," or was not recounted because the petition was withdrawn, then the money deposited for the recount would be refunded to the petitioner. However, if a petition were withdrawn after the votes cast in a precinct had been recounted, then the deposit would not be refunded.

### ***ARGUMENTS:***

#### ***For:***

Recounting the votes cast in an election is costly for taxpayers--costing as much as \$10,000 in a Michigan House of Representatives district, for example. This legislation would enable local and state election officials to recover some of the costs for an election recount by increasing the per precinct deposit fee that is charged to those who challenge an election's outcome. That fee--unchanged for 50 years--would rise to \$25 per precinct from \$10 per precinct. In addition, to discourage frivolous and unnecessary petitions seeking a recount of the votes cast, the per-precinct fee would increase to \$125 if more than 50 votes (or 0.5 percent of the vote, whichever was greater) separated the winner from the loser who makes the challenge.

#### ***Against:***

Any citizen, regardless of wealth, should be able to challenge an election outcome. This ensures that elections remain error-free, fair, and uncorrupted. To that end, the per precinct deposit fees charged to petitioners who initiate a recount should stay low. That way virtually all citizens can mount a challenge to an election whose final results they believe are suspect.

#### ***Response:***

The bill does not recoup all costs of a recount, but merely helps to defray the cost. As the Kent County Clerk testified during the Elections Committee public hearing, "It isn't a wish on our part at all to discourage someone from asking for a recount." However, "we do want people to pause and think about the work involved."

***POSITIONS:***

The Michigan Association of Municipal Clerks supports the bill. (6-18-13)

The Michigan Association of County Clerks supports the bill. (6-18-13)

The Michigan Townships Association supports the bill. (6-18-13)

The Secretary of State is neutral on the bill. (6-18-13)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.