

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 5139

(As passed the House, April 27, 2000)

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 14a, 24j, 666a, 669, 805, and 871 (MCL 168.14a, 168.24j, 168.666a, 168.669, 168.805, and 168.871), sections 14a and 805 as amended by 1995 PA 261 and section 871 as amended by 1996 PA 583.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 14a. As used in this act: ~~—, "metal"~~

2 (A) "BALLOT CONTAINER" MEANS A CONTAINER THAT IS USED FOR
3 TRANSPORTING AND STORING VOTED BALLOTS, AS DESCRIBED AND APPROVED
4 UNDER SECTION 24J.

5 (B) "METAL seal" or "seal" means a seal of high tensile
6 strength that is approved by the secretary of state ~~pursuant to~~
7 UNDER section 36.

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1 Sec. 24j. (1) A BALLOT CONTAINER INCLUDES A BALLOT BOX,
2 TRANSFER CASE, OR OTHER CONTAINER USED TO SECURE BALLOTS,
3 INCLUDING OPTICAL SCAN BALLOTS AND ELECTRONIC VOTING SYSTEMS AND
4 DATA.

5 (2) A MANUFACTURER OR DISTRIBUTOR OF BALLOT CONTAINERS SHALL
6 SUBMIT A NONMETAL BALLOT CONTAINER TO THE SECRETARY OF STATE FOR
7 APPROVAL UNDER THE REQUIREMENTS OF SUBSECTION (3) BEFORE THE
8 BALLOT CONTAINER IS SOLD TO A COUNTY, CITY, TOWNSHIP, VILLAGE, OR
9 SCHOOL DISTRICT FOR USE AT AN ELECTION.

10 (3) A BALLOT CONTAINER SHALL NOT BE APPROVED UNLESS IT MEETS
11 BOTH OF THE FOLLOWING REQUIREMENTS:

12 (A) IT IS MADE OF METAL, PLASTIC, FIBERGLASS, OR OTHER MATE-
13 RIAL, THAT PROVIDES RESISTANCE TO TAMPERING.

14 (B) IT IS CAPABLE OF BEING SEALED WITH A METAL SEAL.

15 (4) Before June 1 of 2002, AND every fourth year AFTER 2002,
16 ~~beginning in 1970,~~ a county board of canvassers shall examine
17 ~~the~~ EACH ballot ~~boxes~~ CONTAINER to be used in any election
18 conducted under ~~the provisions of~~ this act. The board shall
19 designate on the ballot ~~box~~ CONTAINER that the ~~box~~ BALLOT
20 CONTAINER does or does not meet the ~~specifications required by~~
21 ~~this act~~ REQUIREMENTS UNDER SUBSECTION (3). A ballot ~~box~~
22 ~~which~~ CONTAINER THAT has not been approved by the board shall
23 not be used to store voted ballots. ~~A clerk of a~~

24 (5) A city, village, or township CLERK may procure ~~, at the~~
25 ~~expense of the unit of government using the same,~~ a sufficient
26 number of proper ballot boxes to meet the requirements of this
27 act. ~~A clerk who uses or permits the use of any ballot box which~~

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1 ~~has been disapproved is guilty of a misdemeanor.~~ BALLOT

2 CONTAINERS AS PROVIDED IN SECTION 669 AND AS APPROVED UNDER THIS
3 SECTION.

4 (6) A CLERK WHO USES OR PERMITS THE USE OF A BALLOT CON-
5 TAINER THAT HAS NOT BEEN APPROVED UNDER THIS SECTION IS GUILTY OF
6 A MISDEMEANOR.

7 Sec. 666a. In addition to the supplies furnished under sec-
8 tion 666, the secretary of state shall furnish to ~~the~~ EACH
9 county clerk ~~of each county~~ devices, ~~which, when used with~~
10 ~~self-sealing metal seals, will~~ TO enable ballot boxes OR OTHER
11 BALLOT CONTAINERS to be sealed easily and securely WITH
12 SELF-SEALING METAL SEALS.

13 Sec. 669. ~~At any~~ FOR A federal, state, district, or
14 county primary or election, ~~the various city and township~~
15 ~~boards~~ A CITY, TOWNSHIP, OR VILLAGE BOARD of election commis-
16 sioners shall ~~furnish~~ PROVIDE, at the expense of ~~their~~ THE
17 respective ~~cities and townships~~ CITY, TOWNSHIP, OR VILLAGE,
18 EACH OF the following:

19 (a) ~~There shall be provided and kept by the township clerk~~
20 ~~for each election precinct in a township, by the village clerk~~
21 ~~for each election precinct in a village, and by the city clerk~~
22 ~~for each election precinct in a city, at the expense of the town-~~
23 ~~ship, village or city, as the case may be, a sufficient number of~~
24 ~~suitable ballot boxes~~ FOR EACH ELECTION PRECINCT, A BALLOT BOX
25 with lock and key, ~~each of which ballot boxes~~ APPROVED UNDER
26 SECTION 24J. EACH BALLOT BOX shall have an opening through the
27 inside lid of the proper size to admit a single ~~folded~~ ballot

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1 ~~, through which opening each ballot received shall be passed~~
2 into the box. ~~All ballot boxes~~ EACH BALLOT BOX shall be pro-
3 vided with a second cover or a metal or wooden device for closing
4 ~~such slot so the same may not be opened~~ THE OPENING TO PREVENT
5 ACCESS without unlocking the ballot box and breaking the seal.
6 ~~thereon; and~~ THE CITY, TOWNSHIP, OR VILLAGE CLERK SHALL PROVIDE
7 AND KEEP ADEQUATE BALLOT BOXES FOR EACH PRECINCT.

8 (B) FOR EACH ELECTION PRECINCT, IF ANOTHER BALLOT CONTAINER
9 IN ADDITION TO A BALLOT BOX IS UTILIZED IN THE PRECINCT, A BALLOT
10 CONTAINER APPROVED UNDER SECTION 24J.

11 (C) ~~(b) The boards of election commissioners of the several~~
12 ~~cities, the township boards of the several townships and the~~
13 ~~councils of the various villages shall procure for each polling~~
14 ~~place therein a flag of the United States, made of class "A"~~
15 ~~bunting and of dimensions not less than 3 feet in width by 5 feet~~
16 ~~in length, together with a staff and necessary appliances for~~
17 ~~displaying the same, and shall deliver them in proper time to the~~
18 ~~several boards of election inspectors whose duty it shall be to~~
19 ~~cause the flag to be displayed at or in each polling place during~~
20 ~~the progress of elections. Immediately thereafter, the boards of~~
21 ~~election inspectors shall return the flags, which shall be used~~
22 ~~only for the purpose herein mentioned, to the respective clerks~~
23 ~~who are charged with the proper care and custody thereof.~~ FOR
24 EACH POLLING PLACE, A UNITED STATES FLAG AND ANY ADDITIONAL ITEMS
25 NEEDED TO DISPLAY THE FLAG. THE FLAG SHALL MEASURE NOT LESS THAN
26 3 FEET WIDE AND 5 FEET LONG. THE ELECTION INSPECTORS SHALL

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1 ENSURE THAT THE FLAG IS DISPLAYED AT OR IN EACH POLLING PLACE
2 DURING AN ELECTION.

3 Sec. 805. (1) After the ballots ~~of each kind~~ are counted
4 AS PROVIDED IN THIS CHAPTER, the board of election inspectors
5 shall securely tie the ballots in packages or rolls, and the
6 board of election inspectors shall ~~cause to be indorsed and~~
7 ~~attached~~ ATTACH to each ballot bag ~~a~~ AN ENDORSED statement
8 showing the number and kind of ballots included in the ballot
9 bag. The statement shall be securely attached to the outside of
10 the bag, as prescribed by the secretary of state.

11 (2) After all ballots are tied in packages or rolls, the
12 board of election inspectors shall place the ballots in ballot
13 bags approved by the secretary of state. The board of election
14 inspectors shall then seal the bags with an approved seal that
15 shall be furnished with the election supplies. The bags shall
16 ~~then together~~ BE PLACED IN THE BALLOT BOX OR OTHER BALLOT CON-
17 TAINER PROVIDED FOR BALLOTS UNDER SECTION 669 ALONG with 1 tally
18 sheet, ~~when~~ IF THE TALLY SHEET IS not combined with the state-
19 ment of returns. ~~, be placed in the ballot box provided for such~~
20 ~~ballots.~~ The board of election inspectors shall securely fasten
21 and seal the ballot box OR OTHER BALLOT CONTAINER with an
22 approved seal furnished with the election supplies. ~~, the~~ THE
23 seal shall be affixed ~~in a manner that renders~~ TO RENDER it
24 impossible to open the ballot box OR OTHER BALLOT CONTAINER with-
25 out breaking the seal. The board of election inspectors shall
26 then deliver the ballot box OR OTHER BALLOT CONTAINER to the
27 township, ~~or~~ city, OR VILLAGE clerk.

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1 Sec. 871. (1) In a precinct using paper ballots, the board
2 of canvassers conducting a recount pursuant to this chapter shall
3 conduct the recount, subject to all of the following:

4 (a) The ballots in packages or ballot bags that are secured
5 and sealed so that a ballot cannot be removed or inserted unless
6 the ballot corresponds in number with the poll list delivered to
7 the appropriate clerk by the board of election inspectors, shall
8 be recounted even though the ballot box OR OTHER BALLOT CONTAINER
9 is not securely sealed with the seal of record.

10 (b) If the ballot box OR OTHER BALLOT CONTAINER is securely
11 sealed with the seal of record, only the ballots that correspond
12 in number with the poll list delivered to the appropriate clerk
13 by the board of election inspectors shall be recounted even
14 though the ballots are not secured and sealed in packages or
15 ballot bags.

16 (c) If the ballot box OR OTHER BALLOT CONTAINER is not
17 securely sealed or if the seal on the ballot box OR OTHER BALLOT
18 CONTAINER is not the seal of record and the ballots in packages
19 or ballot bags are not secured and sealed so that a ballot cannot
20 be removed or inserted, the ballots shall not be recounted and
21 the original count of the ballots as reported by the board of
22 election inspectors shall stand as the correct count.

23 (d) If the number of ballots in a secured and sealed package
24 or bag and the number of ballots issued on election day as shown
25 on the poll list do not match and the difference is not explained
26 to the satisfaction of the board of canvassers, the ballots shall
27 not be recounted and the original count of the ballots as

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1 reported by the board of election inspectors shall stand as the
2 correct count.

3 (2) Except as otherwise provided in this section, the board
4 of canvassers conducting a recount pursuant to this chapter shall
5 recount all ballots of a precinct using an electronic voting
6 system unless 1 or more of the following circumstances exist:

7 (a) The seal on the transfer case OR OTHER BALLOT CONTAINER
8 is broken or bears a different number than that recorded on the
9 poll book, the breaking or discrepancy is not explained to the
10 satisfaction of the board of canvassers, and security of the bal-
11 lots has not been otherwise preserved.

12 (b) The number of ballots TO BE RECOUNTED and the number of
13 ballots issued on election day as shown on the poll list or the
14 computer printout do not match and the difference is not
15 explained to the satisfaction of the board of canvassers.

16 (c) The seal used to seal the ballot label assembly to a
17 voting device in the precinct is broken or bears a different
18 number than that recorded in poll records and the ballot labels
19 or rotation of candidates' names is different than that shown by
20 other voting devices in the precinct and records of the board of
21 election commissioners.

22 (3) In a precinct in which voting machines are used, the
23 board of canvassers conducting a recount pursuant to this chapter
24 shall recount all voting machines used in the precinct unless 1
25 or more of the following circumstances exist:

26 (a) All voting machines used in a precinct shall not be
27 recounted if the sum of the numbers appearing on the public

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1 counters of all voting machines used in the precinct exceeds the
2 total number of voters who voted in the precinct as shown by the
3 poll book, plus the number of times the machine was operated by
4 the inspectors of election and custodians, as shown by the record
5 of the board of election inspectors, and the excess is not
6 explained to the satisfaction of the board of canvassers by the
7 inspectors of election of that precinct.

8 (b) A voting machine used in a precinct shall not be
9 recounted if the voting machine is not sealed with the seal of
10 record in such a manner as to render it impossible to vote on the
11 machine or to otherwise change the totals appearing on the indi-
12 vidual candidate or ballot question counters.

13 (c) A voting machine used in a precinct shall not be
14 recounted if the number appearing on the protective counter of
15 the voting machine at the time of the recount does not equal the
16 sum of the number appearing on the protective counter at the
17 opening of the polls as shown by the certificate of the board of
18 election inspectors and the number appearing on the public
19 counter at the time of the recount.

20 (4) In a precinct in which voting machines are used, which
21 precinct cannot be recounted under subsection (3), absent voter
22 ballots tallied in that precinct shall not be recounted unless
23 recorded separately. This section does not prohibit the recount-
24 ing of absent voter ballots tallied in a precinct using an absent
25 voter counting board or in a precinct in which 1 or more voting
26 machines are recountable, if the absent voter ballots are
27 securely packaged and sealed.

1 (5) If a board of canvassers conducting a recount pursuant
2 to this chapter determines that the ballots of a precinct are not
3 eligible for recount under this section, the original return of
4 the votes for that precinct shall be taken as correct.

5 (6) A board of canvassers conducting a recount pursuant to
6 this chapter may conduct a recount by the following means:

7 (a) A manual tally of the ballots.

8 (b) A tabulation of the ballots on a computer using a soft-
9 ware application designed to specifically count only the office
10 or ballot question subject to the recount.

11 (c) A tabulation of the ballots on a computer using the same
12 software application used in the precinct on election day.

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

15 (7) If a board of canvassers conducting a recount pursuant
16 to this chapter intends to conduct a recount on a computer, the
17 board of canvassers shall first test the software application by
18 use of a test deck to determine if the program accurately counts
19 the votes for the office or ballot question subject to the
20 recount. If the test under this subsection fails to show that
21 the software application accurately counts the votes for the
22 office or ballot question subject to the recount, the board of
23 canvassers shall use another means prescribed in subsection (6)
24 to conduct the recount.

25 Enacting section 1. Section 18 of the Michigan campaign
26 finance act, 1976 PA 388, MCL 169.218, as added by 1999 PA 237, is
repealed.