

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 290

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 867 and 881 (MCL 168.867 and 168.881), as
amended by 2014 PA 406.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 867. (1) A candidate or elector filing a recount petition
2 ~~pursuant to~~ **UNDER** section 862 or 863 shall file the recount
3 petition with the clerk of the appropriate board of county
4 canvassers. Except as otherwise provided in this section, at the
5 time of filing the recount petition, the petitioner shall deposit
6 with the clerk the sum of \$25.00 for each precinct referred to in
7 his or her recount petition.

8 **(2) IF 1 CANDIDATE IS TO BE ELECTED TO THE OFFICE AND THE**
9 **OFFICIAL CANVASS OF VOTES SHOWS THAT THE NUMBER OF VOTES SEPARATING**

1 THE WINNING CANDIDATE AND THE PETITIONER IS MORE THAN 75 VOTES OR
2 5.0% OF THE TOTAL NUMBER OF VOTES CAST IN THE RACE, WHICHEVER IS
3 GREATER, THE PETITIONER SHALL DEPOSIT WITH THE CLERK THE SUM OF
4 \$250.00 FOR EACH PRECINCT REFERRED TO IN HIS OR HER PETITION. FOR
5 PURPOSES OF THIS SUBSECTION, THE WINNING CANDIDATE IN A PRIMARY FOR
6 A NONPARTISAN OFFICE WHERE ONLY 1 CANDIDATE WILL BE ELECTED MEANS
7 THE CANDIDATE NOMINATED WITH THE LESSER NUMBER OF VOTES.

8 (3) ~~(2) If~~ SUBJECT TO SUBSECTION (2), IF 1 candidate is to be
9 elected to the office and the official canvass of votes shows that
10 the number of votes separating the winning candidate and the
11 petitioner is more than 50 votes or 0.5% of the total number of
12 votes cast in the race, whichever is greater, the petitioner shall
13 deposit with the clerk the sum of \$125.00 for each precinct
14 referred to in his or her petition. For purposes of this
15 subsection, the winning candidate in a primary for a nonpartisan
16 office where only 1 candidate will be elected means the candidate
17 nominated with the lesser number of votes.

18 (4) IF MORE THAN 1 CANDIDATE IS TO BE ELECTED TO THE OFFICE
19 AND THE OFFICIAL CANVASS OF VOTES SHOWS THAT THE NUMBER OF VOTES
20 SEPARATING THE WINNING CANDIDATE WHO RECEIVED THE LEAST NUMBER OF
21 VOTES AND THE PETITIONER IS MORE THAN 75 VOTES OR 5.0% OF THE SUM
22 OF THE NUMBER OF VOTES RECEIVED BY THE 2 CANDIDATES, WHICHEVER IS
23 GREATER, THE PETITIONER SHALL DEPOSIT WITH THE CLERK THE SUM OF
24 \$250.00 FOR EACH PRECINCT REFERRED TO IN HIS OR HER PETITION.

25 (5) ~~(3) If~~ SUBJECT TO SUBSECTION (4), IF more than 1 candidate
26 is to be elected to the office and the official canvass of votes
27 shows that the number of votes separating the winning candidate who

1 received the least number of votes and the petitioner is more than
2 50 votes or 0.5% of the sum of the number of votes received by the
3 2 candidates, whichever is greater, the petitioner shall deposit
4 with the clerk the sum of \$125.00 for each precinct referred to in
5 his or her petition.

6 (6) ~~(4)~~—If the vote is on a proposal and the official canvass
7 of votes shows that the number of votes separating the "yes" votes
8 and the "no" votes is more than 50 votes or 0.5% of the total
9 number of votes cast on the proposal, whichever is greater, the
10 petitioner shall deposit with the clerk the sum of \$125.00 for each
11 precinct referred to in his or her petition.

12 (7) ~~(5)~~—If, by reason of the recount, the petitioner
13 establishes sufficient fraud or mistake as set forth in his or her
14 recount petition to change the result of the election and receives
15 a certificate of election or establishes sufficient fraud or
16 mistake to change the result upon an amendment or proposition, the
17 votes for and against which were recounted, the clerk of the board
18 of county canvassers shall refund the money deposited to the
19 petitioner.

20 (8) ~~(6)~~—If a refund is not made as required under subsection
21 ~~(5)~~, ~~(7)~~, the sum deposited shall **MUST** be paid by the clerk of the
22 board of county canvassers to the treasurer of the county.

23 (9) ~~(7)~~—If a precinct referred to in the petition is
24 determined "not recountable" as provided in section 871(3) or,
25 subject to subsection ~~(8)~~, ~~(10)~~, if a precinct referred to in the
26 petition is not recounted due to the withdrawal of the petition,
27 the money deposited for the recount of that precinct shall **MUST** be

1 refunded to the petitioner.

2 **(10)** ~~(8)~~—If the votes cast on the ballots voted in a precinct
3 have been examined and recounted, the withdrawal of the petition
4 ~~shall~~**MUST** not result in a refund of the money deposited for the
5 recount of that precinct.

6 Sec. 881. (1) A person filing a recount petition ~~pursuant to~~
7 **UNDER** section 879 or 880 shall file the petition with the state
8 bureau of elections. Except as otherwise provided in this section,
9 at the time of filing the petition, the petitioner shall deposit
10 the sum of \$25.00 for each precinct in which a recount of the votes
11 is demanded in cash or by check or other negotiable instrument made
12 payable to the state of Michigan.

13 **(2) IF 1 CANDIDATE IS TO BE ELECTED TO THE OFFICE AND THE**
14 **OFFICIAL CANVASS OF VOTES SHOWS THAT THE NUMBER OF VOTES SEPARATING**
15 **THE WINNING CANDIDATE AND THE PETITIONER IS MORE THAN 75 VOTES OR**
16 **5.0% OF THE TOTAL NUMBER OF VOTES CAST IN THE RACE, WHICHEVER IS**
17 **GREATER, THE PETITIONER SHALL DEPOSIT WITH THE STATE BUREAU OF**
18 **ELECTIONS THE SUM OF \$250.00 FOR EACH PRECINCT REFERRED TO IN HIS**
19 **OR HER PETITION. FOR PURPOSES OF THIS SUBSECTION, THE WINNING**
20 **CANDIDATE IN A PRIMARY FOR A NONPARTISAN OFFICE WHERE ONLY 1**
21 **CANDIDATE WILL BE ELECTED MEANS THE CANDIDATE NOMINATED WITH THE**
22 **LESSER NUMBER OF VOTES.**

23 **(3)** ~~(2)~~—**IF** ~~SUBJECT TO SUBSECTION (2)~~, **IF** 1 candidate is to be
24 elected to the office and the official canvass of votes shows that
25 the number of votes separating the winning candidate and the
26 petitioner is more than 50 votes or 0.5% of the total number of
27 votes cast in the race, whichever is greater, the petitioner shall

1 deposit with the state bureau of elections the sum of \$125.00 for
2 each precinct referred to in his or her petition. For purposes of
3 this subsection, the winning candidate in a primary for a
4 nonpartisan office where only 1 candidate will be elected means the
5 candidate nominated with the lesser number of votes.

6 **(4) IF MORE THAN 1 CANDIDATE IS TO BE ELECTED TO THE OFFICE**
7 **AND THE OFFICIAL CANVASS OF VOTES SHOWS THAT THE NUMBER OF VOTES**
8 **SEPARATING THE WINNING CANDIDATE WHO RECEIVED THE LEAST NUMBER OF**
9 **VOTES AND THE PETITIONER IS MORE THAN 75 VOTES OR 5.0% OF THE SUM**
10 **OF THE NUMBER OF VOTES RECEIVED BY THE 2 CANDIDATES, WHICHEVER IS**
11 **GREATER, THE PETITIONER SHALL DEPOSIT WITH THE STATE BUREAU OF**
12 **ELECTIONS THE SUM OF \$250.00 FOR EACH PRECINCT REFERRED TO IN HIS**
13 **OR HER PETITION.**

14 **(5) ~~(3) If~~ SUBJECT TO SUBSECTION (4), IF** more than 1 candidate
15 is to be elected to the office and the official canvass of votes
16 shows that the number of votes separating the winning candidate who
17 received the least number of votes and the petitioner is more than
18 50 votes or 0.5% of the sum of the number of votes received by the
19 2 candidates, whichever is greater, the petitioner shall deposit
20 with the state bureau of elections the sum of \$125.00 for each
21 precinct referred to in his or her petition.

22 **(6) ~~(4) If~~ the vote is on a proposal and the official canvass**
23 **of votes shows that the number of votes separating the "yes" votes**
24 **and the "no" votes is more than 50 votes or 0.5% of the total**
25 **number of votes cast on the proposal, whichever is greater, the**
26 **petitioner shall deposit with the state bureau of elections the sum**
27 **of \$125.00 for each precinct referred to in his or her petition.**

1 (7) ~~(5)~~—If, by reason of the recount, the petitioner
2 establishes fraud or mistake as set forth in his or her petition
3 and receives a certificate of election or establishes sufficient
4 fraud or mistake to change the result upon an amendment or
5 proposition, the votes for and against which were recounted, the
6 state bureau of elections shall refund the money deposited to the
7 petitioner. The secretary of state shall refund the money deposited
8 to a petitioner who is a chairperson of a state political party if
9 the results of the race for which a recount was petitioned for
10 under section 879 are changed. If a refund is not made as required
11 by this section, then the secretary of state shall pay to the
12 treasurer of each county its proportionate share of the deposit
13 based upon the number of precincts in the county in which the votes
14 were recounted.

15 (8) ~~(6)~~—If a precinct referred to in the petition is
16 determined "not recountable" as provided in section 871(3) or,
17 subject to subsection ~~(7)~~, **(9)**, if a precinct referred to in the
18 petition is not recounted due to the withdrawal of the petition,
19 the money deposited for the recount of that precinct ~~shall~~ **MUST** be
20 refunded to the petitioner.

21 (9) ~~(7)~~—If the votes cast on the ballots voted in a precinct
22 have been examined and recounted, the withdrawal of the petition
23 ~~shall~~ **MUST** not result in a refund of the money deposited for the
24 recount of that precinct.

25 Enacting section 1. This amendatory act takes effect 90 days
26 after the date it is enacted into law.