

# SENATE BILL No. 290

March 30, 2017, Introduced by Senator ROBERTSON and referred to the Committee on Elections and Government Reform.

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**

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

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

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

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

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

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

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

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

24 (9) ~~(7)~~—If a precinct referred to in the petition is  
25 determined "not recountable" as provided in section 871(3) or,  
26 subject to subsection ~~(8)~~, ~~(10)~~, if a precinct referred to in the  
27 petition is not recounted due to the withdrawal of the petition,

1 the money deposited for the recount of that precinct ~~shall~~**MUST** be  
2 refunded to the petitioner.

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

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

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

13 (5) ~~(3)~~ IF SUBJECT TO SUBSECTION (4), IF more than 1 candidate  
14 is to be elected to the office and the official canvass of votes  
15 shows that the number of votes separating the winning candidate who  
16 received the least number of votes and the petitioner is more than  
17 50 votes or 0.5% of the sum of the number of votes received by the  
18 2 candidates, whichever is greater, the petitioner shall deposit  
19 with the state bureau of elections the sum of \$125.00 for each  
20 precinct referred to in his or her petition.

21 (6) ~~(4)~~ If the vote is on a proposal and the official canvass  
22 of votes shows that the number of votes separating the "yes" votes  
23 and the "no" votes is more than 50 votes or 0.5% of the total  
24 number of votes cast on the proposal, whichever is greater, the  
25 petitioner shall deposit with the state bureau of elections the sum  
26 of \$125.00 for each precinct referred to in his or her petition.

27 (7) ~~(5)~~ If, by reason of the recount, the petitioner

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

14 (8) ~~(6)~~—If a precinct referred to in the petition is  
15 determined "not recountable" as provided in section 871(3) or,  
16 subject to subsection ~~(7)~~, ~~(9)~~, if a precinct referred to in the  
17 petition is not recounted due to the withdrawal of the petition,  
18 the money deposited for the recount of that precinct ~~shall~~ **MUST** be  
19 refunded to the petitioner.

20 (9) ~~(7)~~—If the votes cast on the ballots voted in a precinct  
21 have been examined and recounted, the withdrawal of the petition  
22 ~~shall~~ **MUST** not result in a refund of the money deposited for the  
23 recount of that precinct.

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