

Act No. 130
Public Acts of 2018
Approved by the Governor
May 2, 2018
Filed with the Secretary of State
May 3, 2018
EFFECTIVE DATE: August 1, 2018

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Senator Robertson

ENROLLED SENATE BILL No. 290

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 867 and 881 (MCL 168.867 and 168.881), as amended by 2014 PA 406.

The People of the State of Michigan enact:

Sec. 867. (1) A candidate or elector filing a recount petition under section 862 or 863 shall file the recount petition 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 \$25.00 for each precinct referred to in his or her 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 \$250.00 for each precinct referred to in his or her 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 \$125.00 for each precinct referred to in his or her 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 \$250.00 for each precinct referred to in his or her 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 \$125.00 for each precinct referred to in his or her petition.

(6) If the vote is on a proposal 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 proposal, whichever is greater, the petitioner shall deposit with the clerk the sum of \$125.00 for each precinct referred to in his or her petition.

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

(8) If a refund is not made as required under subsection (7), the sum deposited must be paid by the clerk of the board of county canvassers to the treasurer of the county.

(9) If a precinct referred to in the petition is determined “not recountable” as provided in section 871(3) or, subject to subsection (10), 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.

(10) 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. 881. (1) A person 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 \$25.00 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 \$250.00 for each precinct referred to in his or her 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 \$125.00 for each precinct referred to in his or her 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 \$250.00 for each precinct referred to in his or her 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 \$125.00 for each precinct referred to in his or her petition.

(6) If the vote is on a proposal 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 proposal, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$125.00 for each precinct referred to in his or her petition.

(7) If, by reason of the recount, the petitioner establishes fraud or mistake as set forth in his or her petition and receives a certificate of election or establishes sufficient fraud or mistake to change the result upon an amendment or proposition, the votes for and against which were recounted, 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 upon the number of precincts in the county in which the votes were recounted.

(8) If a precinct referred to in the petition is determined “not recountable” as provided in section 871(3) or, subject to subsection (9), 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.

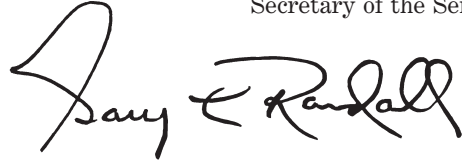
(9) If the votes cast on the ballots voted in a precinct have been examined and recounted, the withdrawal of the petition must not result in a refund of the money deposited for the recount of that precinct.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor