



**House
Legislative
Analysis
Section**

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RECOUNT REFUNDS

**House Bill 4915 (Substitute H-1)
First Analysis (6-19-01)**

**Sponsor: Rep. LaMar Lemmons III
Committee: Redistricting and Elections**

THE APPARENT PROBLEM:

The Michigan Election Law specifies that a candidate or a qualified elector who files a recount petition, whether with a local board of canvassers or the board of state canvassers, depending on the nature of the election, must also deposit a sum of \$10 per precinct with the local clerk or the state bureau of elections. The deposit is refunded if the result of the election is overturned as a result of the recount. If not, the deposit is paid to the appropriate county or local treasurers, depending on the nature of the election and on where the recounted precincts are located. Sometimes a precinct cannot be recounted due to some kind of administrative irregularity. The election law, however, does not provide that the deposit be refunded in such cases. The election law specifies the circumstances in which a recount cannot be conducted. For example, there can be no recount if the seal on a ballot container is broken or carries a different number on it than recorded in the poll book. There also can be no recount if the number of ballots to be recounted and the number of ballots the poll list or computer printout indicates were issued on election day do not match (and the discrepancy cannot be adequately explained). A voting machine cannot be recounted if it is not sealed with the seal of record in such a way as to render it impossible to vote on the machine or to otherwise change vote totals on the counters. Legislation has been introduced to require a refund when a recount cannot be conducted.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Election Law to specify that if a precinct referred to in a recount petition was not able to be recounted for any reason, the deposit made for the recount of that petition would have to be refunded to the petitioner.

MCL 168.867 and 168.881

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that there would be no fiscal impact to the state or local units of

government if it was determined prior to incurring any recounting costs that the precinct vote was unable to be recounted. (Fiscal note of the bill as introduced dated 6-13-01)

ARGUMENTS:

For:

It is simple fairness that candidates for office or advocates for ballot proposals get their recount deposits (of \$10 per precinct) refunded when recounts cannot be conducted because of the kind of administrative irregularities specified in the Michigan Election Law. Currently, the per-precinct deposit that accompanies a recount petition is returned if the recount changes the outcome of the election but is not returned if it does not. No refund is provided for currently in cases where a recount cannot occur. A refund seems in order in such cases. It should be noted that if there are a great many precincts that cannot be recounted, the deposit total could be sizeable.

POSITIONS:

The Department of State supports the bill. (6-14-01)

The League of Women Voters has indicated support for the bill. (6-14-01)

Analyst: C. Couch

■ 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.

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