

SUBSTITUTE FOR
HOUSE BILL NO. 4801

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 867 and 881 (MCL 168.867 and 168.881), section
867 as amended by 1980 PA 200 and section 881 as amended by 1995 PA
261.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 867. (1) ~~The~~ A candidate or elector filing a recount
2 petition **PURSUANT TO SECTION 862 OR 863 SHALL FILE THE PETITION**
3 with the clerk of the ~~correct~~ **APPROPRIATE** board of canvassers.
4 ~~shall~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,** at the ~~same~~
5 time **OF FILING THE PETITION, THE PETITIONER SHALL** deposit with the
6 clerk the sum of ~~\$10.00~~ **\$25.00** for each precinct referred to in
7 his or her petition.

8 (2) **IF THE INITIAL CANVASS OF VOTES RESULTS IN A VOTE**
9 **DIFFERENTIAL OF MORE THAN 0.5% OR 50 VOTES, WHICHEVER IS GREATER, A**

1 CANDIDATE OR ELECTOR FILING A RECOUNT PURSUANT TO SECTION
2 862 OR 863 WITH THE CLERK OF THE APPROPRIATE BOARD OF CANVASSERS
3 SHALL AT THE SAME TIME PAY TO THE CLERK THE SUM OF \$125.00 FOR EACH
4 PRECINCT IN WHICH A RECOUNT OF VOTES IS DEMANDED AS A DEPOSIT FOR
5 CONDUCTING THE RECOUNT.

6 (3) If, by reason of the recount, the petitioner establishes
7 sufficient fraud or mistake as set forth in his or her petition to
8 change the result of the election and receives a certificate of
9 election or establishes sufficient fraud or mistake to change the
10 result — upon an amendment or proposition, the votes for and
11 against — which were recounted, the **CLERK OF THE BOARD OF**
12 **CANVASSERS SHALL REFUND THE** money deposited ~~by~~ TO the petitioner.
13 ~~shall be refunded. If~~

14 (4) FOR A RECOUNT CONDUCTED UNDER SUBSECTION (1), IF THE
15 PETITIONER DOES NOT ESTABLISH A FRAUD OR MISTAKE AS SET FORTH IN
16 HIS OR HER PETITION, THE SUM DEPOSITED SHALL BE PAID BY THE CLERK
17 OF THE APPROPRIATE BOARD OF CANVASSERS TO THE TREASURER OF THE
18 COUNTY, CITY, TOWNSHIP, OR VILLAGE.

19 (5) FOR A RECOUNT CONDUCTED UNDER SUBSECTION (2), IF the
20 petitioner does not establish a fraud or mistake as set forth in
21 his or her petition, the ~~sum deposited shall be paid by the clerk~~
22 ~~of the board of county, city, township, or village canvassers~~
23 **PETITIONER SHALL PAY THE ACTUAL COSTS OF CONDUCTING THE RECOUNT**
24 **MINUS THE DEPOSIT PAID IN SUBSECTION (2) TO THE CLERK OF THE**
25 **APPROPRIATE BOARD OF CANVASSERS NOT LATER THAN 90 DAYS AFTER THE**
26 **COMPLETION OF THE RECOUNT. THE CLERK OF THE APPROPRIATE BOARD OF**
27 **CANVASSERS SHALL FORWARD** to the treasurer of the county, city,

1 township, or village **THE ACTUAL COSTS AND DEPOSIT AMOUNT COLLECTED**
2 **FROM THE PETITIONER UNDER THIS SUBSECTION.**

3 (6) **IF FOR ANY REASON A RECOUNT DOES NOT TAKE PLACE IN A**
4 **PRECINCT REFERRED TO IN THE PETITION, THE MONEY DEPOSITED FOR THE**
5 **RECOUNT OF THAT PRECINCT SHALL BE REFUNDED TO THE PETITIONER.**

6 Sec. 881. (1) A person filing a recount petition pursuant to
7 section 879 or 880 shall file the petition with the state bureau of
8 elections. ~~At~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AT**
9 the time of filing the petition, the petitioner shall deposit the
10 sum of ~~-\$10.00-~~ **\$25.00** for each precinct in which a recount of the
11 votes is demanded in cash or by check or other negotiable
12 instrument made payable to the state of Michigan.

13 (2) **IF THE INITIAL CANVASS OF VOTES RESULTS IN A VOTE**
14 **DIFFERENTIAL OF MORE THAN 0.5% OR 50 VOTES, WHICHEVER IS GREATER, A**
15 **PERSON FILING A RECOUNT PETITION PURSUANT TO SECTION 879 OR 880**
16 **WITH THE STATE BUREAU OF ELECTIONS SHALL AT THE SAME TIME PAY TO**
17 **THE STATE BUREAU OF ELECTIONS THE SUM OF \$125.00 FOR EACH PRECINCT**
18 **IN WHICH A RECOUNT OF VOTES IS DEMANDED IN CASH OR BY CHECK OR**
19 **OTHER NEGOTIABLE INSTRUMENT MADE PAYABLE TO THE STATE OF MICHIGAN**
20 **AS A DEPOSIT FOR CONDUCTING THE RECOUNT.**

21 (3) ~~(2)~~ If, by reason of the recount, the petitioner
22 establishes fraud or mistake as set forth in his or her petition
23 and receives a certificate of election or establishes sufficient
24 fraud or mistake to change the result ~~—~~ upon an amendment or
25 proposition, the votes for and against ~~—~~ which were recounted,
26 the state bureau of elections shall refund the money deposited to
27 the petitioner. The secretary of state shall refund the money

1 deposited to a petitioner who is a chairperson of a state political
2 party if the results of the race for which a recount was petitioned
3 for under section 879 are changed. ~~If a refund is not made as~~
4 ~~required by this section, then the~~

5 (4) FOR A RECOUNT CONDUCTED UNDER SUBSECTION (1), IF THE
6 PETITIONER DOES NOT ESTABLISH A FRAUD OR MISTAKE AS SET FORTH IN
7 HIS OR HER PETITION, THEN THE SECRETARY OF STATE SHALL PAY TO THE
8 TREASURER OF EACH COUNTY ITS PROPORTIONATE SHARE OF THE DEPOSIT
9 BASED UPON THE NUMBER OF PRECINCTS IN THE COUNTY IN WHICH THE VOTES
10 WERE RECOUNTED.

11 (5) FOR A RECOUNT CONDUCTED UNDER SUBSECTION (2), IF THE
12 PETITIONER DOES NOT ESTABLISH A FRAUD OR MISTAKE AS SET FORTH IN
13 HIS OR HER PETITION, THE PETITIONER SHALL PAY THE ACTUAL COSTS OF
14 CONDUCTING THE RECOUNT MINUS THE DEPOSIT PAID IN SUBSECTION (2) TO
15 THE STATE BUREAU OF ELECTIONS NOT LATER THAN 90 DAYS AFTER THE
16 COMPLETION OF THE RECOUNT. THE secretary of state shall pay to the
17 treasurer of each county its ~~proportionate share of the deposit~~
18 ~~based upon the number of precincts in the county in which the votes~~
19 ~~were recounted~~ ACTUAL COSTS FOR CONDUCTING THE RECOUNT FROM THE
20 AMOUNT COLLECTED FROM THE PETITIONER UNDER THIS SUBSECTION.

21 (6) IF FOR ANY REASON A RECOUNT DOES NOT TAKE PLACE IN A
22 PRECINCT REFERRED TO IN THE PETITION, THE MONEY DEPOSITED FOR THE
23 RECOUNT OF THAT PRECINCT SHALL BE REFUNDED TO THE PETITIONER.