

# SENATE BILL No. 1440

September 14, 2006, Introduced by Senator HAMMERSTROM and referred to the Committee on Government Operations.

A bill to amend 1954 PA 116, entitled  
"Michigan election law,"  
by amending section 874 (MCL 168.874), as amended by 1995 PA 261.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 874. (1) Pursuant to this chapter, the board of  
2       canvassers conducting the recount shall reject all previous returns  
3       from the precincts, townships, or wards, except the returns from a  
4       precinct that cannot be recounted as to that candidate or ballot  
5       question pursuant to section 871. In a public place where the  
6       candidates or persons interested in the ballot question and their  
7       counsel may be present, if they so desire, the board of canvassers  
8       shall proceed in the manner prescribed in section 871. If  
9       applicable, the board of canvassers shall open the ballot boxes  
10      from the precincts, townships, or wards, and the rolls or packages

1 of ballots in the ballot boxes, and to make a recount of the  
2 ballots as to the candidates or ballot question. Upon completion of  
3 the recount, the board of canvassers shall make a full, complete,  
4 and correct return in writing, showing the full number of votes  
5 given to each candidate, or the total number of votes cast for and  
6 against any ballot question, written out in words and figures.

7 (2) The board of canvassers shall conduct the recount so that  
8 the complete procedure may be observed and noted by the candidates  
9 or persons interested in the ballot question, their counsel, and  
10 not to exceed 1 watcher and 1 tallier at each table to check the  
11 work of the recount clerks. The secretary of state shall develop  
12 instructions consistent with this act for conducting a recount  
13 pursuant to this subsection. All votes cast, whether for candidates  
14 or ballot questions, shall be recounted in the following manner:

15 (a) ~~The~~ **SUBJECT TO SUBSECTION (3), THE** ballots from any  
16 given precinct shall first be counted and the total compared with  
17 the number of ballots issued on election day as shown on the poll  
18 list. If the first count of the number of ballots and the number of  
19 ballots issued on election day as shown on the poll list do not  
20 match, the ballots from that precinct shall be counted a second  
21 time and the total compared with the number of ballots issued on  
22 election day as shown on the poll list. If the second count of the  
23 number of ballots and the number of ballots issued on election day  
24 as shown on the poll list do not match, those ballots shall not be  
25 recounted as provided in section 871. If the second count of the  
26 number of ballots and the number of ballots issued on election day  
27 as shown on the poll list match, the ballots from that precinct

1 shall be counted a third time and the total compared with the  
2 number of ballots issued on election day as shown on the poll list.  
3 If the third count of the number of ballots and the number of  
4 ballots issued on election day as shown on the poll list do not  
5 match, those ballots shall not be recounted as provided in section  
6 871.

7 (b) If the first count described in subdivision (a) or the  
8 second and third counts described in subdivision (a) match the  
9 number of ballots issued on election day, the ballots, **INCLUDING**  
10 **THE PROVISIONAL BALLOTS DESCRIBED IN SUBSECTION (4)**, shall be  
11 placed face up on the table and 1 recount clerk shall call the  
12 votes for each candidate or ballot question involved in the  
13 recount.

14 (c) Two tally clerks shall simultaneously record the called  
15 votes on forms provided for that purpose.

16 **(3) PROVISIONAL BALLOTS ISSUED IN A PRECINCT ON ELECTION DAY**  
17 **THAT WERE PLACED IN A PROVISIONAL BALLOT RETURN ENVELOPE AND**  
18 **SECURED FOR VERIFICATION AFTER THE ELECTION SHALL BE COUNTED BY THE**  
19 **BOARD OF CANVASSERS FOR PURPOSES OF SUBSECTION (2) (A) IN ORDER TO**  
20 **DETERMINE WHETHER THE TOTAL NUMBER OF BALLOTS ISSUED ON ELECTION**  
21 **DAY AS SHOWN ON THE POLL LIST MATCHES THE TOTAL NUMBER OF BALLOTS**  
22 **COUNTED FOR THE PRECINCT. THE BOARD OF CANVASSERS IS AUTHORIZED TO**  
23 **DEMAND THAT THE PROVISIONAL BALLOTS BE DELIVERED TO THE BOARD FOR**  
24 **COUNTING UNDER THIS SUBSECTION.**

25 **(4) PROVISIONAL BALLOTS THAT ARE TABULATED BY THE CLERK OF A**  
26 **CITY OR TOWNSHIP AFTER ELECTION DAY AS PROVIDED UNDER SECTION 813**  
27 **SHALL BE INCLUDED IN THE BALLOTS RECOUNTED UNDER SUBSECTION (2) (B).**

1           (5) ~~—(3)—~~ The candidates or persons interested in the ballot  
2 question, their counsel, watchers, and talliers shall be allowed to  
3 observe each ballot as it is called and to take notes as they  
4 desire for their own records. The board of canvassers shall  
5 identify by an exhibit number a ballot counted or rejected under  
6 protest, keep a record of the protest, and proceed as required  
7 under section 871a.