

HOUSE BILL No. 5862

September 11, 2012, Introduced by Reps. Brown, Switalski, Constan, Darany, Byrum, Lindberg, Slavens, Hovey-Wright, Geiss, Bauer and Lipton and referred to the Committee on Redistricting and Elections.

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 his
7 or her petition.

1 (2) IF 1 CANDIDATE IS TO BE ELECTED TO THE OFFICE AND THE
2 OFFICIAL CANVASS OF VOTES SHOWS THAT THE NUMBER OF VOTES SEPARATING
3 THE WINNING CANDIDATE AND THE PETITIONER IS MORE THAN 50 VOTES OR
4 0.5% OF THE TOTAL NUMBER OF VOTES CAST IN THE RACE, WHICHEVER IS
5 GREATER, THE PETITIONER SHALL DEPOSIT WITH THE CLERK THE SUM OF
6 \$125.00 FOR EACH PRECINCT REFERRED TO IN HIS OR HER PETITION. FOR
7 PURPOSES OF THIS SUBSECTION, THE WINNING CANDIDATE IN A PRIMARY FOR
8 A NONPARTISAN OFFICE WHERE ONLY 1 CANDIDATE WILL BE ELECTED MEANS
9 THE CANDIDATE NOMINATED WITH THE LESSER NUMBER OF VOTES.

10 (3) IF MORE THAN 1 CANDIDATE IS TO BE ELECTED TO THE OFFICE
11 AND THE OFFICIAL CANVASS OF VOTES SHOWS THAT THE NUMBER OF VOTES
12 SEPARATING THE WINNING CANDIDATE WHO RECEIVED THE LEAST NUMBER OF
13 VOTES AND THE PETITIONER IS MORE THAN 50 VOTES OR 0.5% OF THE SUM
14 OF THE NUMBER OF VOTES RECEIVED BY THE 2 CANDIDATES, WHICHEVER IS
15 GREATER, THE PETITIONER SHALL DEPOSIT WITH THE CLERK THE SUM OF
16 \$125.00 FOR EACH PRECINCT REFERRED TO IN HIS OR HER PETITION.

17 (4) IF THE VOTE IS ON A PROPOSAL AND THE OFFICIAL CANVASS OF
18 VOTES SHOWS THAT THE NUMBER OF VOTES SEPARATING THE "YES" VOTES AND
19 THE "NO" VOTES IS MORE THAN 50 VOTES OR 0.5% OF THE TOTAL NUMBER OF
20 VOTES CAST ON THE PROPOSAL, WHICHEVER IS GREATER, THE PETITIONER
21 SHALL DEPOSIT WITH THE CLERK THE SUM OF \$125.00 FOR EACH PRECINCT
22 REFERRED TO IN HIS OR HER PETITION.

23 (5) If, by reason of the recount, the petitioner establishes
24 sufficient fraud or mistake as set forth in his or her petition to
25 change the result of the election and receives a certificate of
26 election or establishes sufficient fraud or mistake to change the
27 result —upon an amendment or proposition, the votes for and

1 against ~~which~~ which were recounted, the **CLERK OF THE BOARD OF**
2 **CANVASSERS SHALL REFUND THE** money deposited ~~by~~ **TO** the petitioner.
3 ~~shall be refunded. If the petitioner does not establish a fraud or~~
4 ~~mistake as set forth in his or her petition~~ **IF A REFUND IS NOT MADE**
5 **AS REQUIRED BY THIS SUBSECTION**, the sum deposited shall be paid by
6 the clerk of the **APPROPRIATE** board of ~~county, city, township, or~~
7 ~~village~~ canvassers to the treasurer of the county, city, township,
8 or village.

9 (6) **IF A PRECINCT REFERRED TO IN THE PETITION IS DETERMINED**
10 **"NOT RECOUNTABLE" AS PROVIDED IN SECTION 871(2) OR, SUBJECT TO**
11 **SUBSECTION (7), IF A PRECINCT REFERRED TO IN THE PETITION IS NOT**
12 **RECOUNTED DUE TO THE WITHDRAWAL OF THE PETITION, THE MONEY**
13 **DEPOSITED FOR THE RECOUNT OF THAT PRECINCT SHALL BE REFUNDED TO THE**
14 **PETITIONER.**

15 (7) **IF THE VOTES CAST ON THE BALLOTS VOTED IN A PRECINCT HAVE**
16 **BEEN EXAMINED AND RECOUNTED, THE WITHDRAWAL OF THE PETITION SHALL**
17 **NOT RESULT IN A REFUND OF THE MONEY DEPOSITED FOR THE RECOUNT OF**
18 **THAT PRECINCT.**

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

26 (2) **IF 1 CANDIDATE IS TO BE ELECTED TO THE OFFICE AND THE**
27 **OFFICIAL CANVASS OF VOTES SHOWS THAT THE NUMBER OF VOTES SEPARATING**

1 THE WINNING CANDIDATE AND THE PETITIONER IS MORE THAN 50 VOTES OR
2 0.5% OF THE TOTAL NUMBER OF VOTES CAST IN THE RACE, WHICHEVER IS
3 GREATER, THE PETITIONER SHALL DEPOSIT WITH THE STATE BUREAU OF
4 ELECTIONS THE SUM OF \$125.00 FOR EACH PRECINCT REFERRED TO IN HIS
5 OR HER PETITION. FOR PURPOSES OF THIS SUBSECTION, THE WINNING
6 CANDIDATE IN A PRIMARY FOR A NONPARTISAN OFFICE WHERE ONLY 1
7 CANDIDATE WILL BE ELECTED MEANS THE CANDIDATE NOMINATED WITH THE
8 LESSER NUMBER OF VOTES.

9 (3) IF MORE THAN 1 CANDIDATE IS TO BE ELECTED TO THE OFFICE
10 AND THE OFFICIAL CANVASS OF VOTES SHOWS THAT THE NUMBER OF VOTES
11 SEPARATING THE WINNING CANDIDATE WHO RECEIVED THE LEAST NUMBER OF
12 VOTES AND THE PETITIONER IS MORE THAN 50 VOTES OR 0.5% OF THE SUM
13 OF THE NUMBER OF VOTES RECEIVED BY THE 2 CANDIDATES, WHICHEVER IS
14 GREATER, THE PETITIONER SHALL DEPOSIT WITH THE STATE BUREAU OF
15 ELECTIONS THE SUM OF \$125.00 FOR EACH PRECINCT REFERRED TO IN HIS
16 OR HER PETITION.

17 (4) IF THE VOTE IS ON A PROPOSAL AND THE OFFICIAL CANVASS OF
18 VOTES SHOWS THAT THE NUMBER OF VOTES SEPARATING THE "YES" VOTES AND
19 THE "NO" VOTES IS MORE THAN 50 VOTES OR 0.5% OF THE TOTAL NUMBER OF
20 VOTES CAST ON THE PROPOSAL, WHICHEVER IS GREATER, THE PETITIONER
21 SHALL DEPOSIT WITH THE STATE BUREAU OF ELECTIONS THE SUM OF \$125.00
22 FOR EACH PRECINCT REFERRED TO IN HIS OR HER PETITION.

23 (5) ~~(2)~~—If, by reason of the recount, the petitioner
24 establishes fraud or mistake as set forth in his or her petition
25 and receives a certificate of election or establishes sufficient
26 fraud or mistake to change the result ~~—~~upon an amendment or
27 proposition, the votes for and against ~~—~~which were recounted, the

1 state bureau of elections shall refund the money deposited to the
2 petitioner. The secretary of state shall refund the money deposited
3 to a petitioner who is a chairperson of a state political party if
4 the results of the race for which a recount was petitioned for
5 under section 879 are changed. If a refund is not made as required
6 by this section, then the secretary of state shall pay to the
7 treasurer of each county its proportionate share of the deposit
8 based upon the number of precincts in the county in which the votes
9 were recounted.

10 (6) IF A PRECINCT REFERRED TO IN THE PETITION IS DETERMINED
11 "NOT RECOUNTABLE" AS PROVIDED IN SECTION 871(2) OR, SUBJECT TO
12 SUBSECTION (7), IF A PRECINCT REFERRED TO IN THE PETITION IS NOT
13 RECOUNTED DUE TO THE WITHDRAWAL OF THE PETITION, THE MONEY
14 DEPOSITED FOR THE RECOUNT OF THAT PRECINCT SHALL BE REFUNDED TO THE
15 PETITIONER.

16 (7) IF THE VOTES CAST ON THE BALLOTS VOTED IN A PRECINCT HAVE
17 BEEN EXAMINED AND RECOUNTED, THE WITHDRAWAL OF THE PETITION SHALL
18 NOT RESULT IN A REFUND OF THE MONEY DEPOSITED FOR THE RECOUNT OF
19 THAT PRECINCT.