

**SUBSTITUTE FOR
HOUSE BILL NO. 6097**

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending section 881 (MCL 168.881), as amended by 2014 PA 406.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 881. (1) A person filing a recount petition pursuant to
2 section 879 or 880 shall file the petition with the state bureau of
3 elections. Except as otherwise provided in this section, at the
4 time of filing the petition, the petitioner shall deposit the sum
5 of \$25.00 for each precinct in which a recount of the votes is
6 demanded in cash or by check or other negotiable instrument made
7 payable to the state of Michigan.

8 **(2) FOR A RECOUNT INVOLVING A CANDIDATE TO BE ELECTED TO A**
9 **FEDERAL OFFICE OR STATEWIDE OFFICE, IF THE OFFICIAL CANVASS OF**

1 VOTES SHOWS THAT THE PERCENTAGE DIFFERENTIAL SEPARATING THE WINNING
 2 CANDIDATE AND THE PETITIONER IS MORE THAN 5.0% OF THE TOTAL NUMBER
 3 OF VOTES CAST IN THE RACE, THE PETITIONER SHALL DEPOSIT WITH THE
 4 STATE BUREAU OF ELECTIONS 100% OF THE COST OF THE RECOUNT, AS
 5 ESTIMATED BY THE STATE BUREAU OF ELECTIONS, FOR EACH PRECINCT
 6 REFERRED TO IN HIS OR HER PETITION. FOR PURPOSES OF THIS
 7 SUBSECTION, THE WINNING CANDIDATE IN A PRIMARY FOR A NONPARTISAN
 8 OFFICE WHERE ONLY 1 CANDIDATE WILL BE ELECTED MEANS THE CANDIDATE
 9 NOMINATED WITH THE LESSER NUMBER OF VOTES. IF THE ACTUAL COST OF
 10 THE RECOUNT, AS DETERMINED BY THE STATE BUREAU OF ELECTIONS,
 11 EXCEEDS THE AMOUNT DEPOSITED BY THE PETITIONER, THE PETITIONER
 12 SHALL PAY THE ADDITIONAL COST TO THE STATE BUREAU OF ELECTIONS. IF
 13 THE ACTUAL COST OF THE RECOUNT, AS DETERMINED BY THE STATE BUREAU
 14 OF ELECTIONS, IS LESS THAN THE AMOUNT DEPOSITED BY THE PETITIONER,
 15 THE STATE BUREAU OF ELECTIONS SHALL REFUND THE DIFFERENCE TO THE
 16 PETITIONER.

17 (3) ~~(2)~~—If 1 candidate is to be elected to the office and the
 18 official canvass of votes shows that the number of votes separating
 19 the winning candidate and the petitioner is more than 50 votes or
 20 0.5% of the total number of votes cast in the race, whichever is
 21 greater, the petitioner shall deposit with the state bureau of
 22 elections the sum of \$125.00 for each precinct referred to in his
 23 or her petition. For purposes of this subsection, the winning
 24 candidate in a primary for a nonpartisan office where only 1
 25 candidate will be elected means the candidate nominated with the
 26 lesser number of votes.

27 (4) ~~(3)~~—~~If~~ **SUBJECT TO SUBSECTION (2), IF** more than 1 candidate

1 is to be elected to the office and the official canvass of votes
2 shows that the number of votes separating the winning candidate who
3 received the least number of votes and the petitioner is more than
4 50 votes or 0.5% of the sum of the number of votes received by the
5 2 candidates, whichever is greater, the petitioner shall deposit
6 with the state bureau of elections the sum of \$125.00 for each
7 precinct referred to in his or her petition.

8 **(5)** ~~(4)~~—If the vote is on a proposal and the official canvass
9 of votes shows that the number of votes separating the "yes" votes
10 and the "no" votes is more than 50 votes or 0.5% of the total
11 number of votes cast on the proposal, whichever is greater, the
12 petitioner shall deposit with the state bureau of elections the sum
13 of \$125.00 for each precinct referred to in his or her petition.

14 **(6)** ~~(5)~~—If, by reason of the recount, the petitioner
15 establishes fraud or mistake as set forth in his or her petition
16 and receives a certificate of election or establishes sufficient
17 fraud or mistake to change the result upon an amendment or
18 proposition, the votes for and against which were recounted, the
19 state bureau of elections shall refund the money deposited to the
20 petitioner. The secretary of state shall refund the money deposited
21 to a petitioner who is a chairperson of a state political party if
22 the results of the race for which a recount was petitioned for
23 under section 879 are changed. If a refund is not made as required
24 by this section, then the secretary of state shall pay to the
25 treasurer of each county its proportionate share of the deposit
26 based upon the number of precincts in the county in which the votes
27 were recounted.

1 (7) ~~(6)~~—If a precinct referred to in the petition is
2 determined "not recountable" as provided in section 871(3) or,
3 subject to subsection ~~(7)~~, **(8)**, if a precinct referred to in the
4 petition is not recounted due to the withdrawal of the petition,
5 the money deposited for the recount of that precinct ~~shall~~ **MUST** be
6 refunded to the petitioner.

7 (8) ~~(7)~~—If the votes cast on the ballots voted in a precinct
8 have been examined and recounted, the withdrawal of the petition
9 shall not result in a refund of the money deposited for the recount
10 of that precinct.

11 Enacting section 1. This amendatory act is retroactive and
12 effective January 1, 2016.