



HOUSE BILL No. 5139

November 30, 1999, Introduced by Reps. Kukuk, LaSata, Ruth Johnson, Gosselin, Pappageorge, Middaugh, Tabor, DeVuyst, Ehardt, Mortimer, Patterson, Koetje, Shackleton, Hager, Voorhees, Faunce, Caul, Cameron Brown, Toy, DeHart and Raczkowski and referred to the Committee on Constitutional Law and Ethics.

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 14a, 24j, 666a, 669, 805, and 871 (MCL 168.14a, 168.24j, 168.666a, 168.669, 168.805, and 168.871), sections 14a and 805 as amended by 1995 PA 261 and section 871 as amended by 1996 PA 583.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 14a. As used in this act: ~~—, "metal"~~

2 (A) "BALLOT CONTAINER" MEANS A CONTAINER MADE OF METAL,
3 PLASTIC, FIBERGLASS, OR OTHER MATERIAL THAT PROVIDES RESISTANCE
4 TO TAMPERING USED FOR TRANSPORTING AND STORING VOTED BALLOT CARDS
5 AND THAT IS CAPABLE OF BEING SEALED WITH A METAL SEAL. A BALLOT
6 CONTAINER INCLUDES A BALLOT BOX, A TRANSFER CASE, OR OTHER
7 CONTAINER USED TO SECURE BALLOTS, INCLUDING OPTICAL SCAN BALLOTS
8 AND ELECTRONIC VOTING SYSTEMS AND DATA.

1 (B) "METAL seal" or "seal" means a seal of high tensile
 2 strength that is approved by the secretary of state ~~pursuant to~~
 3 UNDER section 36.

4 Sec. 24j. Before June 1 of 2002, AND every fourth year ~~—~~
 5 ~~beginning in 1970~~ THEREAFTER, a county board of canvassers shall
 6 examine ~~the ballot boxes~~ EACH BALLOT BOX AND OTHER BALLOT
 7 CONTAINER to be used in ~~any~~ AN election conducted under ~~the~~
 8 ~~provisions of~~ this act. The board shall designate on the ballot
 9 box OR OTHER BALLOT CONTAINER that the BALLOT box OR OTHER BALLOT
 10 CONTAINER does or does not meet the specifications required by
 11 this act. A ballot box ~~which~~ OR OTHER BALLOT CONTAINER THAT
 12 has not been approved by the board shall not be used to store
 13 voted ballots. A ~~clerk of a~~ city, village, or township CLERK
 14 may procure ~~—, at the expense of the unit of government using the~~
 15 ~~same, a sufficient number of proper~~ ballot boxes ~~to meet the~~
 16 ~~requirements of this act~~ AND OTHER BALLOT CONTAINERS AS PROVIDED
 17 IN SECTION 669. A clerk who uses or permits the use of ~~any~~ A
 18 ballot box ~~which has been disapproved~~ OR OTHER BALLOT CONTAINER
 19 THAT HAS NOT BEEN APPROVED is guilty of a misdemeanor.

20 Sec. 666a. In addition to the supplies furnished under
 21 section 666, the secretary of state shall furnish to ~~the~~ EACH
 22 county clerk ~~of each county~~ devices ~~, which, when used with~~
 23 ~~self-sealing metal seals, will~~ TO enable ballot boxes OR OTHER
 24 BALLOT CONTAINERS to be sealed easily and securely WITH
 25 SELF-SEALING METAL SEALS.

26 Sec. 669. ~~At any~~ FOR A federal, state, district, or
 27 county primary or election, ~~the various city and township~~

1 ~~boards~~ A CITY, TOWNSHIP, OR VILLAGE BOARD of election
 2 commissioners shall ~~furnish~~ PROVIDE, at the expense of ~~their~~
 3 THE respective ~~cities and townships~~ CITY, TOWNSHIP, OR VILLAGE,
 4 EACH OF the following:

5 (a) ~~There shall be provided and kept by the township clerk~~
 6 ~~for each election precinct in a township, by the village clerk~~
 7 ~~for each election precinct in a village, and by the city clerk~~
 8 ~~for each election precinct in a city, at the expense of the town-~~
 9 ~~ship, village or city, as the case may be, a sufficient number of~~
 10 ~~suitable ballot boxes~~ FOR EACH ELECTION PRECINCT, A BALLOT BOX
 11 with lock and key ~~, each of which ballot boxes~~ APPROVED UNDER
 12 SECTION 24J. EACH BALLOT BOX shall have an opening through the
 13 inside lid of the proper size to admit a single ~~folded~~ ballot
 14 ~~, through which opening each ballot received shall be passed~~
 15 into the box. ~~All ballot boxes~~ EACH BALLOT BOX shall be pro-
 16 vided with a second cover or a metal or wooden device for closing
 17 ~~such slot so the same may not be opened~~ THE OPENING TO PREVENT
 18 ACCESS without unlocking the ballot box and breaking the seal.
 19 ~~thereon; and~~ THE CITY, TOWNSHIP, OR VILLAGE CLERK SHALL PROVIDE
 20 AND KEEP ADEQUATE BALLOT BOXES FOR EACH PRECINCT.

21 (B) FOR EACH ELECTION PRECINCT, A BALLOT CONTAINER, IN ADDI-
 22 TION TO A BALLOT BOX, APPROVED UNDER SECTION 24J, IF ANOTHER
 23 BALLOT CONTAINER IS UTILIZED IN THE PRECINCT. A BALLOT CONTAINER
 24 IS A CONTAINER INCLUDING A BALLOT BOX USED FOR TRANSPORTING AND
 25 STORING VOTED BALLOT CARDS AS DEFINED IN SECTION 14A.

26 (C) ~~(b) The boards of election commissioners of the several~~
 27 ~~cities, the township boards of the several townships and the~~

~~1 councils of the various villages shall procure for~~ FOR each
~~2 polling place, therein a flag of the United States,~~ A UNITED
~~3 STATES FLAG. THE FLAG SHALL BE made of class "A" bunting and of~~
~~4 dimensions~~ MEASURE not less than 3 feet ~~in width by 5 feet in~~
~~5 length, together with a staff and necessary appliances for dis-~~
~~6 playing the same, and shall deliver them in proper time to the~~
~~7 several boards of election inspectors whose duty it shall be to~~
~~8 cause the flag to be displayed at or in each polling place during~~
~~9 the progress of elections. Immediately thereafter, the boards~~
10 WIDE AND 5 FEET LONG. THE BOARD OF ELECTION COMMISSIONERS, TOWN-
11 SHIP BOARD, OR VILLAGE COUNCIL SHALL DELIVER THE FLAG AT THE TIME
12 PROVIDED IN THIS ACT TO THE BOARD OF ELECTION INSPECTORS FOR THE
13 JURISDICTION ALONG WITH ADDITIONAL ITEMS NEEDED TO DISPLAY THE
14 FLAG. THE ELECTION INSPECTORS SHALL ENSURE THAT THE FLAG IS DIS-
15 PLAYED AT EACH POLLING PLACE DURING AN ELECTION. IMMEDIATELY
16 AFTER THE ELECTION, THE BOARD of election inspectors shall return
17 ~~the flags, which shall be used only for the purpose herein men-~~
18 ~~tioned, to the respective clerks who are charged with the proper~~
19 ~~care and custody thereof~~ EACH FLAG TO THE CLERK OF THE RESPEC-
20 TIVE JURISDICTION. THE CLERK SHALL PROVIDE PROPER CARE AND CUS-
21 TODY OF THE FLAG. THE FLAG SHALL BE USED EXCLUSIVELY FOR DISPLAY
22 IN A POLLING PLACE DURING AN ELECTION.

23 Sec. 805. (1) After the ballots ~~of each kind~~ are counted
24 AS PROVIDED IN THIS CHAPTER, the board of election inspectors
25 shall securely tie the ballots in packages or rolls, and the
26 board of election inspectors shall ~~cause to be indorsed and~~
27 ~~attached~~ ATTACH to each ballot bag ~~a~~ AN ENDORSED statement

1 showing the number and kind of ballots included in the ballot
2 bag. The statement shall be securely attached to the outside of
3 the bag, as prescribed by the secretary of state.

4 (2) After all ballots are tied in packages or rolls, the
5 board of election inspectors shall place the ballots in ballot
6 bags approved by the secretary of state. The board of election
7 inspectors shall then seal the bags with an approved seal that
8 shall be furnished with the election supplies. The bags shall
9 ~~then together~~ BE PLACED IN THE BALLOT BOX OR OTHER BALLOT CON-
10 TAINER PROVIDED FOR BALLOTS UNDER SECTION 669 ALONG with 1 tally
11 sheet, ~~when~~ IF THE TALLY SHEET IS not combined with the state-
12 ment of returns. ~~, be placed in the ballot box provided for such~~
13 ~~ballots.~~ The board of election inspectors shall securely fasten
14 and seal the ballot box OR OTHER BALLOT CONTAINER with an
15 approved seal furnished with the election supplies. ~~, the~~ THE
16 seal shall be affixed ~~in a manner that renders~~ TO RENDER it
17 impossible to open the ballot box OR OTHER BALLOT CONTAINER with-
18 out breaking the seal. The board of election inspectors shall
19 then deliver the ballot box OR OTHER BALLOT CONTAINER to the
20 township, ~~or~~ city, OR VILLAGE clerk.

21 Sec. 871. (1) In a precinct using paper ballots, the board
22 of canvassers conducting a recount pursuant to this chapter shall
23 conduct the recount, subject to all of the following:

24 (a) The ballots in packages or ballot bags that are secured
25 and sealed so that a ballot cannot be removed or inserted unless
26 the ballot corresponds in number with the poll list delivered to
27 the appropriate clerk by the board of election inspectors, shall

1 be recounted even though the ballot box OR OTHER BALLOT CONTAINER
2 is not securely sealed with the seal of record.

3 (b) If the ballot box OR OTHER BALLOT CONTAINER is securely
4 sealed with the seal of record, only the ballots that correspond
5 in number with the poll list delivered to the appropriate clerk
6 by the board of election inspectors shall be recounted even
7 though the ballots are not secured and sealed in packages or
8 ballot bags.

9 (c) If the ballot box OR OTHER BALLOT CONTAINER is not
10 securely sealed or if the seal on the ballot box OR OTHER BALLOT
11 CONTAINER is not the seal of record and the ballots in packages
12 or ballot bags are not secured and sealed so that a ballot cannot
13 be removed or inserted, the ballots shall not be recounted and
14 the original count of the ballots as reported by the board of
15 election inspectors shall stand as the correct count.

16 (d) If the number of ballots in a secured and sealed package
17 or bag and the number of ballots issued on election day as shown
18 on the poll list do not match and the difference is not explained
19 to the satisfaction of the board of canvassers, the ballots shall
20 not be recounted and the original count of the ballots as
21 reported by the board of election inspectors shall stand as the
22 correct count.

23 (2) Except as otherwise provided in this section, the board
24 of canvassers conducting a recount pursuant to this chapter shall
25 recount all ballots of a precinct using an electronic voting
26 system unless 1 or more of the following circumstances exist:

1 (a) The seal on the transfer case OR OTHER BALLOT CONTAINER
2 is broken or bears a different number than that recorded on the
3 poll book, the breaking or discrepancy is not explained to the
4 satisfaction of the board of canvassers, and security of the bal-
5 lots has not been otherwise preserved.

6 (b) The number of ballots TO BE RECOUNTED and the number of
7 ballots issued on election day as shown on the poll list or the
8 computer printout do not match and the difference is not
9 explained to the satisfaction of the board of canvassers.

10 (c) The seal used to seal the ballot label assembly to a
11 voting device in the precinct is broken or bears a different
12 number than that recorded in poll records and the ballot labels
13 or rotation of candidates' names is different than that shown by
14 other voting devices in the precinct and records of the board of
15 election commissioners.

16 (3) In a precinct in which voting machines are used, the
17 board of canvassers conducting a recount pursuant to this chapter
18 shall recount all voting machines used in the precinct unless 1
19 or more of the following circumstances exist:

20 (a) All voting machines used in a precinct shall not be
21 recounted if the sum of the numbers appearing on the public
22 counters of all voting machines used in the precinct exceeds the
23 total number of voters who voted in the precinct as shown by the
24 poll book, plus the number of times the machine was operated by
25 the inspectors of election and custodians, as shown by the record
26 of the board of election inspectors, and the excess is not

1 explained to the satisfaction of the board of canvassers by the
2 inspectors of election of that precinct.

3 (b) A voting machine used in a precinct shall not be
4 recounted if the voting machine is not sealed with the seal of
5 record in such a manner as to render it impossible to vote on the
6 machine or to otherwise change the totals appearing on the indi-
7 vidual candidate or ballot question counters.

8 (c) A voting machine used in a precinct shall not be
9 recounted if the number appearing on the protective counter of
10 the voting machine at the time of the recount does not equal the
11 sum of the number appearing on the protective counter at the
12 opening of the polls as shown by the certificate of the board of
13 election inspectors and the number appearing on the public
14 counter at the time of the recount.

15 (4) In a precinct in which voting machines are used, which
16 precinct cannot be recounted under subsection (3), absent voter
17 ballots tallied in that precinct shall not be recounted unless
18 recorded separately. This section does not prohibit the recount-
19 ing of absent voter ballots tallied in a precinct using an absent
20 voter counting board or in a precinct in which 1 or more voting
21 machines are recountable, if the absent voter ballots are
22 securely packaged and sealed.

23 (5) If a board of canvassers conducting a recount pursuant
24 to this chapter determines that the ballots of a precinct are not
25 eligible for recount under this section, the original return of
26 the votes for that precinct shall be taken as correct.

1 (6) A board of canvassers conducting a recount pursuant to
2 this chapter may conduct a recount by the following means:

3 (a) A manual tally of the ballots.

4 (b) A tabulation of the ballots on a computer using a soft-
5 ware application designed to specifically count only the office
6 or ballot question subject to the recount.

7 (c) A tabulation of the ballots on a computer using the same
8 software application used in the precinct on election day.

9 (d) Any combination of methods in subdivision (a), (b), or
10 (c), as determined appropriate by the board of canvassers.

11 (7) If a board of canvassers conducting a recount pursuant
12 to this chapter intends to conduct a recount on a computer, the
13 board of canvassers shall first test the software application by
14 use of a test deck to determine if the program accurately counts
15 the votes for the office or ballot question subject to the
16 recount. If the test under this subsection fails to show that
17 the software application accurately counts the votes for the
18 office or ballot question subject to the recount, the board of
19 canvassers shall use another means prescribed in subsection (6)
20 to conduct the recount.