

Legislative Analysis



INCREASE RECOUNT FEE

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House Bill 4821 (Substitute H-1)
Sponsor: Rep. Dan Scripps
Committee: Ethics and Elections

First Analysis (2-23-10)

BRIEF SUMMARY: For both local and statewide elections, the bill would increase the per precinct recount fee from \$10 to \$25, but require a per precinct recount fee of \$125 per precinct if the margin between winner and loser was more than 0.5 percent (one-half of one percent) or 50 votes, whichever was greater.

FISCAL IMPACT: House Bill 4821 would have an indeterminate, but positive, fiscal impact on state and local government. Under the provisions of the bill the recount petition fee would be raised from \$10 to \$25 for each precinct to be recounted and a \$125 deposit per precinct to be recounted would be required if the margin between winner and loser was more than 0.5 percent or 50 votes, whichever was greater. In those instances in which fraud or mistake was not established, the funds deposited would go to the treasurer of the unit of government conducting the recall to offset costs associated with conducting the recall.

THE APPARENT PROBLEM:

To file an application to recount the vote following an election, a challenger must pay the appropriate local board of canvassers, or the state Bureau of Elections, \$10 for each precinct that will be recounted. If an election of an official is contested, then the challenger must have been a candidate in that election; if the outcome of a ballot proposal is contested, then the challenger must be an elector residing in the district. In the event an election outcome is reversed, the money is refunded.

Statewide recounts are extraordinarily rare. According to committee testimony in 2005 when a similar bill passed the House of Representatives, the last statewide recount was undertaken during the 1970s. However, more recently, the November 5, 2002 general election for attorney general in which 5,200 votes separated the winner from the loser—equal to a one-vote margin in each of Michigan's 5,200 precincts—very nearly prompted a recount. [The final vote was 1,499,066 to 1,493,866.]

While statewide recounts are rare, local recounts are not. According to committee testimony, frivolous recounts of election results are sought by losing candidates or campaign committees in several regions of the state, with quixotic attempts most apparent in three counties—Oakland, Saginaw, and Wayne.

For example, a spokesman for the Michigan Townships Association reports that in Springfield Township located in Oakland County, so-called "spite" recounts occurred in

2004, even when winning candidates outpolled their opponents by margins of 60 percent to 40 percent (in the race for township supervisor), 62 percent to 38 percent (in the race for township clerk), and 54 percent to 46 percent (in the race for township treasurer). Following the November 2004 election, a challenger demanded three recounts, despite up to 2,000-vote margins between the winners and losers. Springfield Township has seven precincts; consequently the challenger paid \$70 (\$10 per precinct) to recount each of the three elections, or a total of \$210. However, the recounts of votes cast in the seven precincts cost township taxpayers \$3,500. Similar challenges have occurred in Waterford Township (also located in Oakland County) and in Brighton Township (located in Livingston County).

In Saginaw County, 11 recounts were undertaken between 2001 and 2004. Vote differentials in the recounted elections ranged from a single vote (three election recounts), to 2,091 votes (one election recount), while the median vote differential for the 11 recounts was eight votes. In two of the three elections having a one-vote margin, the recount resulted in a tie-vote. (In one of those, the coin-flip changed the election result, in another it did not.) The vote-tallies did not change following the other nine recounts. The total municipal costs for the eleven recounts amounted to more than \$4,500 not including the wages for any county or township employees.

Finally, according to a spokesman from the state Bureau of Elections, a challenger contested the outcome of the 2009 mayoral race in Detroit, despite a margin of 20,000 votes between the winner and the loser. That city-wide recount cost the city taxpayers \$170,000.

In order to assist local governments recoup the costs of recounts, legislation has been introduced to increase the fees that challengers must pay before a recount of election results is undertaken.

THE CONTENT OF THE BILL:

For both local and statewide elections, House Bill 4821 (H-1) would amend the Michigan Election Law in the following ways.

- The recount petition fee would be increased to \$25 from \$10 for each precinct to be recounted.
- However, a recount fee of \$125 per precinct would be required if the margin between winner and loser was more than 0.5 percent (one-half of one percent) or 50 votes, whichever was greater.

Under the bill, in a one-candidate race, the 0.5 percent or 50-vote margin would be calculated based on the number of votes separating the winning candidate and the petitioner; in a multi-candidate race, the margin would be calculated based on the number of votes separating the winning candidate who received the least number of votes and the

petitioner; in a vote on a proposal, the margin would be calculated based on the number of votes separating the "yes" votes and the "no" votes.

For **state elections**, the fee would be paid to the Secretary of State. If for any reason a recount did not take place in a precinct referred to in the petition, then the money deposited for the recount of that precinct would be returned to the petitioner.

For **local elections**, the fee would be paid to the clerk of the appropriate board of canvassers. And, if for any reason a recount did not take place in a precinct referred to in the petition, then the money deposited for the recount of that precinct would be returned to the petitioner.

MCL 168.867 and 168.881

BACKGROUND INFORMATION:

A similar bill--House Bill 4801--passed the Michigan House of Representatives on June 22, 2005 by a vote of 84 to 21. That bill died in the Senate at the end of the legislative session.

ARGUMENTS:

For:

Some township and county clerks report an increase in the number of applications for frivolous recounts of local election results. For a small fee—only \$10 a precinct—a losing candidate or campaign committee can apply to have the vote recounted, by hand. This fee does not begin to cover the costs of any recount—serious or frivolous. For example, according to committee testimony, three recounts cost the citizens of Oakland County's Springfield Township \$3,500, while the petitioner paid only a \$210 fee; further, the recent recount of the 2009 mayoral election in Detroit cost its citizens \$170,000.

This bill would increase the per precinct recount fee from \$10 to \$25 per precinct. In addition, in order to deter requests for unrealistic recounts—that is, those having little chance of reversing the election results—a challenger would have to pay a \$125 per precinct recount fee. The higher fee would be assessed if the margin between the winner and loser was more than 0.5 percent (one-half of one percent) or 50 votes, whichever was greater. The higher fee might dissuade frivolous recount requests. And for those recounts that do go forward, the higher fee would help county boards of canvassers cover the costs of the ballot-by-ballot hand recounts that are undertaken once an application is filed.

POSITIONS:

The Secretary of State supports the bill as amended. (2-17-10)

The Michigan Association of Municipal Clerks supports the bill. (2-17-10)

The Michigan Association of County Clerks supports the bill. (2-17-10)

The Michigan Council of Election Officials supports the bill. (2-17-10)

The Michigan Townships Association supports the bill. (2-17-10)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.