

HOUSE BILL No. 4171

February 5, 2013, Introduced by Reps. Jacobsen, Kowall and Haines and referred to the Committee on Elections and Ethics.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 24a, 30g, 307, 308, 323, 347, 355, 360, 426c, 426f, 426l, 792, 806, 809, 822, 823, 826, 866, 867, and 868 (MCL 168.24a, 168.30g, 168.307, 168.308, 168.323, 168.347, 168.355, 168.360, 168.426c, 168.426f, 168.426l, 168.792, 168.806, 168.809, 168.822, 168.823, 168.826, 168.866, 168.867, and 168.868), section 24a as amended by 2010 PA 52, section 307 as amended by 2010 PA 55, section 308 as added by 2003 PA 302, section 426f as amended by 1990 PA 32, sections 809 and 868 as amended by 1995 PA 261, section 826 as amended by 2003 PA 119, section 866 as amended by 2010 PA 53, and section 867 as amended by 1980 PA 200; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 24a. (1) A 4-member board of county canvassers is
2 established in every county in this state. All of the powers
3 granted to and duties required by law to be performed by all boards
4 of canvassers established by law, other than the board of state
5 canvassers ~~, boards of city canvassers in cities having more than 5~~
6 ~~precincts,~~ **AND** boards of canvassers in counties having a population
7 of 1,500,000 or more, ~~and boards of township canvassers in~~
8 ~~townships having more than 5 precincts,~~ are granted to and required
9 to be performed by the board of county canvassers.

10 (2) The board of county canvassers shall conduct all recounts
11 of elections in cities, townships, villages, school districts, or
12 any other districts and be vested with all of the powers and
13 required to perform all the duties in connection with any recount.

14 (3) If a city, village, or any other district, other than a
15 school district, lies in more than 1 county, and a duty is to be
16 performed by the board of county canvassers, the board of county
17 canvassers in the county in which the greatest number of registered
18 voters of the city, village, or district resides at the close of
19 registration for the election involved shall perform the duty.

20 (4) Except as otherwise provided in this subsection, if a
21 school district lies in more than 1 county, the board of county
22 canvassers for each county in which a portion of the school
23 district lies shall canvass that portion of a school district
24 election that is held in that county. If a school district election
25 precinct lies in more than 1 county, the board of county canvassers
26 of the county in which the largest number of registered electors of
27 that precinct reside shall canvass the results of that precinct.

1 Notwithstanding the provisions of the preceding 2 sentences, unless
2 the school district election is conducted on the same date as
3 another election in the county, a board of county canvassers that
4 is not responsible for certifying the results of the school
5 district election is not required to meet to canvass the school
6 district election and the board of county canvassers responsible
7 for certifying the results of the school district election shall
8 canvass that portion of the school district election held in that
9 county. Upon completion of the canvass, the clerk of the board of
10 county canvassers shall transmit the canvassed results to the
11 county clerk of the county in which the largest number of
12 registered electors of that school district reside. Upon receipt of
13 the canvassed results, the county clerk of the county in which the
14 largest number of registered electors of that school district
15 reside shall make a statement of returns and certify the results of
16 the school district election to the secretary of the school board.
17 Notwithstanding any of the foregoing provisions of this subsection,
18 if a city or village that lies in more than 1 county conducts an
19 election on the same date as a school district that lies within the
20 city or village that is conducting an election, that portion of the
21 school district election held within that city or village shall be
22 canvassed by the canvassing board responsible for canvassing the
23 city or village election.

24 (5) The cost of canvass of school, city, township, and village
25 elections shall be borne by the school district, city, township, or
26 village holding the election, and upon presentation of a bill for
27 the costs incurred by the board of county canvassers, the school

1 district, city, township, or village shall reimburse the county
2 treasurer.

3 (6) All boards of canvassers provided for in law including
4 boards of school canvassers, the duties of which are by this act
5 required to be performed by boards of county canvassers, are
6 abolished.

7 (7) Members of the board of county canvassers shall be
8 appointed for terms of 4 years beginning on November 1 following
9 their appointment. Of the members first appointed, 1 member of each
10 of the political parties represented on the board of county
11 canvassers shall be appointed for a term of 4 years and 1 for a
12 term of 2 years. The county clerk shall notify members of the board
13 of county canvassers of their appointment within 5 days of being
14 appointed.

15 (8) This section applies to all elections, any charter
16 provision to the contrary notwithstanding.

17 Sec. 30g. ~~Whenever~~ **IF** a board of canvassers created under this
18 act is required to perform its statutory duties and because of
19 illness or absence of members of the board **OF CANVASSERS** a quorum
20 is not present, the clerk of the political subdivision may appoint
21 a sufficient number of temporary members to constitute a quorum. If
22 the vacancy is on the board of county canvassers, the appointment
23 shall be made by the county clerk from party recommendations on
24 file, if available. ~~If the vacancy is on the board of city or~~
25 ~~township canvassers, the appointment shall be made from~~
26 ~~applications on file, if available.~~ The appointments shall be of
27 the same political party as the ill or absent members of the board

1 **OF CANVASSERS.** ~~Any~~ A temporary appointee to the board of canvassers
2 must possess all of the qualifications required for regular
3 membership on that board **OF CANVASSERS.** Temporary appointees shall
4 serve only until the business on hand has been transacted.

5 Sec. 307. (1) The appropriate board of **COUNTY** canvassers as
6 prescribed in section 24a ~~or 30a~~ shall canvass the votes for
7 candidates for school board member and votes for and against a
8 ballot question at a regular or special election in each school
9 district. That number of candidates equal to the number of
10 individuals to be elected who receive the greatest number of votes
11 cast at the election, as set forth in the report of the board of
12 **COUNTY** canvassers canvassing the votes, based upon the returns from
13 the election precincts or as determined by the board of **COUNTY**
14 canvassers as a result of a recount, are elected to the office of
15 school board member. Except as otherwise provided in section
16 24a(4), upon completion of the canvass, the board of **COUNTY**
17 canvassers shall make a statement of returns and certify the
18 election of school board members to the secretary of the school
19 board, the county clerk, and, if other than the county clerk, the
20 school district election coordinator.

21 (2) The votes cast for a candidate for school board member or
22 on a ballot question submitted to the electors at a school election
23 are subject to recount as provided in chapter XXXIII. An individual
24 elected to the office of school board member is subject to recall
25 as provided in chapter XXXVI and in section 8 of article II of the
26 state constitution of 1963.

27 Sec. 308. A local official who receives the certification of

1 the board of **COUNTY** canvassers under section 307 shall preserve and
 2 file in his or her office the certified statement of returns and
 3 certification of the board of **COUNTY** canvassers of the result of
 4 the election. The ~~city, township, or~~ county clerk who is the
 5 secretary to the board of **COUNTY** canvassers canvassing the school
 6 board election shall immediately execute and provide to the
 7 individuals declared elected to the office of school board member a
 8 certificate of election.

9 Sec. 323. It ~~shall be~~ **IS** the duty of the board of city
 10 election commissioners to prepare the primary ballots to be used by
 11 the electors. The returns shall be canvassed by the board of ~~city~~
 12 **COUNTY** canvassers and the results certified to the board of city
 13 election commissioners, who shall ~~thereupon~~ prepare and furnish
 14 ballots for the ensuing election. The printing and distribution of
 15 ballots, equipment, and supplies, the conduct of the primary and
 16 election, the canvass and certification of the returns, and all
 17 other particulars shall be in accordance, as nearly as may be, with
 18 the provisions of this act governing general primaries and
 19 elections.

20 Sec. 347. Except as ~~herein~~ otherwise provided **IN THIS ACT**, the
 21 laws governing nominating petitions, the conduct of general primary
 22 elections, the furnishing of ballots, and the depositing, counting,
 23 and canvassing of ~~the same,~~ **BALLOTS** shall, as near as may be, apply
 24 to primaries held under the provisions of this chapter. ~~In case of~~
 25 ~~recounts, said recounts~~ **RECOUNTS** shall be conducted by the ~~township~~
 26 board of **COUNTY** canvassers ~~and all duties which~~ **THAT**, under the
 27 parts of this act relating to general elections or primary

1 elections, ~~devolve~~ **FALL** upon the county clerk ~~—~~ shall be performed
2 by the township clerk.

3 Sec. 355. (1) The candidate or candidates of each political
4 party to a township office receiving the greatest number of votes
5 cast for candidates of ~~said~~ **THAT** office, as set forth in the report
6 of the ~~township~~ board of **COUNTY** canvassers, based on the returns
7 from the various election precincts, or as determined by the board
8 of county canvassers as the result of a recount, shall be declared
9 the nominee or nominees of that political party for ~~said~~ **THAT**
10 office at the next ensuing November election. The ~~township~~ board of
11 **COUNTY** canvassers shall certify ~~such~~ **THE** nomination or nominations
12 to the township clerk within 48 hours after the ~~closing of the~~
13 polls **CLOSE**.

14 (2) Within 4 days following the primary, the township clerk
15 shall deliver to the county clerk a list setting forth the names,
16 addresses, political affiliation, and office sought of all
17 candidates nominated at the primary.

18 Sec. 360. The township clerk shall file in his **OR HER** office
19 and preserve the original statement and determination of the
20 ~~township~~ board of **COUNTY** canvassers of the results of the election.
21 ~~and~~ **THE TOWNSHIP CLERK** shall ~~forthwith~~ **IMMEDIATELY** execute and
22 ~~cause to be delivered~~ **DELIVER** to the persons ~~thereby~~ declared to be
23 elected to township offices a **PROPERLY CERTIFIED** certificate of
24 election. ~~—certified by him.~~

25 Sec. 426c. (1) A general nonpartisan primary election shall be
26 held in every municipality described in section 426a ~~—~~ on the
27 Tuesday ~~succeeding~~ **AFTER** the first Monday in August ~~preceding any~~

1 **BEFORE A** general November election. ~~at which~~

2 (2) **AT THE GENERAL NONPARTISAN PRIMARY ELECTION**, judges of the
3 municipal courts of record ~~therein~~ are to be elected ~~at which~~
4 ~~time~~ **AND** the qualified and registered voters may vote for
5 nonpartisan candidates for the office of judge of ~~such~~ **THE**
6 municipal court of record.

7 (3) If ~~upon~~ the expiration of the time for filing petitions
8 ~~for~~ the primary election of the municipal judge or judges in any
9 municipality ~~there~~ are not to exceed twice the number of
10 candidates than persons to be elected, then the city clerk shall
11 certify through the ~~city~~ board of **COUNTY** canvassers the names of
12 the candidates for judge of the municipal court of record whose
13 petitions have been properly filed. ~~who~~ **THESE CANDIDATES** shall be
14 the **CERTIFIED** nominees for judges of the municipal court of record.
15 ~~and shall be so certified,~~ **IN ADDITION**, there shall **NOT** be ~~no~~ **A**
16 primary election ~~for~~ this office, and it shall be omitted from
17 the official primary ballot.

18 Sec. 426f. (1) The candidates for the office of judge of the
19 municipal court of record receiving the largest number of votes at
20 any primary election, to a number equal to twice the number of
21 persons to be elected, as set forth in the report of the ~~city~~ **BOARD**
22 **OF COUNTY** canvassers, based on returns from the various ~~local~~
23 ~~boards of canvassers and~~ election precincts, shall be declared the
24 nominees for the office **OF JUDGE OF THE MUNICIPAL COURT OF RECORD**
25 at the next general election.

26 (2) If, after the deadline for filing nominating petitions
27 under section 426d, there are fewer candidates for nomination or

1 nominees for the office of judge of a municipal court of record
 2 than there are persons to be elected at the general November
 3 election because of the death or disqualification of a candidate
 4 more than 65 days before the general November election, then a
 5 person, whether or not an incumbent, may qualify as a nominee for
 6 that office at the general November election by filing nominating
 7 petitions as required by section 426d. However, the filing shall be
 8 made before 4 p.m. on the twenty-first day following the death or
 9 disqualification of the candidate or 4 p.m. on the sixtieth day
 10 ~~preceding~~ **BEFORE** the general November election, whichever is
 11 earlier, and the minimum number of signatures required is 1,000 or
 12 1/2 the minimum number required under section 426d, whichever is
 13 less.

14 (3) The city clerk shall certify the nomination of each person
 15 who qualifies as a nominee under subsection (2) to the board of
 16 election commissioners of the city for the general November
 17 election.

18 Sec. 426l. The ~~city~~ board of **COUNTY** canvassers shall determine
 19 which candidates for judge of the municipal court of record
 20 received the highest number of votes and on that basis shall
 21 declare the candidates duly elected, specifying the terms to which
 22 each was elected. The board **OF COUNTY CANVASSERS** shall ~~forthwith~~
 23 **IMMEDIATELY** make and subscribe on its ~~statements~~ **STATEMENT** of
 24 returns a certificate of ~~such~~ **THE** determination and deliver it to
 25 the city clerk.

26 Sec. 792. ~~(1) Whenever~~ **IF** it ~~shall appear~~ **APPEARS** that there
 27 is a discrepancy in the returns of any election district, the board

1 of **COUNTY** canvassers, ~~of the county, if it be a general election at~~
2 ~~which county or state officers are elected, or the board of~~
3 ~~canvassers of the city, village or township, if it be a city,~~
4 ~~village or township election at which city, village or township~~
5 ~~officers only are elected, or the authorized representatives of~~
6 ~~such~~ **THE** board of **COUNTY** canvassers, shall make a record of the
7 number of the seal, if any, the number on the protective counter,
8 if one is provided, and shall open the counter compartment of ~~said~~
9 **THE** machine, and without unlocking the machine against voting,
10 shall re-canvass the vote cast ~~thereon~~ **ON THE MACHINE**. Before
11 making ~~such~~ **THE** re-canvass, the ~~said~~ board of **COUNTY** canvassers
12 shall give sufficient notice in writing to the clerk of the time
13 and place where ~~said~~ **THE** re-canvass is to be made.

14 (2) If upon ~~such~~ re-canvass it ~~shall be~~ **IS** found that the
15 original canvass of the returns has been correctly made from the
16 machine, and that the discrepancy still remains unaccounted for,
17 the clerk or authorized assistant **OF THE CLERK**, in the presence of
18 the **ELECTION** inspectors ~~of election~~ and the ~~said~~ board of **COUNTY**
19 canvassers, shall unlock the voting and counting mechanism of ~~said~~
20 **THE** machine and shall proceed to thoroughly examine and test the
21 machine to determine and reveal the true cause or causes, if any,
22 of the discrepancy in the return from ~~said~~ **THE** machine.

23 (3) Before testing the machine, the counters in the party row
24 or column in which the discrepancy is alleged to have occurred
25 shall be set at zero after which each of ~~such~~ **THE** counters shall be
26 operated at least 100 times.

27 (4) After the completion of ~~said~~ **THE** examination, the clerk or

1 authorized assistant **OF THE CLERK** shall then and there prepare a
2 statement in writing giving the result thereof ~~thereof~~ **OF THE TEST**, and
3 ~~said~~ **THE** statement shall be witnessed by the persons present and
4 shall be filed with the board of **COUNTY** canvassers. ~~Any~~

5 (5) A candidate voted for at any election who conceives
6 himself **OR HERSELF** aggrieved on account of any fraud, error, or
7 mistake in the canvass of the vote by the **ELECTION** inspectors or in
8 the returns made by the **ELECTION** inspectors ~~of election~~, may file a
9 written petition for a recount with the board of **COUNTY** canvassers.
10 ~~, as provided in cases where voting machines are not used.~~

11 Sec. 806. (1) The **ELECTION** inspectors shall then prepare
12 duplicate statements of the returns showing the whole number of
13 votes cast for all offices voted for ~~for which~~ **THAT** are to be canvassed
14 by the board of county canvassers, the names of the persons for
15 whom ~~such~~ **THE** votes were given, and the number each person
16 received. ~~, and~~ **THE ELECTION INSPECTORS** shall also prepare
17 duplicate statements of the results on any proposed constitutional
18 amendment or other propositions submitted to the voters at the
19 election ~~which~~ **THAT** are to be canvassed by the board of county
20 canvassers, showing the whole number of votes cast, the number of
21 votes cast for, and the number of votes cast against the proposed
22 constitutional amendment or other proposition.

23 (2) Each member of the board of election inspectors shall sign
24 the certificate on the statement of returns as to the correctness
25 of the returns and that the ballots have been packaged, sealed, and
26 indorsed in the manner ~~therein~~ specified. ~~Separate duplicate~~
27 ~~returns shall be completed for all offices, propositions or~~

~~1 questions which are to be canvassed by a city or township board of~~
~~2 canvassers.~~

3 Sec. 809. (1) The board of election inspectors shall seal 1 of
4 the statement of returns and 1 of the tally sheets or the combined
5 tally return sheet with a red state election seal in an envelope
6 and shall address the envelope to the board of county canvassers,
7 in care of the judge of probate. The board of election inspectors
8 shall deliver the sealed envelope to the clerk of the township or
9 city. Upon receipt of the sealed envelope, the township or city
10 clerk shall immediately deliver the envelope to the person to whom
11 addressed. The judge of probate shall deliver the sealed envelope
12 received by him or her to the board of county canvassers when it
13 meets to canvass the returns.

14 (2) The board of election inspectors shall seal the other
15 statement of returns or combined tally and statement, together with
16 the poll list, in an envelope addressed to the county clerk. The
17 board of election inspectors shall deliver the sealed envelope to
18 the clerk immediately upon completion of the count. The county
19 clerk shall open the envelope at that time, compile unofficial
20 returns, and make the returns in the envelope available to the
21 public. The office of the county clerk shall be open on election
22 day for election purposes and shall remain open until the last
23 returns have been received and the clerk completes an unofficial
24 tabulation.

25 ~~(3) If a city or township election to be canvassed by a board~~
26 ~~of city or township canvassers is held at a time at which no~~
27 ~~election returns must be forwarded to the board of county~~

~~canvassers, the board of election inspectors shall return all poll books, tally sheets, and returns to the city or township clerk. The city or township clerk shall perform the duties required in this section of the county clerks.~~ If a local election to be canvassed by the board of county canvassers is not held in conjunction with a county or state election, the board of election inspectors shall deliver both sealed envelopes to the local clerk. The local clerk shall deliver both sealed envelopes to the county clerk before 11 a.m. on the day following the election. In a city or township election, in which the city or township consists of more than 5 precincts, held in conjunction with an election to be canvassed by the board of county canvassers, the board of election inspectors shall deliver the duplicate returns required by section 806 to the city or township clerk.

Sec. 822. (1) The board **OF COUNTY CANVASSERS** shall then proceed without delay to canvass the returns of votes cast for all candidates for offices voted for and all questions voted on at ~~said~~ **THE** election, according to the precinct returns filed with the probate judge or presiding probate judge by the several city and township clerks, or in case of local elections according to the precinct returns filed with the county clerk, and shall conclude ~~such~~ **THE** canvass at the earliest possible time and in every case within 14 days.

(2) ~~Should~~ **IF** the board ~~fail~~ **OF COUNTY CANVASSERS FAILS** to certify the results of any election for any officer or proposition within the 14 days as provided, ~~or fail to certify results forwarded to them from any city or township election, as provided~~

~~in section 30e, within 7 days of the receipt of that record, they~~
THE BOARD OF COUNTY CANVASSERS shall immediately deliver to the
secretary of the ~~state~~ board of **STATE** canvassers all records and
other information pertaining ~~thereto~~ **TO THE ELECTION**. The board of
state canvassers shall meet ~~forthwith~~ **IMMEDIATELY** and make the
necessary determinations and certify the results within the 10 days
immediately following the receipt of the records from the ~~county~~
board **OF COUNTY CANVASSERS**. The cost of ~~such~~ **THE** canvass shall be
borne by the county involved.

Sec. 823. (1) If it is found, upon the convening of the board
of **COUNTY** canvassers, that the returns from any of the boards of
election inspectors of the several election precincts are missing,
incomplete, or incorrect, or for any other reason it is found
necessary, then the board of county canvassers shall have power to
adjourn from day to day until the returns shall have been procured
or corrected.

(2) The board of **COUNTY** canvassers ~~are~~ **IS** empowered to summon
the persons having the boxes containing the ballots cast at the
election and the keys and seals of the boxes, or having the returns
or the poll lists or tally sheets used and made at the elections,
to bring the boxes, keys, seals, returns, poll lists, and tally
sheets before the board **OF COUNTY CANVASSERS**, and the board of
COUNTY canvassers ~~are~~ **IS** authorized to open the boxes and take
~~therefrom~~ any books or papers bearing upon the count and return of
the election inspectors of the election precincts, but ~~they~~ **THE**
BOARD OF COUNTY CANVASSERS shall not remove or mark the ballots.
~~therein.~~

1 (3) The board of **COUNTY** canvassers shall correct obvious
 2 mathematical errors in the tallies and returns. ~~and, when deemed~~
 3 **THE BOARD OF COUNTY CANVASSERS MAY, IF** necessary for a proper
 4 determination, ~~may summon the election inspectors before them, and~~
 5 ~~require them~~ **DESIGNATE STAFF MEMBERS FROM THE COUNTY CLERK'S OFFICE**
 6 to count any ballots ~~which they~~ **THAT THE ELECTION INSPECTORS** failed
 7 to count, to make correct returns in case, in the judgment of the
 8 board of **COUNTY** canvassers after examining the returns, poll lists,
 9 or tally sheets, the returns already made are incorrect or
 10 incomplete, and the board of **COUNTY** canvassers shall canvass the
 11 votes from the corrected returns. When the examination of the
 12 papers is completed, or the ballots have been counted, they shall
 13 be returned to the ballot boxes or delivered to the persons
 14 entitled by law to their custody, and the boxes shall be locked and
 15 sealed and delivered to the legal custodians. ~~thereof.~~

16 Sec. 826. (1) ~~Except as otherwise provided in this subsection,~~
 17 ~~the~~ **THE** board of county canvassers shall determine and declare the
 18 result of the election for county and local officers, and for all
 19 county and local ballot questions. ~~If a city or township has more~~
 20 ~~than 5 precincts, the board of city or township canvassers shall~~
 21 ~~canvass votes for city or township officers and ballot questions.~~
 22 If a state senatorial or representative district is located solely
 23 within 1 county, the board of county canvassers shall determine and
 24 declare the result of the election for that office. Upon making the
 25 determination under this subsection, the board of county canvassers
 26 shall prepare a certificate of determination and deliver the
 27 properly certified certificate of determination to the county

1 clerk. If the determination relates to a state senatorial or
 2 representative district located solely within 1 county, the board
 3 of county canvassers shall also deliver the properly certified
 4 certificate of determination to the board of state canvassers.

5 (2) Upon receipt of a properly certified certificate of
 6 determination from a board of county canvassers under subsection
 7 (1), the county clerk shall file the certificate in his or her
 8 office. The county clerk may have a statement of the total county
 9 or district votes cast for the various candidates and the total
 10 vote cast for and against the various ballot questions at the
 11 election to be published in at least 1 newspaper printed or
 12 circulated in that county. The county clerk shall immediately
 13 execute and deliver to the persons declared elected, a properly
 14 certified certificate of election.

15 Sec. 866. (1) Except as otherwise provided in subsection (2),
 16 recount petitions, either for an office or proposition, other than
 17 those filed with the ~~board of state canvassers~~ **SECRETARY OF STATE**,
 18 shall be filed with the clerk of the board of **COUNTY** canvassers ~~7~~
 19 ~~which board~~ **THAT** originally conducted the canvass.

20 (2) For a school district election, recount petitions, either
 21 for an office or proposition, shall be filed with the clerk of the
 22 board of **COUNTY** canvassers ~~7~~ ~~which board~~ **THAT** certified the result
 23 of the school district election.

24 (3) Recount petitions shall be filed within 6 days after the
 25 original canvass has been completed by the ~~county, city, township,~~
 26 ~~village, or district~~ board of **COUNTY** canvassers. A copy of the
 27 recount petition shall also be filed with the secretary of state

1 within 2 days after the time the original recount petition is filed
 2 with the board of county canvassers as provided in this section. ~~If~~
 3 ~~the office or proposition in question is a city, ward, township,~~
 4 ~~village, or district office or proposition, a copy of the recount~~
 5 ~~petition shall not be filed with the secretary of state, but a copy~~
 6 ~~shall be transmitted within 24 hours to the clerk of the board of~~
 7 ~~county canvassers by the appropriate local clerk if the recount fee~~
 8 ~~has been paid.~~

9 Sec. 867. (1) ~~The~~ A candidate or elector filing a recount
 10 petition **PURSUANT TO SECTION 862 OR 863 SHALL FILE THE RECOUNT**
 11 **PETITION** with the clerk of the ~~correct~~ **APPROPRIATE** board of **COUNTY**
 12 canvassers. ~~shall at~~ **AT** the ~~same~~ time **OF FILING THE RECOUNT**
 13 **PETITION, THE PETITIONER SHALL** deposit with the clerk the sum of
 14 \$10.00 for each precinct referred to in his or her **RECOUNT**
 15 petition.

16 (2) If, by reason of the recount, the petitioner establishes
 17 sufficient fraud or mistake as set forth in his or her **RECOUNT**
 18 petition to change the result of the election and receives a
 19 certificate of election or establishes sufficient fraud or mistake
 20 to change the result ~~—~~ upon an amendment or proposition, the votes
 21 for and against ~~—~~ which were recounted, **THE CLERK OF THE BOARD OF**
 22 **COUNTY CANVASSERS SHALL REFUND** the money deposited ~~by~~ **TO** the
 23 petitioner. ~~shall be refunded.~~

24 (3) If the petitioner does not establish a fraud or mistake as
 25 set forth in his or her **RECOUNT** petition, the sum deposited shall
 26 be paid by the clerk of the board of county ~~, city, township, or~~
 27 ~~village~~ canvassers to the treasurer of the county. ~~, city,~~

1 ~~township, or village.~~

2 Sec. 868. (1) If a candidate has filed a recount petition and
3 made the deposit under sections 862 and ~~866~~—867, the clerk of the
4 board of **COUNTY** canvassers shall give notice of the recount
5 petition to the opposing candidates described in this subsection
6 within 24 hours after filing of the **RECOUNT** petition by delivering
7 to each candidate a copy of the recount petition, or, if the
8 candidate cannot be found, by leaving a copy at the candidate's
9 last known place of residence with a member of the candidate's
10 immediate family of suitable age. If a member of the candidate's
11 family cannot be found, the clerk of the board of **COUNTY** canvassers
12 may give notice by posting the recount petition in a conspicuous
13 place at the candidate's last known place of residence. The clerk
14 of the board of **COUNTY** canvassers is not required to give notice to
15 candidates other than the 2 candidates who, according to the return
16 of the board of **COUNTY** canvassers, received the lowest number of
17 votes among those candidates who were nominated or elected, and the
18 2 candidates who, according to the return of the board of **COUNTY**
19 canvassers, received the highest number of votes among those
20 candidates who were not nominated or elected.

21 (2) A candidate may file a counter petition in the same manner
22 as the original petition under section 866 within 48 hours after
23 the original recount petition was filed with the board of **COUNTY**
24 canvassers. At the time of filing the counter petition, the counter
25 petitioner shall deposit the sum of money as required in section
26 ~~866~~—867 for the original petitioner. The clerk of the board of
27 **COUNTY** canvassers shall refund to the counter petitioner the money

1 deposited by the counter petitioner if the original petitioner does
2 not establish fraud or receive a certificate of election. ~~Except as~~
3 ~~otherwise provided in this subsection, the~~ **THE** counter petitioner
4 shall file a copy of the counter petition with the secretary of
5 state within 4 days after the time the original petition is filed
6 with the ~~proper~~ **APPROPRIATE** board of **COUNTY** canvassers as provided
7 in this section. ~~If the office or ballot question in question is a~~
8 ~~city, township, ward, village, or district office or ballot~~
9 ~~question, the counter petitioner is not required to file a copy of~~
10 ~~the counter petition with the secretary of state.~~

11 (3) On or before 4 p.m. of the seventh day after a recount
12 petition has been filed under section 866, an opposing candidate
13 may file objections to the recount petition with the appropriate
14 board of **COUNTY** canvassers. The opposing candidate shall set forth
15 his or her objections to the recount petition in writing. Upon
16 receipt of an objection under this subsection, the board of **COUNTY**
17 canvassers shall notify the petitioner and the objecting candidate
18 of the date of the hearing of the board of **COUNTY** canvassers to
19 consider the objections. The board of **COUNTY** canvassers shall allow
20 the recount petitioner and the objecting candidate to present oral
21 or written, or both, arguments on the objections raised to the
22 recount petition at the hearing. Not later than 5 business days
23 following the hearing, the board of **COUNTY** canvassers shall rule on
24 the objections raised to the recount petition. The board of **COUNTY**
25 canvassers shall not begin a recount unless 2 or more business days
26 have elapsed since the board **OF COUNTY CANVASSERS** ruled on the
27 objections under this subsection, if applicable.

1 (4) If the time designated for filing a **RECOUNT** petition under
2 this section falls on a Saturday, Sunday, or legal holiday, the
3 **RECOUNT** petition may be filed on the next succeeding business day.
4 Failure of the clerk of the board of **COUNTY** canvassers or the
5 secretary of state to give notice to the opposing candidate as
6 required in this section shall not affect the results of the
7 recount.

8 Enacting section 1. Sections 30a to 30e of the Michigan
9 election law, 1954 PA 116, MCL 168.30a to 168.30e, are repealed.

10 Enacting section 2. This amendatory act does not take effect
11 unless all of the following bills of the 97th Legislature are
12 enacted into law:

13 (a) Senate Bill No.____ or House Bill No.4169(request no.
14 00059'13 a).

15 (b) Senate Bill No.____ or House Bill No. 4170(request no.
16 00059'13 b).