

HOUSE BILL No. 5012

September 26, 2017, Introduced by Reps. Lilly, Victory, Sheppard, VanSingel, Webber, Calley, Miller and Kesto and referred to the Committee on Elections and Ethics.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 862 and 879 (MCL 168.862 and 168.879), section 862 as amended by 2003 PA 302 and section 879 as amended by 1999 PA 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 862. A candidate for office who believes he or she is
2 aggrieved on account of fraud or mistake in the canvass or returns
3 of the votes by the election inspectors may petition for a recount
4 of the votes cast for that office in any precinct or precincts as
5 provided in this chapter. **THE CANDIDATE MUST BE ABLE TO ALLEGE A**
6 **GOOD-FAITH BELIEF THAT BUT FOR FRAUD OR MISTAKE, THE CANDIDATE**
7 **WOULD HAVE HAD A REASONABLE CHANCE OF WINNING THE ELECTION.**

8 Sec. 879. (1) A candidate voted for at a primary or election

1 for an office may petition for a recount of the votes if all of the
2 following requirements are met:

3 (a) The office is an office for which the votes are canvassed
4 by the board of state canvassers under section 841 or is the office
5 of ~~representative~~ **REPRESENTATIVE** in Congress, state representative,
6 or state senator for a district located wholly within 1 county.

7 (b) The petition alleges that the candidate is aggrieved on
8 account of fraud or mistake in the canvass of the votes by the
9 inspectors of election or the returns made by the inspectors **OF**
10 **ELECTION**, or by a board of county canvassers or the board of state
11 canvassers. **THE CANDIDATE MUST BE ABLE TO ALLEGE A GOOD-FAITH**
12 **BELIEF THAT BUT FOR FRAUD OR MISTAKE, THE CANDIDATE WOULD HAVE HAD**
13 **A REASONABLE CHANCE OF WINNING THE ELECTION.** The petition ~~shall~~
14 **MUST** contain specific allegations of wrongdoing only if evidence of
15 that wrongdoing is available to the petitioner. If evidence of
16 wrongdoing is not available, the petitioner is only required to
17 allege fraud or a mistake in the petition without further
18 specification.

19 (c) Except as otherwise provided in this subdivision, the
20 petition for a recount is filed not later than 48 hours following
21 the completion of the canvass of votes cast at an election. If the
22 recount petition relates to a state senatorial or representative
23 district located wholly within 1 county or to the district of a
24 ~~representative~~ **REPRESENTATIVE** in Congress located wholly within 1
25 county, the petition for a recount ~~shall~~ **MUST** be filed not later
26 than 48 hours following the adjournment of the meeting of the board
27 of state canvassers at which the certificate of determination for

1 that office was recorded ~~pursuant to~~ **UNDER** section 841. However,
2 for a special election for ~~representative~~ **REPRESENTATIVE** in
3 Congress, state senator, or state representative for a district
4 located wholly within 1 county, the petition for recount ~~shall~~ **MUST**
5 be filed not later than 48 hours after the certificate of
6 determination is filed with the secretary of the board of state
7 canvassers.

8 (d) The petition is presented to and filed with the secretary
9 of state.

10 (e) The petition is written or printed and is signed and sworn
11 to by the candidate.

12 (f) The petition sets forth as nearly as possible the nature
13 and character of the fraud or mistakes alleged and the counties,
14 cities, or townships and the precincts in which they exist.

15 (g) The petition specifies the counties, cities, townships,
16 and precincts in which the recount is requested.

17 (h) If the office is the office of state representative, a
18 copy of the petition is filed with the clerk of the house of
19 representatives. If the office is the office of state senator, a
20 copy of the petition ~~shall be~~ **IS** filed with the secretary of the
21 senate.

22 (2) If a state senatorial race is determined by a vote
23 differential of 500 votes or less or a state representative race is
24 determined by a vote differential of 200 votes or less, the
25 chairperson of a state political party may petition for a recount
26 of the votes on behalf of a candidate in that race in the manner
27 prescribed in subsection (1). Notwithstanding subsection (1)(b) and

1 (f), the petition filed under this subsection need not allege fraud
2 or mistake. Notwithstanding subsection (1)(e), the petition ~~shall~~
3 **MUST** be signed by the chairperson of the state political party
4 filing the petition under this subsection.

5 (3) The ballots in a precinct petitioned for recount in a
6 legislative contest ~~shall~~**MUST** be recounted for that office by the
7 board of state canvassers and ~~shall~~**MUST** be preserved until the
8 contest is disposed of under the rules of the legislative body that
9 takes office beginning in January following the contested general
10 election. In legislative recounts of a special general election,
11 ballots in a precinct petitioned for recount ~~shall~~**MUST** be
12 preserved until the contest is disposed of under the rules of the
13 legislative body serving at the time the report in subsection (4)
14 is filed.

15 (4) Upon the completion of a recount for a legislative office,
16 the board of state canvassers, in addition to the certification
17 required by section 892, shall forward to the appropriate
18 legislative body a report of the results of the recount.

19 (5) This section does not limit the authority of the
20 legislature under section 16 of article IV of the state
21 constitution of 1963.

22 Enacting section 1. This amendatory act takes effect 90 days
23 after the date it is enacted into law.