

Act No. 128
Public Acts of 2018
Approved by the Governor
May 2, 2018
Filed with the Secretary of State
May 3, 2018
EFFECTIVE DATE: August 1, 2018

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Lilly, Victory, Sheppard, VanSingel, Webber, Calley, Miller and Kesto

ENROLLED HOUSE BILL No. 5012

AN ACT to amend 1954 PA 116, entitled “An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act,” 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:

Sec. 862. A candidate for office who believes he or she is aggrieved on account of fraud or mistake in the canvass or returns of the votes by the election inspectors may petition for a recount of the votes cast for that office in any precinct or precincts as provided in this chapter. The candidate must be able to allege a good-faith belief that but for fraud or mistake, the candidate would have had a reasonable chance of winning the election.

Sec. 879. (1) A candidate voted for at a primary or election for an office may petition for a recount of the votes if all of the following requirements are met:

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

(b) The petition alleges that the candidate is aggrieved on account of fraud or mistake in the canvass of the votes by the inspectors of election or the returns made by the inspectors of election, or by a board of county canvassers or the board of state canvassers. The candidate must be able to allege a good-faith belief that but for fraud or mistake, the candidate would have had a reasonable chance of winning the election. The petition must contain specific allegations of wrongdoing only if evidence of that wrongdoing is available to the petitioner. If evidence of wrongdoing is not available, the petitioner is only required to allege fraud or a mistake in the petition without further specification.

(c) Except as otherwise provided in this subdivision, the petition for a recount is filed not later than 48 hours following the completion of the canvass of votes cast at an election. If the recount petition relates to a state senatorial or representative district located wholly within 1 county or to the district of a Representative in Congress located wholly within 1 county, the petition for a recount must be filed not later than 48 hours following the adjournment of the meeting of the board of state canvassers at which the certificate of determination for that office was recorded under

section 841. However, for a special election for Representative in Congress, state senator, or state representative for a district located wholly within 1 county, the petition for recount must be filed not later than 48 hours after the certificate of determination is filed with the secretary of the board of state canvassers.

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

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

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

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

(h) If the office is the office of state representative, a copy of the petition is filed with the clerk of the house of representatives. If the office is the office of state senator, a copy of the petition is filed with the secretary of the senate.

(2) If a state senatorial race is determined by a vote differential of 500 votes or less or a state representative race is determined by a vote differential of 200 votes or less, the chairperson of a state political party may petition for a recount of the votes on behalf of a candidate in that race in the manner prescribed in subsection (1). Notwithstanding subsection (1)(b) and (f), the petition filed under this subsection need not allege fraud or mistake. Notwithstanding subsection (1)(e), the petition must be signed by the chairperson of the state political party filing the petition under this subsection.

(3) The ballots in a precinct petitioned for recount in a legislative contest must be recounted for that office by the board of state canvassers and must be preserved until the contest is disposed of under the rules of the legislative body that takes office beginning in January following the contested general election. In legislative recounts of a special general election, ballots in a precinct petitioned for recount must be preserved until the contest is disposed of under the rules of the legislative body serving at the time the report in subsection (4) is filed.

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

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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor