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Senate Bills 603 and 604 (Substitute S-1 as reported)
Sponsor: Senator Stephanie Chang (S.B. 603)
Senator Jeremy Moss (S.B. 604)
Committee: Elections and Ethics

CONTENT

Senate Bill 603 (S-1) would amend Chapter XXXIII (Recounts) of the Michigan Election Law to do the following:

- Increase per-precinct filing deposit amounts for municipal and State-level recount petitions.
- Prescribe new per-precinct filing deposit amounts for State-level recount petitions.
- Require the Secretary of State, beginning January 1, 2027, and every four years after, to adjust recount filing deposits according to the Consumer Price Index.
- Modify refund requirements to allow a petitioner or counter petitioner to be refunded a deposit based on whether the result of an election was changed.
- Allow a candidate for office, a ballot question committee, or an elector concerned with a ballot question in an election for which no ballot question committee was present, to request a recount only on account of an error in the canvass or return of votes.
- Prescribe forms for a candidate petition for a recount, a candidate counter petition for a recount, a ballot question committee petition for a recount, and a ballot question committee counter petition.
- Require recount petitions and counter petitions to be filed within 48 hours of the certification of the canvass by the board of county canvassers or the filing of the original petition, respectively.
- Modify the circumstances under which a recount could not be conducted; however, if a satisfactory explanation of ineligible circumstances in a sworn affidavit were provided to the board of county canvassers, a recount could still be conducted.
- Modify the process of a recount to allow two individuals at each table to check the work of recount clerks, instead of just one watcher and one tallier, among other modifications.
- Allow a recount to be conducted in an alternative manner if the Board of State Canvassers (Board) approved.
- Require any recount conducted under the direction, supervision, and control of the Board to be conducted in the same manner as provided for a recount conducted by a board of county canvassers.
- Modify the requirements and timeline for a State-level recount petition and counterpetition.
- Expand the circumstances under which an automatic recount would have to be conducted, based on vote differential.
- Apply a felony charge for any officer, assistant, clerk, or employee engaged in the conduct of a recount who willfully interferes with a fair and impartial recount of the votes cast for a contested office, amendment, or proposition at the local or State level to *any* individual who willfully interfered with a recount or activities relating to a recount.
- Repeal Sections 871a, 872, 877, 885, 886, and 891 of the Michigan Election Law; however, the bill would recodify the contents of these Sections elsewhere in the Michigan Election Law, where they would remain in effect.

Senate Bill 604 (S-1) would amend the sentencing guidelines in the Code of Criminal Procedure to reflect changes proposed by Senate Bill 603 (S-1).

The bills are tie-barred.

MCL 168.842 et al. (S.B. 603)
777.11d (S.B. 604)

BRIEF RATIONALE

According to testimony before the Senate Committee on Elections and Ethics, Michigan's current recount law is inefficient and inaccurate. For example, following the 2017 Detroit City Clerk race, candidate Garlin Gilchrist requested a partial recount of 160 precincts; however, 33 precincts, representing 7,000 votes, were deemed un-recountable.¹ In 2022, the Board oversaw a statewide recount of votes for Proposals 22-2 and 22-3, with six and 56 precincts deemed un-recountable, respectively.² Generally, precincts are deemed un-recountable if their numbers are unbalanced or because their ballot containers are not properly secured or sealed; however, some believe that these instances may have satisfactory explanations, such as human error, and could be recounted without concern for fraud. Accurate recounts are an important part of the election process, and so it has been suggested that the law be amended to improve the State's recount process.

Legislative Analyst: Abby Schneider

FISCAL IMPACT

Senate Bill 603 (S-1) could have a fiscal impact on the Department of State (DOS) and an indeterminate fiscal impact on local units of government. Recount costs to local governments would be affected to the extent that the increased fees could deter recount requests. Conversely, any additional revenue from the increased fees for requested recounts could still be insufficient to cover the actual cost of a recount. There could be costs for additional State and county canvassers meetings. According to the DOS, a State Canvassers meeting can run as high as \$3,000 per meeting. The actual costs for locals vary by jurisdiction. The impact on the State and local units of government would depend on the number of recounts and the success in overturning an election resulting from that recount.

Senate Bill 604 (S-1) would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions. The bill would have no fiscal impact for local courts.

Date Completed: 3-20-24

Fiscal Analyst: Joe Carrasco, Jr.
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¹ Cwiek, Sarah, "Detroit recount ends with no changed results, lingering questions", *Michigan Public NPR*, December 8, 2017.

² Orner, Ben, "Michigan proposal recount ends with few changed votes, many failed challenges", *MLIVE*, December 22, 2022.

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Bill Analysis @ www.senate.michigan.gov/sfa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.