

## MICHIGAN ELECTION LAW (EXCERPT)

### Act 116 of 1954

#### STATE CANVASSERS

#### **168.878 Certification of election results; recount by board of state canvassers; action against board of state canvassers by mandamus; promulgation of rules.**

Sec. 878. (1) The certification of any election result by the board of state canvassers is final and subject only to either of the following:

(a) A postcertification recount of the votes cast in that election that is supervised by the board of state canvassers under procedures described in this chapter.

(b) A postcertification court order.

(2) Unless otherwise provided by law, any recount conducted under the direction, supervision, and control of the board of state canvassers must be conducted in the same manner as provided in this chapter for a recount conducted by a board of county canvassers.

(3) Any proceeding intended to restrain, enjoin, modify, control, reverse, or otherwise interfere with the action of the board of state canvassers or any representative operating under the supervision of the board of state canvassers must be instituted only against the board of state canvassers and only by mandamus.

(4) The board of state canvassers may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for conducting recounts.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

#### **168.879 Candidate petition for recount; requirements; good-faith belief in winning; petition by state political party chairperson; report; authority of legislature.**

Sec. 879. (1) Subject to subsection (2), a candidate voted for at an election for an office may petition the board of state canvassers for a recount of the votes if the candidate believes that, but for error, a different candidate would have been elected, and 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 candidate meets the requirements under section 862.

(c) The petition for a recount is filed not later than 5 p.m. of the second day after the day the board of state canvassers certifies the results of the election.

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

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

(f) The candidate uses the petition form required under section 865(1).

(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)(e), the petition must be signed by the chairperson of the state political party filing the petition.

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

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

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1973, Act 157, Imd. Eff. Dec. 6, 1973;—Am. 1980, Act 61, Imd. Eff. Apr. 1, 1980;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 1999, Act 216, Imd. Eff. Dec. 28, 1999;—Am. 2018, Act 128, Eff. Aug. 1, 2018;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

#### **168.879a Section 168.879 inapplicable to presidential primary election.**

Sec. 879a. Section 879 does not apply to a presidential primary election.

**History:** Add. 1988, Act 275, Eff. Sept. 1, 1988.

**Popular name:** Election Code

#### **168.880 Ballot question committee petition for recount; deadline, form.**

Sec. 880. If a ballot question committee that participates in a statewide ballot question believes that, but for error, the outcome of the ballot question would have been the opposite, that ballot question committee may, not later than 5 p.m. of the second day after the day the board of state canvassers certifies the results of the election, file with the secretary of state a recount petition. The ballot question committee must use the form as required under section 865(3). A ballot question committee must file a recount petition in good faith and the number of votes requested to be recounted must, at a minimum, be greater than the difference between the "yes" votes and the "no" votes on the ballot question. If a ballot question committee did not participate in an election in which there was a ballot question on the ballot, any elector who voted in that election may file a recount petition concerning that ballot question in the same manner as provided for a ballot question committee under this section.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

#### **168.880a Recount of votes; grounds; notice to candidates or ballot question committees; exception; written statement by losing candidate or ballot question committee.**

Sec. 880a. (1) Except as otherwise provided in subsection (6), a recount of all precincts in this state must be conducted at any time a statewide primary or election is certified by the board of state canvassers as having been determined by a vote differential of 0.1% or less of the total number of votes cast in that statewide election. This section does not apply to partisan offices to which more than 1 individual is to be elected.

(2) Except as otherwise provided in subsection (6), a recount of all precincts in a state senate district must be conducted at any time a state senate election, other than a state senate primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of 75 votes or less.

(3) Except as otherwise provided in subsection (6), a recount of all precincts in a state representative district must be conducted at any time a state representative election, other than a state representative primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of 25 votes or less.

(4) Subject to subsection (6), if the election involves candidates, the board of state canvassers shall, as soon as practicable, notify all candidates whose vote could be affected by the recount that a recount must be conducted and of the time and place the board of state canvassers will meet to determine recount procedures.

(5) Subject to subsection (6), if the election involves a ballot question, the board of state canvassers shall, as soon as practicable, notify each ballot question committee that participated in the election that a recount must be conducted and of the time and place the board of state canvassers will meet to determine recount procedures. Individuals or groups interested in being authorized to have observers at the recount shall petition the board of state canvassers at that meeting to be considered interested parties for this purpose. The board of state canvassers at that meeting shall determine which individuals or groups are considered interested parties for the recount of the ballot question.

(6) If the election involves candidates, the recount required under this section must not be conducted if, within 48 hours after the election is certified, the losing candidate files a written statement with the secretary of state requesting that the recount required under this section not be conducted. If the election involves a ballot question, the recount required under this section must not be conducted if, within 48 hours after the election is certified, the losing ballot question committee files a written statement with the secretary of state requesting that the recount required under this section not be conducted.

**History:** Add. 1969, Act 268, Eff. Mar. 20, 1970;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

#### **168.881 Recount petition; filing; deposit; adjustment of deposit; refund; disposition of sum deposited.**

Sec. 881. (1) A petitioner filing a recount petition under section 879 or 880 shall file the petition with the state bureau of elections. Except as otherwise provided in this section, at the time of filing the petition, the petitioner shall deposit the sum of \$50.00 for each precinct in which a recount of the votes is demanded in cash or by check or other negotiable instrument made payable to the state of Michigan.

(2) If 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate and the petitioner is more than 75 votes or 5.0% of the total number of votes cast in the race, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition. For purposes of this subsection, the winning candidate in a primary for a nonpartisan office where only 1 candidate will be elected

means the candidate nominated with the lesser number of votes.

(3) Subject to subsection (2), if 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate and the petitioner is more than 50 votes or 0.5% of the total number of votes cast in the race, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition. For purposes of this subsection, the winning candidate in a primary for a nonpartisan office where only 1 candidate will be elected means the candidate nominated with the lesser number of votes.

(4) If more than 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate who received the least number of votes and the petitioner is more than 75 votes or 5.0% of the sum of the number of votes received by the 2 candidates, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(5) Subject to subsection (4), if more than 1 candidate is to be elected to the office and the official canvass of votes shows that the number of votes separating the winning candidate who received the least number of votes and the petitioner is more than 50 votes or 0.5% of the sum of the number of votes received by the 2 candidates, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(6) If the statewide election for a statewide office is certified by the board of state canvassers as having been determined by a vote differential of more than 4,000 votes, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(7) If the statewide election for a statewide office is certified by the board of state canvassers as having been determined by a vote differential of more than 2,000 votes and less than 4,001 votes, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(8) If the statewide primary election for a statewide office is certified by the board of state canvassers as having been determined by a vote differential of more than 1,400 votes, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(9) If the statewide primary election for a statewide office is certified by the board of state canvassers as having been determined by a vote differential of more than 700 votes and less than 1,401 votes, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(10) If a state senate election, other than a state senate primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of more than 150 votes, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(11) If a state senate election, other than a state senate primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of more than 75 votes and less than 151 votes, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(12) If a state representative election, other than a state representative primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of more than 50 votes, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(13) If a state representative election, other than a state representative primary election, is certified by the board of state canvassers or a board of county canvassers as having been determined by a vote differential of more than 25 votes and less than 51 votes, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(14) Except as otherwise provided in section 880a, if the vote is on a ballot question and the official canvass of votes shows that the number of votes separating the "yes" votes and the "no" votes is more than 75 votes or 5.0% of the total number of votes cast on the ballot question, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(15) Except as otherwise provided in section 880a and subject to subsection (14), if the vote is on a ballot question and the official canvass of votes shows that the number of votes separating the "yes" votes and the "no" votes is more than 50 votes or 0.5% of the total number of votes cast on the ballot question, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(16) Beginning January 1, 2027 and every 4 years thereafter, the secretary of state shall adjust each deposit

amount provided in subsections (1) to (15) by comparing the percentage increase or decrease in the Consumer Price Index for the preceding August by the corresponding Consumer Price Index 4 years earlier. The secretary of state shall multiply that percentage change by each deposit amount in subsections (1) to (15). The secretary of state shall round up each dollar value adjustment made to the nearest \$10.00. The secretary of state shall announce the adjustments made by December 15 of each year in which an adjustment is made. As used in this subsection, "Consumer Price Index" means the most comprehensive index of consumer prices available for this state from the Bureau of Labor Statistics of the United States Department of Labor.

(17) If, by reason of the recount, the petitioner establishes sufficient error to change the result of the election, the state bureau of elections shall refund the money deposited to the petitioner. The secretary of state shall refund the money deposited to a petitioner who is a chairperson of a state political party if the results of the race for which a recount was petitioned for under section 879 are changed. If a refund is not made as required by this section, then the secretary of state shall pay to the treasurer of each county its proportionate share of the deposit based on the number of precincts in the county in which the votes were recounted.

(18) If a precinct referred to in the petition is determined "not recountable" as provided in section 871(3) or, subject to subsection (19), if a precinct referred to in the petition is not recounted due to the withdrawal of the petition, the money deposited for the recount of that precinct must be refunded to the petitioner.

(19) If the votes cast on the ballots voted in a precinct have been examined and recounted, the withdrawal of the petition must not result in a refund of the money deposited for the recount of that precinct.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1980, Act 200, Imd. Eff. July 18, 1980;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2014, Act 406, Imd. Eff. Dec. 30, 2014;—Am. 2018, Act 130, Eff. Aug. 1, 2018;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

### **168.882 Notice of recount petition; filing counter petition; refund of deposit money; filing objections to recount petition; notice; meeting; ruling; failure to give notice; withdrawal of recount petition.**

Sec. 882. (1) If a petitioner has filed a recount petition and paid the deposit under sections 879 and 881, the secretary of state shall give notice of the recount petition to each opposing candidate or participating ballot question committee within 24 hours after the filing of the petition by mailing or emailing to each candidate or ballot question committee a copy of the recount petition.

(2) A candidate or ballot question committee may file a counter petition in the same manner as the original petition under section 881 not later than 48 hours after the original recount petition is filed with the secretary of state. At the time of filing the counter petition, the counter petitioner shall deposit the sum of money as required in section 881 for the original petitioner. The secretary of state shall refund to the counter petitioner the money deposited by the counter petitioner if the recount does not change the result of the election. If a ballot question committee did not participate in an election in which a ballot question is on the ballot, any elector who voted in that election may file a recount counter petition in the same manner as provided for a ballot question committee under this section.

(3) Not later than 48 hours after an original recount petition is filed under section 881, an opposing candidate or ballot question committee may file objections to the recount petition with the board of state canvassers. The opposing candidate or ballot question committee shall set forth the objections to the recount petition in writing. Upon receipt of an objection under this subsection, the board of state canvassers shall notify the petitioner and the objecting candidate or ballot question committee of the date of the meeting of the board of state canvassers to consider the objections. The board of state canvassers shall allow the recount petitioner and the objecting candidate or ballot question committee to present oral or written, or both, arguments on the objections raised to the recount petition at the meeting. In order to be presented at the meeting, written arguments on the objections raised to the recount petition must be submitted in writing to the board of state canvassers before the meeting. The board of state canvassers shall rule on the objections no later than 4 calendar days after the deadline for filing objections.

(4) Failure of the secretary of state to give notice to the opposing candidate or ballot question committee as required under this section does not affect the results of the recount.

(5) A candidate, ballot question committee, or elector may withdraw a recount petition or counter recount petition at any time.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1969, Act 188, Imd. Eff. Aug. 5, 1969;—Am. 1980, Act 61, Imd. Eff. Apr. 1, 1980;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2023, Act 269, Eff. Feb. 13, 2024;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

### **168.883 Recount petition; notice to county clerk; preservation of ballots; investigation and**

**recount by state canvassers.**

Sec. 883. The secretary of state, upon receipt of any petition for recount, shall immediately notify the county clerk of each county in which are located any precincts included in the petition for recount that a petition for recount by the board of state canvassers has been filed and the ballots for the precincts must be carefully preserved. Ballots and ballot containers must remain in the possession of city or township clerks until requisitioned by the canvass board.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

**168.883a Recount vote challenges; appeal; petition for de novo review; notice; meeting.**

Sec. 883a. (1) A candidate or a ballot question committee that participated in a ballot question election may make a challenge to the board of county canvassers of a determination to count or not count a specific vote on a ballot for a candidate or for or against a ballot question subject to the recount. Before the completion of the recount in that county, the board of county canvassers must hear arguments on the challenge and decide, as provided under section 803, whether to accept or reject the challenge. A candidate or ballot question committee aggrieved by the decision of the board of county canvassers may appeal the decision to the representative designated by the board of state canvassers under section 890. The representative designated by the board of state canvassers may, as provided under section 803, confirm, reject, or modify the decision of the board of county canvassers.

(2) A candidate or ballot question committee that participated in a ballot question that is involved in the recount and that disagrees with the resolution of a challenge made under subsection (1) may petition the board of state canvassers for a de novo review of the challenge. The candidate or ballot question committee shall file a petition disagreeing with the resolution of the challenge with the representative designated by the board of state canvassers before the completion of the recount by the board of county canvassers. Subject to this subsection, the petition must specify the substance of the challenge and request a de novo review by the board of state canvassers. The board of state canvassers shall accept petitions for a de novo review only of challenges that concern the determination of how a specific vote on a ballot for a candidate or for or against a ballot question is counted.

(3) Upon receipt of a petition under subsection (2), the representative of the board of state canvassers shall make an exhibit detailing the resolution of the challenge that includes the ballot, which must be securely sealed in an exhibit envelope and retained by the representative. The representative of the board of state canvassers shall provide the county clerk with a receipt for the ballot that is subject to challenge.

(4) The board of state canvassers shall notify all candidates and ballot question committees involved in the recount, in the same manner that notice of the recount was given, of the date of the meeting of the board of state canvassers to consider the petition. The board of state canvassers shall allow the candidates and ballot question committees involved in the recount to present oral and written arguments on the challenges at the meeting. The board of state canvassers shall hear the challenge and rule on the challenge at the meeting only if the total number of challenges submitted to the board of state canvassers could change the result of the election.

**History:** Add. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

**168.884 Boards of canvassers; clerks and assistants for conduct of recount.**

Sec. 884. The boards of canvassers shall employ assistants and clerks as are considered necessary for conducting a recount.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

**168.885, 168.886 Repealed. 2024, Act 74, Eff. Apr. 2, 2025.**

**Compiler's note:** The repealed sections pertained to the right to subpoena witnesses and the compensation and mileage for witnesses.

**168.887 Recount; willful interference; felony.**

Sec. 887. Any individual who willfully interferes with a recount or activities of a recount is guilty of a felony.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

**168.888 Board of state canvassers; return of ballots and election materials; concurrent**



**recount.**

Sec. 888. The board of state canvassers has the right and authority to demand and cause the ballots and election materials returned in connection with any election, and any other documents and reports as are considered necessary, to be brought before the several boards of county canvassers, and shall order that a concurrent recount of the votes be conducted for any office or ballot question petitioned for under sections 861a to 876, if the votes appear on the same ballots as those which are to be recounted by the board of state canvassers. The concurrent recount must be under the exclusive jurisdiction and control of the board of state canvassers. All ballots and election materials must be safely guarded and when no longer required must be delivered to the individuals charged with the care and custody of those items.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

**168.889 Recounts by boards of county canvassers; authority of board of state canvassers; time and place, rules and regulations for recounts.**

Sec. 889. All recounts provided for under sections 878 to 894 must be conducted by the boards of county canvassers, subject to the direction, supervision, and control of the board of state canvassers. The board of state canvassers shall prescribe the time and the place where the recount of any votes must be conducted, which recount must be in public. The board of state canvassers shall provide each board of county canvassers with rules and regulations that in the opinion of the board of state canvassers are necessary to conduct the recount in a fair, impartial, and uniform manner. Observance of the rules and regulations must be enforced by the board of state canvassers or the board's representatives.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

**Administrative rules:** R 168.901 et seq. of the Michigan Administrative Code.

**168.890 Board of state canvassers; authority of members as to supervision of recounts conducted by a board of county canvassers.**

Sec. 890. It is not necessary for all of the members of the board of state canvassers to be present in order to direct, supervise, or control the recount conducted by a board of county canvassers. A member of the board of state canvassers or state officer, state employee, or member of the board of county canvassers may direct, supervise, and control the recount if designated by the board of state canvassers, so that fairness, impartiality, and uniformity in the conduct of the recount may be obtained and the result of the recount determined at the earliest possible time. A member of the board of state canvassers or other representative designated by the board of state canvassers has the same authority as the board of state canvassers to enforce and carry out the rules and regulations provided for the recount by the board of state canvassers.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 1995, Act 261, Eff. Mar. 28, 1996;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

**Administrative rules:** R 168.901 et seq. of the Michigan Administrative Code.

**168.891 Repealed. 2024, Act 74, Eff. Apr. 2, 2025.**

**Compiler's note:** The repealed section pertained to the manner of conduct for a recount under the state board of canvassers.

**168.892 Board of county canvassers; return of recount to board of state canvassers; certification of results; final report; public.**

Sec. 892. The boards of county canvassers shall immediately return the results of the recount to the board of state canvassers. The board of state canvassers shall compile the returns and certify the result. The returns made by the boards of county canvassers of any recount are considered to be correct, notwithstanding anything in the previous return of any board of election inspectors or any county canvassing board to the contrary. The final report on the results of any recount must be open to public inspection immediately following certification by the board of state canvassers.

**History:** 1954, Act 116, Eff. June 1, 1955;—Am. 2024, Act 74, Eff. Apr. 2, 2025.

**Popular name:** Election Code

**168.893 Discontinuance of recount; original return deemed correct.**

Sec. 893. If the person petitioning for such recount shall withdraw his petition or discontinue the recount before the completion thereof, then in such event the original return shall be deemed to be correct regardless of any change shown by the recount at the time of the withdrawal of the petition or the discontinuance of such

recount.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code

**168.894 Recounts in counties; expenses, payment.**

Sec. 894. All expenses incurred in the conduct of the recount of such votes in any county shall be paid by the county. All expenses in connection with the direction, supervision and control of such recount by the board of state canvassers shall be paid from the general fund of the state on vouchers to be approved and audited by the state board of canvassers.

**History:** 1954, Act 116, Eff. June 1, 1955.

**Popular name:** Election Code