

Act No. 51
Public Acts of 2013
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Reps. Jacobsen, Kowall and Haines

ENROLLED HOUSE BILL No. 4171

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 24a, 30g, 307, 308, 323, 347, 355, 426c, 426f, 426l, 642, 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, 168.426c, 168.426f, 168.426l, 168.642, 168.792, 168.806, 168.809, 168.822, 168.823, 168.826, 168.866, 168.867, and 168.868), section 24a as amended by 2012 PA 586, section 307 as amended by 2010 PA 55, section 308 as added by 2003 PA 302, section 426f as amended by 1990 PA 32, section 642 as amended by 2012 PA 523, 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:

Sec. 24a. (1) A 4-member board of county canvassers is established in every county in this state. All of the powers granted to and duties required by law to be performed by all boards of canvassers established by law, other than the board of state canvassers, are granted to and required to be performed by the board of county canvassers.

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

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

(4) Except as otherwise provided in this subsection, if a school district lies in more than 1 county, the board of county canvassers for each county in which a portion of the school district lies shall canvass that portion of a school district election that is held in that county. If a school district election precinct lies in more than 1 county, the board of county canvassers of the county in which the largest number of registered electors of that precinct reside shall canvass the results of that precinct. Notwithstanding the provisions of the preceding 2 sentences, unless the school district election is conducted on the same date as another election in the county, a board of county canvassers that is not responsible for certifying the results of the school district election is not required to meet to canvass the school district election and the board of county canvassers responsible for certifying the results of the school district election shall canvass that portion of the school district election held in that county. Upon completion of the canvass, the clerk of the board of county

canvassers shall transmit the canvassed results to the county clerk of the county in which the largest number of registered electors of that school district reside. Upon receipt of the canvassed results, the county clerk of the county in which the largest number of registered electors of that school district reside shall make a statement of returns and certify the results of the school district election to the secretary of the school board. Notwithstanding any of the foregoing provisions of this subsection, if a city or village that lies in more than 1 county conducts an election on the same date as a school district that lies within the city or village that is conducting an election, that portion of the school district election held within that city or village shall be canvassed by the canvassing board responsible for canvassing the city or village election.

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

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

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

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

Sec. 30g. If a board of county canvassers created under this act is required to perform its statutory duties and because of illness or absence of members of the board of county canvassers a quorum is not present, the clerk of the county may appoint a sufficient number of temporary members to constitute a quorum. The appointment shall be made by the county clerk from party recommendations on file, if available. The appointments shall be of the same political party as the ill or absent members of the board of county canvassers. A temporary appointee to the board of county canvassers must possess all of the qualifications required for regular membership on that board of county canvassers. Temporary appointees shall serve only until the business on hand has been transacted.

Sec. 307. (1) The appropriate board of county canvassers as prescribed in section 24a shall canvass the votes for candidates for school board member and votes for and against a ballot question at a regular or special election in each school district. That number of candidates equal to the number of individuals to be elected who receive the greatest number of votes cast at the election, as set forth in the report of the board of county canvassers canvassing the votes, based upon the returns from the election precincts or as determined by the board of county canvassers as a result of a recount, are elected to the office of school board member. Except as otherwise provided in section 24a(4), upon completion of the canvass, the board of county canvassers shall make a statement of returns and certify the election of school board members to the secretary of the school board, the county clerk, and, if other than the county clerk, the school district election coordinator.

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

Sec. 308. A local official who receives the certification of the board of county canvassers under section 307 shall preserve and file in his or her office the certified statement of returns and certification of the board of county canvassers of the result of the election. The county clerk who is the secretary to the board of county canvassers canvassing the school board election shall immediately execute and provide to the individuals declared elected to the office of school board member a certificate of election.

Sec. 323. It is the duty of the board of city election commissioners to prepare the primary ballots to be used by the electors. The returns shall be canvassed by the board of county canvassers and the results certified to the board of city election commissioners, who shall prepare and furnish ballots for the ensuing election. The printing and distribution of ballots, equipment, and supplies, the conduct of the primary and election, the canvass and certification of the returns, and all other particulars shall be in accordance, as nearly as may be, with the provisions of this act governing general primaries and elections.

Sec. 347. Except as otherwise provided in this act, the laws governing nominating petitions, the conduct of general primary elections, the furnishing of ballots, and the depositing, counting, and canvassing of ballots shall, as near as may be, apply to primaries held under the provisions of this chapter. Recounts shall be conducted by the board of county canvassers. All duties that, under the parts of this act relating to general elections or primary elections, fall upon the county clerk shall be performed in the same manner by the township clerk.

Sec. 355. (1) The candidate or candidates of each political party to a township office receiving the greatest number of votes cast for candidates of that office, as set forth in the report of the board of county canvassers, based on the returns from the various election precincts, or as determined by the board of county canvassers as the result of a recount, shall be declared the nominee or nominees of that political party for that office at the next ensuing November election. The board of county canvassers shall certify the nomination or nominations to the township clerk within 48 hours after the polls close.

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

Sec. 426c. (1) A general nonpartisan primary election shall be held in every municipality described in section 426a on the Tuesday after the first Monday in August before a general November election.

(2) At the general nonpartisan primary election, judges of the municipal courts of record are to be elected and the qualified and registered voters may vote for nonpartisan candidates for the office of judge of the municipal court of record.

(3) If upon the expiration of the time for filing petitions for the primary election of the municipal judge or judges in any municipality there are not to exceed twice the number of candidates than persons to be elected, then the city clerk shall certify through the board of county canvassers the names of the candidates for judge of the municipal court of record whose petitions have been properly filed. These candidates shall be the certified nominees for judges of the municipal court of record. In addition, there shall not be a primary election for this office, and it shall be omitted from the official primary ballot.

Sec. 426f. (1) The candidates for the office of judge of the municipal court of record receiving the largest number of votes at any primary election, to a number equal to twice the number of persons to be elected, as set forth in the report of the board of county canvassers, based on returns from the various election precincts, shall be declared the nominees for the office of judge of the municipal court of record at the next general election.

(2) If, after the deadline for filing nominating petitions under section 426d, there are fewer candidates for nomination or nominees for the office of judge of a municipal court of record than there are persons to be elected at the general November election because of the death or disqualification of a candidate more than 65 days before the general November election, then a person, whether or not an incumbent, may qualify as a nominee for that office at the general November election by filing nominating petitions as required by section 426d. However, the filing shall be made before 4 p.m. on the twenty-first day following the death or disqualification of the candidate or 4 p.m. on the sixtieth day before the general November election, whichever is earlier, and the minimum number of signatures required is 1,000 or 1/2 the minimum number required under section 426d, whichever is less.

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

Sec. 426l. The board of county canvassers shall determine which candidates for judge of the municipal court of record received the highest number of votes and on that basis shall declare the candidates duly elected, specifying the terms to which each was elected. The board of county canvassers shall immediately make and subscribe on its statement of returns a certificate of the determination and deliver it to the city clerk.

Sec. 642. (1) Except as otherwise provided in this section and section 642a, on the effective date of this act, a city shall hold its regular election or regular primary election as follows:

(a) A city shall hold its regular election for a city office at the odd year general election.

(b) A city shall hold its regular election primary at the odd year primary election.

(c) A city that holds its regular election for a city office annually or in the even year on the November regular election date shall continue holding elections on that schedule.

(d) A city that holds its regular election primary for a city office annually or in the even year on the August regular primary election date shall continue holding primary elections on that schedule.

(2) If, on September 1, 2004, a city holds its regular election at other than a regular November election date, the city council may choose to hold the regular election on the May regular election date by adopting a resolution in compliance with this section. Except as provided in section 642a, if a city council adopts the resolution in compliance with this section to hold its regular election on the May regular election date, after December 31, 2004, the city's regular election is on the May regular election date. If a city's regular election is held on the May regular election date, the city's regular election primary shall be held on the February regular election date immediately before its regular election.

(3) If, on September 1, 2004, a city holds its regular election annually or in the even year on the November regular election date, the city council may choose to hold the regular election at the odd year general election by adopting a resolution in compliance with this section. Except as provided in section 642a, if a city council adopts the resolution in

compliance with this section to hold its regular election at the odd year general election, after December 31, 2004, the city's regular election is at the odd year election. If a city's regular election is held at the odd year general election, the city's regular election primary shall be held at the odd year primary election.

(4) If, on September 1, 2004, a city holds its regular election annually on the November regular election date, the city council may choose to hold the regular election at the even year general election by adopting a resolution in compliance with this section. Except as provided in section 642a, if a city council adopts the resolution in compliance with this section to hold its regular election at the even year general election, after December 31, 2004, the city's regular election is at the even year election. If a city's regular election is held at the even year general election, the city's regular election primary shall be held at the even year primary election.

(5) A village shall hold its regular election as follows:

(a) A village shall hold its regular election for a village office at the general election and the appropriate township clerk shall conduct the election.

(b) A village shall not hold a regular primary election.

(6) If a village's special election is held in conjunction with another election conducted by a township, the village shall pay the township a proportionate share of the election expenses. If a village's special election is not held in conjunction with another election conducted by a township, the village shall pay the township 100% of the actual costs of conducting the village's special election.

(7) A resolution permitted under this section or section 642a is valid only if a city council adopts the resolution in compliance with all of the following:

(a) The resolution is adopted before 1 of the following:

(i) If the resolution is permitted under subsection (2), (3), or (4), January 1, 2005.

(ii) If the resolution is permitted under section 642a(1), (2), or (4), January 1 of the year in which the change in the date of the election takes effect.

(b) Before adopting the resolution, the council holds at least 1 public hearing on the resolution. The public hearing may be held on the same day and immediately before considering the adoption of the resolution.

(c) The council gives notice of each public hearing on the resolution in a manner designed to reach the largest number of the jurisdiction's qualified electors in a timely fashion.

(d) The council votes on the resolution and, on a record roll call vote, a majority of the council's board members, elected or appointed, and serving, adopt the resolution.

(e) The council files the resolution with the secretary of state.

Sec. 792. (1) If it appears that there is a discrepancy in the returns of any election district, the board of county canvassers, or the authorized representatives of the board of county canvassers, shall make a record of the number of the seal, if any, the number on the protective counter, if one is provided, and shall open the counter compartment of the machine, and without unlocking the machine against voting, shall re-canvass the vote cast on the machine. Before making the re-canvass, the board of county canvassers shall give sufficient notice in writing to the clerk of the time and place where the re-canvass is to be made.

(2) If upon re-canvass it is found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the clerk or authorized assistant of the clerk, in the presence of the election inspectors and the board of county canvassers, shall unlock the voting and counting mechanism of the machine and shall proceed to thoroughly examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in the return from the machine.

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

(4) After the completion of the examination, the clerk or authorized assistant of the clerk shall then and there prepare a statement in writing giving the result of the test, and the statement shall be witnessed by the persons present and shall be filed with the board of county canvassers.

(5) A candidate voted for at any election who conceives himself or herself aggrieved on account of any fraud, error, or mistake in the canvass of the vote by the election inspectors or in the returns made by the election inspectors may file a written petition for a recount with the board of county canvassers.

Sec. 806. (1) The election inspectors shall then prepare duplicate statements of the returns showing the whole number of votes cast for all offices voted that are to be canvassed by the board of county canvassers, the names of the persons for whom the votes were given, and the number each person received. The election inspectors shall also prepare duplicate statements of the results on any proposed constitutional amendment or other propositions submitted to the voters at the election that are to be canvassed by the board of county canvassers, showing the whole number of votes

cast, the number of votes cast for, and the number of votes cast against the proposed constitutional amendment or other proposition.

(2) Each member of the board of election inspectors shall sign the certificate on the statement of returns as to the correctness of the returns and that the ballots have been packaged, sealed, and indorsed in the manner specified.

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

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

(3) 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 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 the canvass at the earliest possible time and in every case within 14 days.

(2) If the board of county canvassers fails to certify the results of any election for any officer or proposition within the 14 days as provided, the board of county canvassers shall immediately deliver to the secretary of the board of state canvassers all records and other information pertaining to the election. The board of state canvassers shall meet immediately and make the necessary determinations and certify the results within the 10 days immediately following the receipt of the records from the board of county canvassers. The cost of 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 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 is authorized to open the boxes and take any books or papers bearing upon the count and return of the election inspectors of the election precincts, but the board of county canvassers shall not remove or mark the ballots.

(3) The board of county canvassers shall correct obvious mathematical errors in the tallies and returns. The board of county canvassers may, if necessary for a proper determination, summon the election inspectors before them, and require them to count any ballots that the election inspectors failed to count, to make correct returns in case, in the judgment of the board of county canvassers after examining the returns, poll lists, or tally sheets, the returns already made are incorrect or incomplete, and the board of county canvassers shall canvass the votes from the corrected returns. In the alternative to summoning the election inspectors before them, the board of county canvassers may designate staff members from the county clerk's office to count any ballots that the election inspectors failed to count, to make correct returns in case, in the judgment of the board of county canvassers after examining the returns, poll lists, or tally sheets, the returns already made are incorrect or incomplete, and the board of county canvassers shall canvass the votes from the corrected returns. When the examination of the papers is completed, or the ballots have been counted, they shall be returned to the ballot boxes or delivered to the persons entitled by law to their custody, and the boxes shall be locked and sealed and delivered to the legal custodians.

Sec. 826. (1) The board of county canvassers shall determine and declare the result of the election for county and local officers, and for all county and local ballot questions. If a state senatorial or representative district is located solely within 1 county, the board of county canvassers shall determine and declare the result of the election for that office. Upon making the determination under this subsection, the board of county canvassers shall prepare a certificate of determination and deliver the properly certified certificate of determination to the county clerk. If the determination relates to a state senatorial or representative district located solely within 1 county, the board of county canvassers shall also deliver the properly certified certificate of determination to the board of state canvassers.

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

Sec. 866. (1) Except as otherwise provided in subsection (2), recount petitions, either for an office or proposition, other than those filed with the secretary of state, shall be filed with the clerk of the board of county canvassers that originally conducted the canvass.

(2) For a school district election, recount petitions, either for an office or proposition, shall be filed with the clerk of the board of county canvassers that certified the result of the school district election.

(3) Recount petitions shall be filed within 6 days after the original canvass has been completed by the board of county canvassers. A copy of the recount petition shall also be filed with the secretary of state within 2 days after the time the original recount petition is filed with the board of county canvassers as provided in this section.

Sec. 867. (1) A candidate or elector filing a recount petition pursuant to section 862 or 863 shall file the recount petition with the clerk of the appropriate board of county canvassers. At the time of filing the recount petition, the petitioner shall deposit with the clerk the sum of \$10.00 for each precinct referred to in his or her recount petition.

(2) If, by reason of the recount, the petitioner establishes sufficient fraud or mistake as set forth in his or her recount petition to change the result of the election and receives a certificate of election or establishes sufficient fraud or mistake to change the result upon an amendment or proposition, the votes for and against which were recounted, the clerk of the board of county canvassers shall refund the money deposited to the petitioner.

(3) If the petitioner does not establish a fraud or mistake as set forth in his or her recount petition, the sum deposited shall be paid by the clerk of the board of county canvassers to the treasurer of the county.

Sec. 868. (1) If a candidate has filed a recount petition and made the deposit under sections 862 and 867, the clerk of the board of county canvassers shall give notice of the recount petition to the opposing candidates described in this subsection within 24 hours after filing of the recount petition by delivering to each candidate a copy of the recount petition, or, if the candidate cannot be found, by leaving a copy at the candidate's last known place of residence with a member of the candidate's immediate family of suitable age. If a member of the candidate's family cannot be found, the clerk of the board of county canvassers may give notice by posting the recount petition in a conspicuous place at the candidate's last known place of residence. The clerk of the board of county canvassers is not required to give notice to candidates other than the 2 candidates who, according to the return of the board of county canvassers, received the lowest number of votes among those candidates who were nominated or elected, and the 2 candidates who, according to the return of the board of county canvassers, received the highest number of votes among those candidates who were not nominated or elected.

(2) A candidate may file a counter petition in the same manner as the original petition under section 866 within 48 hours after the original recount petition was filed with the board of county canvassers. At the time of filing the counter petition, the counter petitioner shall deposit the sum of money as required in section 867 for the original petitioner. The clerk of the board of county canvassers shall refund to the counter petitioner the money deposited by the counter petitioner if the original petitioner does not establish fraud or receive a certificate of election. The counter petitioner shall file a copy of the counter petition with the secretary of state within 4 days after the time the original petition is filed with the appropriate board of county canvassers as provided in this section.

(3) On or before 4 p.m. of the seventh day after a recount petition has been filed under section 866, an opposing candidate may file objections to the recount petition with the appropriate board of county canvassers. The opposing candidate shall set forth his or her objections to the recount petition in writing. Upon receipt of an objection under this subsection, the board of county canvassers shall notify the petitioner and the objecting candidate of the date of the hearing of the board of county canvassers to consider the objections. The board of county canvassers shall allow the recount petitioner and the objecting candidate to present oral or written, or both, arguments on the objections raised to the recount petition at the hearing. Not later than 5 business days following the hearing, the board of county canvassers shall rule on the objections raised to the recount petition. The board of county canvassers shall not begin a

recount unless 2 or more business days have elapsed since the board of county canvassers ruled on the objections under this subsection, if applicable.

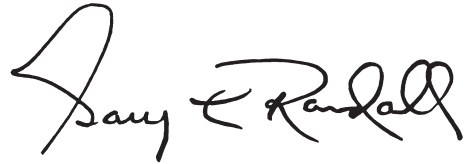
(4) If the time designated for filing a recount petition under this section falls on a Saturday, Sunday, or legal holiday, the recount petition may be filed on the next succeeding business day. Failure of the clerk of the board of county canvassers or the secretary of state to give notice to the opposing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

Enacting section 1. Sections 30a to 30e and 360 of the Michigan election law, 1954 PA 116, MCL 168.30a to 168.30e and 168.360, are repealed.

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

- (a) House Bill No. 4169.
- (b) House Bill No. 4170.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor