A bill to amend 1954 PA 116, entitled "Michigan election law,"

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1. Sec. 862. (1) A candidate for office who believes he or she is
agrieved 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.

(2) The county chairperson of a major political party may petition for the recount of votes on behalf of 1 candidate in 1 precinct in that county. The petition must be signed by the county chairperson of the major political party filing the petition under this subsection. The county chairperson of a major political party filing a petition under this subsection must deposit the sum of money required under section 867.

Sec. 867. (1) A candidate or elector filing a recount petition under section 862 or 863 shall file the recount petition with the clerk of the appropriate board of county canvassers. Except as otherwise provided in this section, at the time of filing the recount petition, the petitioner shall deposit with the clerk the sum of $25.00 for each precinct referred to in his or her recount petition.

(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 clerk the sum of $250.00 for each precinct referred to in his or her 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 clerk the sum of $125.00 for each precinct referred to in his or her 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 clerk the sum of $250.00 for each precinct referred to in his or her 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 clerk the sum of $125.00 for each precinct referred to in his or her petition.

(6) If the vote is on a proposal 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 proposal, whichever is greater, the petitioner...
shall deposit with the clerk the sum of $125.00 for each precinct referred to in his or her petition.

(7) 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. If the recount is done as an informational recount as provided under section 871(5) and not done to change the result of the election, the clerk of the board of county canvassers shall refund the money deposited to the petitioner.

(8) If a refund is not made as required under subsection (7), the sum deposited must be paid by the clerk of the board of county canvassers to the treasurer of the county.

(9) If a precinct referred to in the petition is determined "not recountable" as provided in section 871(3) or, subject to subsection (10), 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.

(10) 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.

Sec. 871. (1) The board of canvassers conducting a recount pursuant to this chapter shall recount all ballots of a precinct using an electronic voting system. unless 1 or more of the
following circumstances exist:

(a) The seal on the transfer case or other ballot container is broken or bears a different number than that recorded on the poll book, the breaking or discrepancy is not explained to the satisfaction of the board of canvassers, and security of the ballots has not been otherwise preserved.

(b) The number of ballots to be recounted and the number of ballots issued on election day as shown on the poll list or the computer printout do not match and the difference is not explained to the satisfaction of the board of canvassers.

(c) The seal used to seal the ballot label assembly to a voting device in the precinct is broken or bears a different number than that recorded in poll records and the ballot labels or rotation of candidates' names is different than that shown by other voting devices in the precinct and records of the board of election commissioners.

(2) This section does not prohibit the recounting of absent voter ballots tallied in a precinct using an absent voter counting board or in a precinct in which 1 or more voting machines are recountable, if the absent voter ballots are securely packaged and sealed.

(3) If a board of canvassers conducting a recount pursuant to this chapter determines that the ballots of a precinct are not eligible for recount under this section, the original return of the votes for that precinct shall be taken as correct.

(2) (4) A board of canvassers conducting a recount pursuant to under this chapter may conduct a recount by the following means:

(a) A manual tally of the ballots.

(b) A tabulation of the ballots on a computer using a software
application designed to specifically count only the office or ballot question subject to the recount.

(c) A tabulation of the ballots on a computer using the same software application used in the precinct on election day.

(d) Any combination of methods in subdivision (a), (b), or (c), as determined appropriate by the board of canvassers.

(3) (5) If a board of canvassers conducting a recount pursuant to under this chapter intends to conduct a recount on a computer, the board of canvassers shall must first test the software application by use of a test deck to determine if the program accurately counts the votes for the office or ballot question subject to the recount. If the test under this subsection fails to show that the software application accurately counts the votes for the office or ballot question subject to the recount, the board of canvassers shall must use another means prescribed in subsection (4) (2) to conduct the recount.

(4) If the number of ballots to be recounted in a precinct and the number of ballots issued on election day as shown on the poll list or computer printout for that precinct do not match, but the difference is only 1 ballot, that precinct can be recounted and that recount can be used to change the result of the election.

(5) If the number of ballots to be recounted in a precinct and the number of ballots issued on election day as shown on the poll list or computer printout for that precinct do not match, and the difference is more than 1 ballot, that precinct can only be recounted for informational purposes and, except as otherwise provided in this subsection, that informational recount cannot be used to change the result of the election. A court of competent jurisdiction may use an informational recount to change the result.
of the election.

Sec. 874. (1) Pursuant to this chapter, Except as otherwise provided in this section, the board of canvassers conducting the recount shall reject all previous returns from the precincts, townships, or wards, except the returns from a precinct that cannot be recounted as to that candidate or ballot question pursuant to section 871. If a recount is done as an informational recount as provided under section 871(5), the board of canvassers conducting the informational recount shall accept all previous returns from the precincts, townships, or wards. In a public place where the candidates or persons interested in the ballot question and their counsel may be present, if they so desire, the board of canvassers shall proceed in the manner prescribed in section 871. If applicable, the board of canvassers shall open the ballot boxes from the precincts, townships, or wards, and the rolls or packages of ballots in the ballot boxes, and to make a recount of the ballots as to the candidates or ballot question. Upon completion of the recount, the board of canvassers shall make a full, complete, and correct return in writing, showing the full number of votes given to each candidate, or the total number of votes cast for and against any ballot question, written out in words and figures. Upon completion of an informational recount, the board of canvassers shall record those results, but, except as otherwise provided in this subsection, those results must only be used for informational purposes and must not be used to change the result of the election. A court of competent jurisdiction may use an informational recount to change the result of the election.

(2) The board of canvassers shall conduct the recount so that
the complete procedure may be observed and noted by the candidates or persons interested in the ballot question, their counsel, and not to exceed 1 watcher and 1 tallier at each table to check the work of the recount clerks. The secretary of state shall develop instructions consistent with this act for conducting a recount pursuant to this subsection. All votes cast, whether for candidates or ballot questions, shall be recounted in the following manner:

(a) The ballots from any given precinct shall first be counted and the total compared with the number of ballots issued on election day as shown on the poll list. If the first count of the number of ballots and the number of ballots issued on election day as shown on the poll list do not match, the ballots from that precinct shall be counted a second time and the total compared with the number of ballots issued on election day as shown on the poll list. If the second count of the number of ballots and the number of ballots issued on election day as shown on the poll list do not match, those ballots shall not be recounted as provided in section 871. If the second count of the number of ballots and the number of ballots issued on election day as shown on the poll list match, the ballots from that precinct shall be counted a third time and the total compared with the number of ballots issued on election day as shown on the poll list. If the third count of the number of ballots and the number of ballots issued on election day as shown on the poll list do not match, those ballots shall not be recounted as provided in section 871.

(b) If the first count described in subdivision (a) or the second and third counts described in subdivision (a) match the number of ballots issued on election day, the ballots shall
must be placed face up on the table and 1 recount clerk shall call the votes for each candidate or ballot question involved in the recount.

(c) Two tally clerks shall simultaneously record the called votes on forms provided for that purpose.

(3) The candidates or persons interested in the ballot question, their counsel, watchers, and talliers shall be allowed to observe each ballot as it is called and to take notes as they desire for their own records. The board of canvassers shall identify by an exhibit number a ballot counted or rejected under protest, keep a record of the protest, and proceed as required under section 871a.

Sec. 881. (1) A person 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 $25.00 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 $250.00 for each precinct referred to in his or her 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 $125.00 for each precinct referred to in his or her 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 $250.00 for each precinct referred to in his or her 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 $125.00 for each precinct referred to in his or her petition.

(6) If the vote is on a proposal 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, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of $125.00 for each precinct referred to in his or her petition.
votes cast on the proposal, whichever is greater, the petitioner shall deposit with the state bureau of elections the sum of $125.00 for each precinct referred to in his or her petition.

(7) If, by reason of the recount, the petitioner establishes fraud or mistake as set forth in his or her petition 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 state bureau of elections shall refund the money deposited to the petitioner. If the recount is done as an informational recount as provided under section 871(5) and not done 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 upon the number of precincts in the county in which the votes were recounted.

(8) If a precinct referred to in the petition is determined "not recountable" as provided in section 871(3) or, subject to subsection (9), 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.

(9) 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.