

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 529

A bill to amend 1954 PA 116, entitled "Michigan election law," by amending sections 22a, 22b, 46, 47, 581, 795c, 822, 842, 846, and 882 (MCL 168.22a, 168.22b, 168.46, 168.47, 168.581, 168.795c, 168.822, 168.842, 168.846, and 168.882), sections 22a and 22b as added and section 882 as amended by 1995 PA 261, section 46 as amended by 2002 PA 431, section 795c as amended by 2015 PA 268, section 822 as amended by 2018 PA 614, and section 842 as amended by 2018 PA 382, and by adding section 814.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22a. (1) On or before the ~~tenth~~**fifteenth** day of January
2 in an odd numbered year, **both of the following must occur:**

3 **(a) The** state central committee of each major political party

1 shall submit to the governor the names of 3 individuals as nominees
2 for each position that is up for reappointment that the major
3 political party is entitled to on the board of state canvassers.

4 **(b) The senate majority leader, senate minority leader,**
5 **speaker of the house of representatives, and house minority leader**
6 **shall each submit the name of 1 individual as a nominee for each**
7 **position that is up for reappointment that the major political**
8 **party is entitled to on the board of state canvassers.**

9 (2) On or before the twentieth day of January in an odd
10 numbered year, the governor shall appoint 1 individual from the ~~3-5~~
11 individuals nominated to each position of the political party on
12 the board of state canvassers.

13 **(3) ~~(2)~~—If a vacancy in the office of a member of the board of**
14 **state canvassers occurs other than the expiration of a term, the**
15 **state central committee of the appropriate major political party**
16 **shall submit to the governor the names of 3 individuals as nominees**
17 **for the vacant position on or before the tenth day following the**
18 **date of the vacancy. In addition, on or before the tenth day**
19 **following the date of the vacancy on the board of state canvassers,**
20 **the majority or minority leaders in the senate and house of**
21 **representatives who represent the same major political party as the**
22 **vacating member on the board of state canvassers shall each submit**
23 **the name of 1 individual as a nominee for the vacant position.**

24 (4) On or before the thirtieth day following the date of the
25 vacancy, the governor shall appoint 1 individual from the ~~3-5~~
26 individuals nominated to the vacant position. A member appointed to
27 the board of state canvassers under this subsection shall serve for
28 the remainder of the vacant term.

29 (5) ~~(3)~~—If the state central committee of a major political

1 party ~~fails~~ **and the majority or minority leaders in the senate and**
 2 **house of representatives of that same major political party fail** to
 3 submit the names of nominees within the prescribed period of time
 4 in subsection (1) or ~~(2),~~ **(3)**, the governor shall appoint to the
 5 board of state canvassers an individual who was formerly elected as
 6 a state officer as a member of the appropriate major political
 7 party and who is currently affiliated with that political party. If
 8 ~~a person~~ **an individual** appointed by the governor under subsection
 9 ~~(1) or~~ **(2) or (4)** declines to serve, the governor shall do 1 of the
 10 following:

11 (a) Appoint another individual from the ~~3-5~~ individuals
 12 nominated by the major political party under subsection (1) or ~~(2)~~
 13 **(3)** to that position on the board of state canvassers.

14 (b) Appoint an individual who was formerly elected as a state
 15 officer as a member of the appropriate major political party and
 16 who is currently affiliated with that political party to that
 17 position on the board of state canvassers.

18 Sec. 22b. The term of office of a member of the board of state
 19 canvassers appointed under section ~~22a(1)~~ **22a(2)** is 4 years, which
 20 term begins on the February 1 immediately following **the**
 21 appointment. A member of the ~~state~~ board of **state** canvassers shall
 22 hold office until ~~his or her~~ **the member's** successor is appointed
 23 and qualified.

24 Sec. 46. **(1)** As soon as practicable after the ~~state~~ board of
 25 **state** canvassers has, by the official canvass, ascertained the
 26 result of an election as to **the** electors of ~~president~~ **President** and
 27 ~~vice-president~~ **Vice President** of the United States, **but not less**
 28 **than 6 days before the date on which the electors for President and**
 29 **Vice President of the United States are to convene under section**

1 47, the governor shall ~~certify, under the seal of the state, to the~~
 2 ~~United States secretary of state, the names and addresses of the~~
 3 ~~electors of this state chosen as electors of president and vice-~~
 4 ~~president of the United States. The~~ **issue a certificate of**
 5 **ascertainment of appointment of electors that does all of the**
 6 **following:**

7 (a) Sets forth the names of the electors appointed and the
 8 canvass or other determination under the laws of this state of the
 9 number of votes given or cast for each individual whose appointment
 10 any or all votes have been given or cast.

11 (b) Bears the seal of this state.

12 (c) Contains at least 1 security feature, as determined by the
 13 governor, for the purpose of verifying the authenticity of the
 14 certificate. The secure components of any security feature used are
 15 confidential and not subject to disclosure under the freedom of
 16 information act, 1976 PA 442, MCL 15.231 to 15.246.

17 (2) Immediately after issuing the certificate of ascertainment
 18 of appointment of electors under subsection (1), the governor shall
 19 transmit to the Archivist of the United States, by the most
 20 expeditious method available, the certificate of ascertainment of
 21 appointment of electors. The governor shall also transmit to each
 22 elector chosen as an elector for ~~president~~ **President** and ~~vice-~~
 23 ~~president~~ **Vice President** of the United States, ~~a~~ **on or before the**
 24 **date on which the electors are to convene under section 47, 6**
 25 **duplicate-originals of the** certificate. ~~, in triplicate, under the~~
 26 ~~seal of the state, of his or her election.~~

27 (3) Subject to this subsection, the fact that a recount
 28 petition has been filed, or that a recount is pending, has no
 29 effect on the governor's authority or responsibility to issue a

1 certificate of ascertainment of appointment of electors as required
2 under subsection (1). However, if a mandatory recount of all
3 precincts in this state is required under section 880a, the
4 governor shall not issue the certificate of ascertainment of
5 appointment of electors required under subsection (1) until the
6 completion and certification of the recount or until 3 p.m. on the
7 sixth day before the date on which the electors for President and
8 Vice President of the United States are to convene under section
9 47, whichever occurs first. If the recount is completed and
10 certified before 3 p.m. on the sixth day before the date on which
11 the electors for President and Vice President of the United States
12 are to convene under section 47, the certificate of ascertainment
13 of appointment of electors issued by the governor must reflect the
14 certified result of that recount. If the recount is not completed
15 and certified before 3 p.m. on the sixth day before the date on
16 which the electors for President and Vice President of the United
17 States are to convene under section 47, the certificate of
18 ascertainment of appointment of electors issued by the governor
19 must reflect the original certification of the results of the
20 election.

21 (4) If a recount is completed by 11:59 p.m. on the second day
22 before the date on which the electors for President and Vice
23 President of the United States are to convene under section 47, and
24 the result of that recount, as certified by the board of state
25 canvassers, alters the winner of the presidential election as
26 reflected on the certificate of ascertainment of appointment of
27 electors issued by the governor under subsection (1), an affected
28 candidate for President or Vice President of the United States may
29 have the certification reviewed by the supreme court, or may seek

1 other judicial relief from the supreme court related to the
2 certification including, but not limited to, an order directing the
3 governor to issue a superseding certificate of ascertainment of
4 appointment of electors that reflects the updated and certified
5 results of the presidential election. An action under this
6 subsection must be filed with the supreme court within 24 hours
7 after the certification of the completed recount. A plaintiff
8 filing an action in the supreme court under this subsection must
9 request an expedited hearing and that the supreme court issue an
10 order granting any judicial relief by 4 p.m. on the day before the
11 date on which the electors for President and Vice President of the
12 United States are to convene under section 47. If the supreme court
13 issues an order by the day before the date on which the electors
14 are to convene under section 47 that requires the governor to issue
15 a superseding certificate of ascertainment consistent with the
16 certified results of the recount, the governor must issue that
17 superseding certificate of ascertainment before the date on which
18 the electors are to convene under section 47.

19 (5) If a recount is completed by 11:59 p.m. on the second day
20 before the date on which the electors for President and Vice
21 President of the United States are to convene under section 47, and
22 the result of that recount, as certified by the board of state
23 canvassers, alters the winner of the presidential election as
24 reflected on the certificate of ascertainment of appointment of
25 electors issued by the governor under subsection (1), and the
26 supreme court does not issue an order under subsection (4) before 4
27 p.m. on the day before the date on which the electors are to
28 convene under section 47, the governor must issue a superseding
29 certificate of ascertainment of appointment of electors that

1 reflects the updated and certified results of the presidential
 2 election, as determined by the recount and certified by the board
 3 of state canvassers, no later than 11:59 p.m. on the day before the
 4 date on which the electors are to convene under section 47.

5 (6) A superseding certificate of ascertainment of appointment
 6 of electors issued by the governor under this section replaces and
 7 supersedes any prior certificate of ascertainment of appointment of
 8 electors issued under this section, must be transmitted consistent
 9 with the requirements under subsection (2) for the certificate of
 10 ascertainment of appointment of electors, and is conclusive with
 11 respect to the determination of electors for President and Vice
 12 President of the United States appointed by this state.

13 Sec. 47. The electors of ~~president~~**President** and ~~vice-~~
 14 ~~president~~**Vice President** shall convene in the senate chamber at the
 15 capitol of ~~the~~**this** state at 2 p.m., eastern standard time, on the
 16 first ~~Monday~~**Tuesday** after the second Wednesday in December
 17 following ~~their~~**the elector's** election. At any time before ~~receipt~~
 18 ~~of~~**receiving** the certificate of **ascertainment of appointment of**
 19 **electors from** the governor or within 48 hours thereafter, an
 20 elector may resign by submitting ~~his~~**the elector's** written and
 21 verified resignation to the governor. Failure to ~~so~~ resign
 22 signifies consent to serve and to cast ~~his~~**the elector's** vote for
 23 the candidates for ~~president~~**President** and ~~vice-president~~**Vice**
 24 **President** appearing on the Michigan ballot of the political party
 25 ~~which~~**that** nominated ~~him~~**the elector**. Refusal or failure to vote
 26 for the candidates for ~~president~~**President** and ~~vice-president~~**Vice**
 27 **President** appearing on the Michigan ballot of the political party
 28 ~~which~~**that** nominated the elector constitutes a resignation from the
 29 office of elector, ~~his~~**the elector's** vote ~~shall~~**must** not be

1 recorded, and the remaining electors ~~shall~~**must** forthwith fill the
 2 vacancy. The ballot used by the elector ~~shall~~**must** bear the name of
 3 the elector. If at the time of convening there is any vacancy
 4 caused by death, resignation, refusal or failure to vote, neglect
 5 to attend, or ineligibility of any ~~person~~**individual** elected, or
 6 for any other cause, the qualified electors of ~~president~~**President**
 7 and ~~vice-president~~**Vice President** shall proceed to fill ~~such~~**the**
 8 vacancy by ballot, by a plurality of votes. When all the electors
 9 appear and the vacancy ~~shall be~~**is** filled, ~~they~~**the electors** shall
 10 proceed to perform the duties of ~~such~~**the** electors, as required by
 11 the constitution and laws of the United States. If ~~congress~~
 12 **Congress** hereafter fixes a different day for ~~such~~**the** meeting, the
 13 electors shall meet and give ~~their~~**the electors** votes on the day
 14 designated by ~~the~~**the** act of ~~congress~~**Congress**.

15 Sec. 581. (1) The returns of ~~said~~**a** primary election ~~shall~~
 16 **must** be canvassed and the results declared in the same manner and
 17 within the same time after the primary election and by the same
 18 officers as provided for general elections. ~~, except that in the~~
 19 ~~ease of~~**For** a primary election for the nomination of a candidate
 20 for the office of United States ~~senator, or~~**Senator**, governor, or
 21 for the nomination of candidates for district offices in districts
 22 comprising more than 1 county, the county clerk of each county
 23 affected shall transmit to the secretary of state, within 14 days
 24 after the primary election, a certified statement of the number of
 25 votes received by each ~~person~~**individual** for nomination as a
 26 candidate of any political party for any of the ~~said~~ offices.

27 (2) The secretary of **the board of** state **canvassers** shall call
 28 a meeting of the board of state canvassers ~~at his office~~ not later
 29 than 20 days after the primary election. ~~, which date he~~**The**

1 **secretary of state** shall ~~forthwith~~**immediately** certify to the
 2 ~~chairman~~**chairperson** and secretary of the state central committee
 3 of each political party, ~~—~~for the purpose of canvassing the returns
 4 and declaring the results of the primary election for the
 5 nomination of the candidates for ~~such~~**those** offices.

6 (3) The ~~said~~ **board of state canvassers** shall proceed in the
 7 same manner in canvassing the returns and in certifying, recording,
 8 and determining results of a primary election for the nomination of
 9 candidates for United States ~~senator~~**Senator** and governor as is
 10 done in canvassing the returns in the case of the election of state
 11 officials.

12 (4) In canvassing the returns of a primary election for the
 13 nomination of candidates for the offices of ~~representative~~
 14 **Representative** in ~~congress~~**Congress**, state senator, and
 15 representatives in the legislature, in districts composed of more
 16 than 1 county, ~~said~~**the board of state canvassers** shall proceed in
 17 ~~like~~**the same** manner as is done in canvassing the returns ~~in case~~
 18 ~~of~~**for** the election of ~~representatives~~**Representatives** in
 19 ~~congress~~**Congress**.

20 Sec. 795c. ~~(1)~~The different parts of the ballot, such as
 21 partisan, nonpartisan, and questions, ~~shall~~**must** be prominently
 22 indicated on the ballot label, and, if practicable, each part may
 23 be placed on a separate page, column, or display. If 2 or more
 24 elections are held on the same day, the ballot label ~~shall~~**must** be
 25 clearly marked to indicate the ballot for each election. In
 26 partisan elections, the ballot label ~~shall not~~**must** include a
 27 position by which a voter may by a single selection record a
 28 straight party ticket vote for all the candidates of 1 party.

29 ~~(2) For the 2015-2016 fiscal year, \$5,000,000.00 is~~

1 ~~appropriated from the general fund to the department of state to~~
 2 ~~purchase voting equipment to implement the elimination of straight~~
 3 ~~party ticket voting.~~

4 **Sec. 814. A ballot cast by an eligible elector must not be**
 5 **rejected or otherwise not counted in a canvass, recount, or court**
 6 **order altering the certification of a canvassing board on the**
 7 **grounds that an election official failed to comply with a directive**
 8 **set forth in this act unless that ballot is otherwise ineligible**
 9 **under this act or federal law.**

10 Sec. 822. (1) The board of county canvassers shall then
 11 proceed without delay to canvass the returns of votes cast for all
 12 candidates for offices voted for and all questions voted on at the
 13 election, according to the precinct returns, **early voting returns,**
 14 **and absent voter counting board returns** filed with the probate
 15 judge or presiding probate judge by the several city and township
 16 clerks, or ~~in case of~~**for** local elections according to the precinct
 17 returns filed with the county clerk, and must conclude the canvass
 18 at the earliest possible time and in every case no later than the
 19 fourteenth day after the election.

20 (2) If the board of county canvassers fails to certify the
 21 results of any election for any officer or proposition by the
 22 fourteenth day after the election as provided, the board of county
 23 canvassers shall immediately deliver to the secretary of the board
 24 of state canvassers all records and other information pertaining to
 25 the election. The board of state canvassers shall meet immediately
 26 and make the necessary determinations and certify the results
 27 ~~within the 10 days immediately following the receipt of the records~~
 28 ~~from the board of county canvassers. The cost~~ **not later than the**
 29 **twentieth day after the election. The board of county canvassers**

1 and all other county staff necessary to complete the canvass must
2 be present at all times during the completion of the canvass by the
3 board of state canvassers. All costs associated with the completion
4 of the canvass must be borne by the county involved.

5 (3) It is the ministerial, clerical, and nondiscretionary duty
6 of each board of county canvassers, and each of the members of the
7 board of county canvassers, to certify election results based
8 solely on the statements of returns from the election day
9 precincts, early voting sites, and absent voter counting boards in
10 the county and any corrected returns.

11 (4) As used in this section and section 842, "to certify"
12 means to make a signed, written statement.

13 Sec. 842. (1) The board of state canvassers, for the purpose
14 of canvassing the returns and ascertaining and determining the
15 result of an election, shall meet ~~at the office of the secretary of~~
16 ~~state~~ on or before the twentieth day after the election. The
17 secretary of **the board of state canvassers** shall appoint the day of
18 the meeting, **which must be as soon as practicable after the receipt**
19 **of the returns from the boards of county canvassers**, and shall
20 notify the other members of the board. The board ~~has power to~~
21 ~~adjourn from time to time to await the receipt or correction of~~
22 ~~returns, or for other necessary purposes, but shall complete the~~
23 canvass and announce ~~their~~ **the board's** determination not later than
24 the ~~fortieth~~ **twentieth** day after the election. The board may at the
25 time of its meeting ~~, or an adjournment of its meeting,~~ canvass the
26 returns for any office for which the ~~complete~~ returns have been
27 received.

28 (2) If the unofficial election returns show that the election
29 of electors of President and Vice President of the United States is

1 determined by a vote differential between the first place and
 2 second place candidates for President and Vice President of the
 3 United States of less than 25,000 votes, the secretary of state
 4 shall direct the boards of county canvassers to canvass returns for
 5 electors of President and Vice President of the United States on an
 6 expedited schedule. The secretary of state may direct the boards of
 7 county canvassers to complete the statements for electors of
 8 President and Vice President of the United States required by
 9 section 824 and certify the statements as required by section 828
 10 to the secretary of state by the seventh day after the election or
 11 by a date before the fourteenth day after the election.

12 (3) The secretary of **the board of state canvassers** may appoint
 13 the day for the board of state canvassers to conduct the expedited
 14 canvass of the returns for electors of President and Vice President
 15 of the United States and determine the results of that election.
 16 The day appointed for the expedited canvass must be as soon as
 17 practicable after receipt of the returns from the boards of county
 18 canvassers, but **the board of state canvassers shall complete the**
 19 **canvass and announce the board's determination** no later than the
 20 twentieth day after the election.

21 (4) **It is the ministerial, clerical, and nondiscretionary duty**
 22 **of the board of state canvassers, and each of the members of the**
 23 **board of state canvassers, to certify election results based solely**
 24 **on the certified statements of votes from counties.**

25 Sec. 846. ~~In case~~ ~~If~~ 2 or more ~~persons~~ **individuals** have an
 26 equal and the highest number of votes for any office, as canvassed
 27 by the board of state canvassers, ~~the board of state canvassers~~
 28 ~~shall certify the result of the canvass as to such office to the~~
 29 ~~legislature and the legislature in joint convention shall choose 1~~

1 ~~of said persons to fill such office. When the determination of the~~
2 ~~board of state canvassers is contested, the legislature in joint~~
3 ~~convention shall decide which person is elected.~~ **tie must be**
4 **resolved and the winner certified as provided under section 852.**

5 Sec. 882. (1) If a candidate has filed a recount petition and
6 paid the deposit under sections 879 and 881, the secretary of state
7 shall give notice of the recount petition to each opposing
8 candidate within 48 hours after the filing of the petition by
9 delivering to each candidate a copy of the recount petition, or, if
10 the candidate cannot be found, by leaving a copy at the candidate's
11 last known place of residence with a member of the candidate's
12 immediate family of suitable age. If a member of the candidate's
13 family cannot be found, the secretary of state may give notice by
14 posting the recount petition in a conspicuous place at the
15 candidate's last known place of residence.

16 (2) A candidate may file a counter petition in the same manner
17 as the original petition under section 881 not later than ~~4 p.m. of~~
18 ~~the seventh day~~ **48 hours** after the original recount petition ~~has~~
19 ~~been~~ **is** filed with the secretary of state. At the time of filing
20 the counter petition, the counter petitioner shall deposit the sum
21 of money as required in section 881 for the original petitioner.
22 The secretary of state shall refund to the counter petitioner the
23 money deposited by the counter petitioner if the original
24 petitioner does not establish fraud or receive a certificate of
25 election.

26 (3) ~~On or before 4 p.m. of the seventh day~~ **Not later than 48**
27 **hours** after ~~a~~ **an original** recount petition ~~has been~~ **is** filed under
28 section 881, an opposing candidate may file objections to the
29 recount petition with the board of state canvassers. The opposing

1 candidate shall set forth ~~his or her~~ **the** objections to the recount
2 petition in writing. Upon receipt of an objection under this
3 subsection, the board of state canvassers shall notify the
4 petitioner and the objecting candidate of the date of the ~~hearing~~
5 **meeting** of the board of state canvassers to consider the
6 objections. The board of state canvassers shall allow the recount
7 petitioner and the objecting candidate to present oral or written,
8 or both, arguments on the objections raised to the recount petition
9 at the ~~hearing~~. ~~Not later than 5 business days following the~~
10 ~~hearing, the~~ **meeting**. **The** board of state canvassers shall rule on
11 the objections ~~raised to the recount petition~~. The board of state
12 ~~canvassers shall not begin a recount unless 2 or more business days~~
13 ~~have elapsed since the board ruled on the objections under this~~
14 ~~subsection, if applicable.~~ **no later than 4 calendar days after the**
15 **deadline for filing objections.**