

Act No. 269  
Public Acts of 2023  
Approved by the Governor  
November 30, 2023  
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December 1, 2023  
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**STATE OF MICHIGAN  
102ND LEGISLATURE  
REGULAR SESSION OF 2023**

Introduced by Senator Moss

# ENROLLED SENATE BILL No. 529

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 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:*

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

(a) The state central committee of each major political party shall submit to the governor the names of 3 individuals as nominees for each position that is up for reappointment that the major political party is entitled to on the board of state canvassers.

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

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

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

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

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

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

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

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

Sec. 46. (1) As soon as practicable after the board of state canvassers has, by the official canvass, ascertained the result of an election as to the electors of President and Vice President of the United States, but not less than 6 days before the date on which the electors for President and Vice President of the United States are to convene under section 47, the governor shall issue a certificate of ascertainment of appointment of electors that does all of the following:

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

(b) Bears the seal of this state.

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

(2) Immediately after issuing the certificate of ascertainment of appointment of electors under subsection (1), the governor shall transmit to the Archivist of the United States, by the most expeditious method available, the certificate of ascertainment of appointment of electors. The governor shall also transmit to each elector chosen as an elector for President and Vice President of the United States, on or before the date on which the electors are to convene under section 47, 6 duplicate-originals of the certificate.

(3) Subject to this subsection, the fact that a recount petition has been filed, or that a recount is pending, has no effect on the governor's authority or responsibility to issue a certificate of ascertainment of appointment of electors as required under subsection (1). However, if a mandatory recount of all precincts in this state is required under section 880a, the governor shall not issue the certificate of ascertainment of appointment of electors required under subsection (1) until the completion and certification of the recount or until 3 p.m. on the sixth day before the date on which the electors for President and Vice President of the United States are to convene under section 47, whichever occurs first. If the recount is completed and certified before 3 p.m. on the sixth day before the date on which the electors for President and Vice President of the United States are to convene under section 47, the certificate of ascertainment of appointment of electors issued by the governor must reflect the certified result of that recount. If the recount is not completed and certified before 3 p.m. on the sixth day before the date on which the electors for President and Vice President of the United States are to convene under section 47, the certificate of ascertainment of appointment of electors issued by the governor must reflect the original certification of the results of the election.

(4) If a recount is completed by 11:59 p.m. on the second day before the date on which the electors for President and Vice President of the United States are to convene under section 47, and the result of that recount, as certified by the board of state canvassers, alters the winner of the presidential election as reflected on the certificate of ascertainment of appointment of electors issued by the governor under subsection (1), an affected candidate for President or Vice President of the United States may have the certification reviewed by the supreme court, or may seek other judicial relief from the supreme court related to the certification including, but not limited to, an order directing the governor to issue a superseding certificate of ascertainment of appointment of electors that

reflects the updated and certified results of the presidential election. An action under this subsection must be filed with the supreme court within 24 hours after the certification of the completed recount. A plaintiff filing an action in the supreme court under this subsection must request an expedited hearing and that the supreme court issue an order granting any judicial relief by 4 p.m. on the day before the date on which the electors for President and Vice President of the United States are to convene under section 47. If the supreme court issues an order by the day before the date on which the electors are to convene under section 47 that requires the governor to issue a superseding certificate of ascertainment consistent with the certified results of the recount, the governor must issue that superseding certificate of ascertainment before the date on which the electors are to convene under section 47.

(5) If a recount is completed by 11:59 p.m. on the second day before the date on which the electors for President and Vice President of the United States are to convene under section 47, and the result of that recount, as certified by the board of state canvassers, alters the winner of the presidential election as reflected on the certificate of ascertainment of appointment of electors issued by the governor under subsection (1), and the supreme court does not issue an order under subsection (4) before 4 p.m. on the day before the date on which the electors are to convene under section 47, the governor must issue a superseding certificate of ascertainment of appointment of electors that reflects the updated and certified results of the presidential election, as determined by the recount and certified by the board of state canvassers, no later than 11:59 p.m. on the day before the date on which the electors are to convene under section 47.

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

Sec. 47. The electors of President and Vice President shall convene in the senate chamber at the capitol of this state at 2 p.m., eastern standard time, on the first Tuesday after the second Wednesday in December following the elector's election. At any time before receiving the certificate of ascertainment of appointment of electors from the governor or within 48 hours thereafter, an elector may resign by submitting the elector's written and verified resignation to the governor. Failure to resign signifies consent to serve and to cast the elector's vote for the candidates for President and Vice President appearing on the Michigan ballot of the political party that nominated the elector. Refusal or failure to vote for the candidates for President and Vice President appearing on the Michigan ballot of the political party that nominated the elector constitutes a resignation from the office of elector, the elector's vote must not be recorded, and the remaining electors must forthwith fill the vacancy. The ballot used by the elector must bear the name of the elector. If at the time of convening there is any vacancy caused by death, resignation, refusal or failure to vote, neglect to attend, or ineligibility of any individual elected, or for any other cause, the qualified electors of President and Vice President shall proceed to fill the vacancy by ballot, by a plurality of votes. When all the electors appear and the vacancy is filled, the electors shall proceed to perform the duties of the electors, as required by the constitution and laws of the United States. If Congress hereafter fixes a different day for the meeting, the electors shall meet and give the electors votes on the day designated by the act of Congress.

Sec. 581. (1) The returns of a primary election must be canvassed and the results declared in the same manner and within the same time after the primary election and by the same officers as provided for general elections. For a primary election for the nomination of a candidate for the office of United States Senator, governor, or for the nomination of candidates for district offices in districts comprising more than 1 county, the county clerk of each county affected shall transmit to the secretary of state, within 14 days after the primary election, a certified statement of the number of votes received by each individual for nomination as a candidate of any political party for any of the offices.

(2) The secretary of the board of state canvassers shall call a meeting of the board of state canvassers not later than 20 days after the primary election. The secretary of state shall immediately certify to the chairperson and secretary of the state central committee of each political party for the purpose of canvassing the returns and declaring the results of the primary election for the nomination of the candidates for those offices.

(3) The board of state canvassers shall proceed in the same manner in canvassing the returns and in certifying, recording, and determining results of a primary election for the nomination of candidates for United States Senator and governor as is done in canvassing the returns in the case of the election of state officials.

(4) In canvassing the returns of a primary election for the nomination of candidates for the offices of Representative in Congress, state senator, and representatives in the legislature, in districts composed of more than 1 county, the board of state canvassers shall proceed in the same manner as is done in canvassing the returns for the election of Representatives in Congress.

Sec. 795c. The different parts of the ballot, such as partisan, nonpartisan, and questions, must be prominently indicated on the ballot label, and, if practicable, each part may be placed on a separate page, column, or display. If 2 or more elections are held on the same day, the ballot label must be clearly marked to indicate the ballot for each election. In partisan elections, the ballot label must include a position by which a voter may by a single selection record a straight party ticket vote for all the candidates of 1 party.

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

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, early voting returns, and absent voter counting board returns filed with the probate judge or presiding probate judge by the several city and township clerks, or for local elections according to the precinct returns filed with the county clerk, and must conclude the canvass at the earliest possible time and in every case no later than the fourteenth day after the election.

(2) If the board of county canvassers fails to certify the results of any election for any officer or proposition by the fourteenth day after the election 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 not later than the twentieth day after the election. The board of county canvassers and all other county staff necessary to complete the canvass must be present at all times during the completion of the canvass by the board of state canvassers. All costs associated with the completion of the canvass must be borne by the county involved.

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

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

Sec. 842. (1) The board of state canvassers, for the purpose of canvassing the returns and ascertaining and determining the result of an election, shall meet on or before the twentieth day after the election. The secretary of the board of state canvassers shall appoint the day of the meeting, which must be as soon as practicable after the receipt of the returns from the boards of county canvassers, and shall notify the other members of the board. The board shall complete the canvass and announce the board's determination not later than the twentieth day after the election. The board may at the time of its meeting canvass the returns for any office for which the returns have been received.

(2) If the unofficial election returns show that the election of electors of President and Vice President of the United States is determined by a vote differential between the first place and second place candidates for President and Vice President of the United States of less than 25,000 votes, the secretary of state shall direct the boards of county canvassers to canvass returns for electors of President and Vice President of the United States on an expedited schedule. The secretary of state may direct the boards of county canvassers to complete the statements for electors of President and Vice President of the United States required by section 824 and certify the statements as required by section 828 to the secretary of state by the seventh day after the election or by a date before the fourteenth day after the election.

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

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

Sec. 846. If 2 or more individuals have an equal and the highest number of votes for any office, as canvassed by the board of state canvassers, the tie must be resolved and the winner certified as provided under section 852.

Sec. 882. (1) If a candidate 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 within 48 hours after the filing of the 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 secretary of state may give notice by posting the recount petition in a conspicuous place at the candidate's last known place of residence.

(2) A candidate 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 original petitioner does not establish fraud or receive a certificate of election.

(3) Not later than 48 hours after an original recount petition is filed under section 881, an opposing candidate may file objections to the recount petition with the board of state canvassers. The opposing candidate 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 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 to present oral or written, or both, arguments on the objections raised to the recount petition at the meeting. The board of state canvassers shall rule on the objections no later than 4 calendar days after the deadline for filing objections.



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Secretary of the Senate



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Clerk of the House of Representatives

Approved \_\_\_\_\_

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Governor