

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954
COUNTY, CITY, TOWNSHIP AND VILLAGE BOARDS OF CANVASSERS

168.861 Postcertification recounts; administrative process; denial of petitions for investigation or audit; liberal construction of chapter; "precinct" defined.

Sec. 861.

(1) A board of canvassers is authorized to conduct postcertification recounts of election results under procedures described in this chapter, and all recounts in this state must be conducted under the procedures described in this chapter.

(2) A recount conducted under this chapter by a board of canvassers is an administrative process limited to determining the number of votes cast on ballots for each candidate seeking a particular office or determining the number of votes cast for or against a ballot question.

(3) A recount is not an investigation or an audit of the conduct of an election, and a recount does not assess the qualifications of electors participating in an election or the manner in which ballots are applied for or issued to electors. If a board of canvassers receives a petition to conduct an investigation or an audit of the conduct of an election, a petition to assess the qualifications of electors participating in an election or the manner in which ballots are applied for or issued to electors, or a petition to do anything other than conduct a recount as described in subsection (2), the board of canvassers must deny that petition.

(4) This chapter shall be liberally construed to achieve the purpose of fair, impartial, uniform, and expeditious recounts in this state.

(5) As used in this chapter, "precinct" means any of the following:

- (a) An election day precinct.
- (b) A precinct at an absent voter counting board.
- (c) A precinct at an early voting site.

History: 1954, Act 116, Eff. June 1, 1955 ;-- Am. 1963, 2nd Ex. Sess., Act 38, Imd. Eff. Dec. 27, 1963 ;-- Am. 2024, Act 74, Eff. Apr. 2, 2025
Popular Name: Election Code

168.861a Proceedings intended to restrain, enjoin, modify, control, reverse, or otherwise interfere with board of county canvassers; by mandamus only.

Sec. 861a.

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

History: Add. 2024, Act 74, Eff. Apr. 2, 2025
Popular Name: Election Code

168.862 Error in canvass or returns of votes; recount petition by candidate; good-faith belief in winning.

Sec. 862.

A candidate for office who believes that the candidate is aggrieved on account of error in the canvass or returns of the votes may petition for a recount of the votes cast for that office in any precinct or precincts. A candidate is aggrieved if the candidate is able to allege a good-faith belief that, but for error in the canvass or returns of the votes, the candidate would have had a reasonable chance of winning the election. If a candidate for office files a recount petition, that candidate must file that recount petition in good faith and the number of votes requested to be recounted must, at a minimum, be greater than the difference in votes between the petitioning candidate and the winning candidate. The candidate must use the form as required under section 865(1).

History: 1954, Act 116, Eff. June 1, 1955 ;-- Am. 1958, Act 192, Eff. Sept. 13, 1958 ;-- Am. 1976, Act 141, Imd. Eff. June 2, 1976 ;-- Am. 2003, Act 302,

168.863 Error as to ballot question; recount petition by ballot question committee or elector; good faith winning.

Sec. 863.

If a ballot question committee participates in an election in which there was a ballot question on the ballot and that ballot question committee believes that, but for error, the outcome of the ballot question would have been the opposite result, that ballot question committee may file a recount petition of the votes cast on that ballot question in any precinct. If a ballot question committee that participates in an election in which there was a ballot question on the ballot files a recount petition, that ballot question committee must file that recount petition in good faith and the number of votes requested to be recounted must, at a minimum, be greater than the difference between the "yes" votes and the "no" votes on the proposed ballot question. The ballot question committee must use the form as required under section 865(3). If a ballot question committee did not participate in an election in which there was a ballot question on the ballot, any elector who voted in that election may file a recount petition concerning that ballot question in the same manner as provided for a ballot question committee under this section.

History: 1954, Act 116, Eff. June 1, 1955 ;-- Am. 1976, Act 141, Imd. Eff. June 2, 1976 ;-- Am. 2003, Act 302, Eff. Jan. 1, 2005 ;-- Am. 2012, Act 586, Imd. Eff. Jan. 7, 2013 ;-- Am. 2024, Act 74, Eff. Apr. 2, 2025
Popular Name: Election Code

168.864 Repealed. 1996, Act 261, Eff. Mar. 28, 1996.

Compiler's Notes: The repealed section pertained to conducting recount in primary election.
Popular Name: Election Code

168.865 Recount petitions; forms.

Sec. 865.

(1) A candidate petition for a recount must be in the following form:

CANDIDATE PETITION FOR A RECOUNT

I _____, the petitioner, reside at _____, and I petition the _____ (state/county) board of canvassers for a recount of the votes cast for the _____ (Office/District/Party) at the election. I am aggrieved on account of error in the canvass or returns of the votes. I have a good-faith belief that, but for error, I would have had a reasonable chance of winning the election. I am requesting a recount of sufficient votes to change the result of the election.

I request that the following precincts, absent voter counting board (AVCB) precincts, and early voting precincts within the listed jurisdictions be recounted:

Precinct/AVCB Precinct/Early Voting Precinct Number

Name of Jurisdiction

(List additional precincts/vote centers on the back or attach additional sheets)

Specifically explain the error in the canvass or returns of votes:

My deposit of \$ _____ is enclosed.

Signature of candidate: _____

Date of signature: _____

Subscribed and sworn to before me this ____ day of _____, 20 ____

Name of notary public: _____

Signature of notary public: _____

Notary public, State of Michigan, County of _____

Acting in the County of _____

My commission expires: _____

(2) A candidate counter petition for a recount must be in the following form:

CANDIDATE COUNTER PETITION FOR A RECOUNT

I _____, the counter petitioner, reside at _____, and I counter petition the _____ (state/county) board of canvassers for a recount of the votes cast for the _____ (Office/District/Party) at the election.

I request that the additional following precincts, absent voter counting board (AVCB) precincts, and early voting precincts within the listed jurisdictions be recounted:

Precinct/AVCB Precinct/Early Voting Precinct Number

Name of Jurisdiction

(List additional precincts/vote centers on the back or attach additional sheets)

Specifically explain the error in the canvass or returns of votes:

My deposit of \$_____ is enclosed.

Signature of candidate: _____

Date of signature: _____

Subscribed and sworn to before me this ____ day of _____, 20 ____

Name of notary public: _____

Signature of notary public: _____

Notary public, State of Michigan, County of _____

Acting in the County of _____

My commission expires: _____

(3) Except as otherwise provided under subsection (5), a ballot question committee petition for a recount must be in the following form:

BALLOT QUESTION COMMITTEE PETITION FOR A RECOUNT

I _____, an authorized representative of _____, petition the _____ (state/county) board of canvassers for a recount of the votes cast for the _____ (ballot question) at the _____ election. The ballot question committee has a good-faith belief that, but for error, the result of the ballot question would have been the opposite. The ballot question committee is requesting a recount of sufficient votes to change the result of the election.

The ballot question committee requests that the following precincts, absent voter counting board (AVCB) precincts, and early voting precincts within the listed jurisdictions be recounted:

Precinct/AVCB Precinct/Early Voting Precinct Number

Name of Jurisdiction

(List additional precincts/vote centers on the back or attach additional sheets)

Specifically explain the error in the canvass or returns of votes:

My deposit of \$_____ is enclosed.

Signature of ballot question committee representative:

Date of signature:_____

Subscribed and sworn to before me this __ day of _____, 20__

Name of notary public:_____

Signature of notary public:_____

Notary public, State of Michigan, County of _____

Acting in the County of _____

My commission expires:_____

(4) Except as otherwise provided under subsection (5), a ballot question committee counter petition for a recount must be in the following form:

BALLOT QUESTION COMMITTEE COUNTER PETITION FOR A RECOUNT

I _____, an authorized representative of _____, counter petition the _____ (state/county) board of canvassers for a recount of the votes cast for the _____ (ballot question) at the election.

The ballot question committee requests that the additional following precincts, absent voter counting board (AVCB) precincts, and early voting precincts within the listed jurisdictions be recounted:

Precinct/AVCB Precinct/Early Voting Precinct Number

Name of Jurisdiction

(List additional precincts/vote centers on the back or attach additional sheets)

Specifically explain the error in the canvass or returns of votes:

My deposit of \$_____ is enclosed.

Signature of ballot question committee representative:

Date of signature:_____

Subscribed and sworn to before me this __ day of _____, 20__

Name of notary public:_____

Signature of notary public:_____

Notary public, State of Michigan, County of _____

Acting in the County of _____

My commission expires:_____

(5) The secretary of state shall modify the ballot question committee petition for a recount form under subsection (3) and the ballot question committee counter petition for a recount form under subsection (4) as appropriate to allow an elector to file either petition as authorized under sections 863 and 880.

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

Popular Name: Election Code

168.866 Recount petition; filing; deadline.

Sec. 866.

(1) Except as otherwise provided in subsection (2), recount petitions, either for an office or ballot question, other than those filed with the secretary of state, must 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 ballot question, must be filed with the clerk of the board of county canvassers that certified the result of the school district election.
- (3) Recount petitions must be filed within 48 hours after the certification of the canvass by the board of county canvassers.

History: 1954, Act 116, Eff. June 1, 1955 ;-- Am. 1963, 2nd Ex. Sess., Act 38, Imd. Eff. Dec. 27, 1963 ;-- Am. 2010, Act 53, Imd. Eff. Apr. 22, 2010 ;-- Am. 2013, Act 51, Imd. Eff. June 11, 2013 ;-- Am. 2024, Act 74, Eff. Apr. 2, 2025

Popular Name: Election Code

168.867 Recount petition; filing; deposit; adjustment of deposit; refund; disposition of sum deposited.

Sec. 867.

(1) A recount petition under section 862 or 863 must be filed 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 \$50.00 for each precinct referred to in the petitioner's 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 \$500.00 for each precinct referred to in the petitioner's recount petition. For purposes of this subsection, the winning candidate in a primary for a nonpartisan office where only 1 candidate will be elected means the candidate nominated with the lesser number of votes.

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

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

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

(6) If the vote is on a ballot question and the official canvass of votes shows that the number of votes separating the "yes" votes and the "no" votes is more than 75 votes or 5.0% of the total number of votes cast on the ballot question, whichever is greater, the petitioner shall deposit with the clerk the sum of \$500.00 for each precinct referred to in the petitioner's recount petition.

(7) Subject to subsection (6), if the vote is on a ballot question and the official canvass of votes shows that the number of votes separating the "yes" votes and the "no" votes is more than 50 votes or 0.5% of the total number of votes cast on the ballot question, whichever is greater, the petitioner shall deposit with the clerk the sum of \$250.00 for each precinct referred to in the petitioner's recount petition.

(8) Beginning January 1, 2027 and every 4 years thereafter, the secretary of state shall adjust each deposit amount provided in subsections (1) to (7) by comparing the percentage increase or decrease in the Consumer Price Index for the preceding August by the corresponding Consumer Price Index 4 years earlier. The secretary of state shall multiply that percentage change by each deposit amount in subsections (1) to (7). The secretary of state shall round up each dollar value adjustment made to the nearest \$10.00. The secretary of state shall announce the adjustments made by December 15 of each year in which an adjustment is made. As used in this subsection, "Consumer Price Index" means the most comprehensive index of consumer prices available for this state from the Bureau of Labor Statistics of the United States Department of Labor.

(9) If, by reason of the recount, the petitioner establishes sufficient error to change the result of the election, the clerk of the board of county canvassers shall refund the money deposited to the petitioner.

(10) If a refund is not made as required under subsection (9), the sum deposited must be paid by the clerk of the board of county canvassers to the treasurer of the county.

(11) If a precinct referred to in the petition is determined "not recountable" as provided in section 871(3) or, subject to subsection (12), 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.

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

History: 1954, Act 116, Eff. June 1, 1955 ;-- Am. 1980, Act 200, Imd. Eff. July 18, 1980 ;-- Am. 2013, Act 51, Imd. Eff. June 11, 2013 ;-- Am. 2014, Act 406, Imd. Eff. Dec. 30, 2014 ;-- Am. 2018, Act 130, Eff. Aug. 1, 2018 ;-- Am. 2024, Act 74, Eff. Apr. 2, 2025

Popular Name: Election Code

168.868 Recount petition; notice to opposing candidates or ballot question committees; counter petition; objections to recount petition; meeting; ruling; failure to give notice to opposing candidate or ballot question committee; withdrawal of recount petition.

Sec. 868.

(1) If a petitioner files a recount petition under section 862 or 863 and makes the deposit under section 867, the clerk of the board of county canvassers shall give notice of the recount petition to the opposing candidates described in this subsection or ballot question committees within 24 hours after the filing of the recount petition by emailing to each candidate or ballot question committee a copy of the recount petition. 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 or ballot question committee 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. The clerk of the board of county canvassers shall refund to the counter petitioner the money deposited by the counter petitioner if the recount does not change the result of the election. If a ballot question committee did not participate in an election in which a ballot question is on the ballot, any elector who voted in that election may file a recount counter petition in the same manner as provided for a ballot question committee under this section.

(3) Not later than 48 hours after a recount petition has been filed under section 866, an opposing candidate or ballot question committee may file objections to the recount petition with the appropriate board of county canvassers. The opposing candidate or ballot question committee shall set forth the objections to the recount petition in writing. Upon receipt of an objection under this subsection, the board of county canvassers shall notify the petitioner and the objecting candidate or ballot question committee of the date of the meeting of the board of county canvassers to consider the objections. Subject to this subsection, the board of county canvassers shall allow the recount petitioner and the objecting candidate or ballot question committee to present oral or written, or both, arguments on the objections raised to the recount petition at the meeting. In order to be presented at the meeting, written arguments on the objections raised to the recount petition must be submitted in writing to the board of county canvassers before the meeting. Not later than 4 calendar days following the deadline to file objections to the recount petition, the board of county canvassers shall rule on the objections raised to the recount petition.

(4) If the time designated for filing a recount petition or counter recount petition falls on a Saturday, Sunday, or legal holiday, the recount petition or counter 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 or ballot question committee as required in this section does not affect the results of the recount.

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

History: 1954, Act 116, Eff. June 1, 1955 ;-- Am. 1955, Act 271, Imd. Eff. June 30, 1955 ;-- Am. 1959, Act 24, Eff. Mar. 19, 1960 ;-- Am. 1963, 2nd Ex. Sess., Act 38, Imd. Eff. Dec. 27, 1963 ;-- Am. 1969, Act 188, Imd. Eff. Aug. 5, 1969 ;-- Am. 1995, Act 261, Eff. Mar. 28, 1996 ;-- Am. 2013, Act 51, Imd. Eff. June 11, 2013 ;-- Am. 2024, Act 74, Eff. Apr. 2, 2025

Popular Name: Election Code

168.869 Commencement of recount; delay; expenses of local recount.

Sec. 869.

A recount must not be commenced until the board of county canvassers determines, by communicating with the secretary of state in a form and manner as provided by the secretary of state, that a petition has not been filed requesting a recount by the board of state canvassers of ballots cast in the same district. If the board of county canvassers is advised by the secretary of state that a petition has been filed with the secretary of state praying for a recount by the board of state canvassers of the ballots cast in the same county or district, then no action must be taken on the recount until the board of county canvassers receives instructions from the board of state canvassers. Nothing contained in this section shall act to delay any recount of the ballots cast at any city, ward, township, or village election if the ballots cast at that election are not sealed in the same ballot containers with the state and county offices. For any recount of ballots cast in any city, ward, township, village, school, or district election, the board of county canvassers shall charge the appropriate local unit the actual and necessary expenses of conducting the recount, and the local unit shall pay those charges to the county treasurer.

History: 1954, Act 116, Eff. June 1, 1955 ;-- Am. 1963, 2nd Ex. Sess., Act 38, Imd. Eff. Dec. 27, 1963 ;-- Am. 2024, Act 74, Eff. Apr. 2, 2025

168.870 Delivery of ballots, ballot containers, and other election materials to board of county canvassers; subpoena; failure to produce; violation as misdemeanor; compensation for fees and mileage.

Sec. 870.

(1) The individual in charge of the ballot containers for each precinct referred to in the recount petition, as well as the individual in charge of any other election materials that are considered necessary, shall bring those ballot containers and election materials to the board of county canvassers as requested by the board. The board shall safely guard the ballots, ballot containers, and other election materials, and when those are no longer required, shall return those ballots, ballot containers, and other election materials to the individuals in charge of those ballots, ballot containers, and other election materials.

(2) If an individual in charge of ballots, ballot containers, or election materials fails to deliver those ballots, ballot containers, or election materials to the board of canvassers, the board of canvassers may subpoena that individual to compel delivery of those ballots, ballot containers, or election materials. If an individual is subpoenaed and fails to appear or fails to produce any requested ballots, ballot containers, or election materials, that individual is guilty of a misdemeanor.

(3) The individuals who are required to appear before the board of canvassers shall be paid the same fees and mileage as are paid circuit court witnesses in the county.

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

Popular Name: Election Code

168.871 Recount; eligibility requirements; procedures for conduct of recount; use of electronic voting system; testing software application; eligible documents.

Sec. 871.

(1) Subject to subsection (6), the board of canvassers conducting a recount shall recount all ballots of a precinct if both of the following occur:

(a) The ballots are properly sealed in a ballot container, in a manner that does not allow a ballot to be added to or removed from the ballot container, and the seal number on the seal is accurately recorded in the poll book, on the ballot container certificate, or on the statement of results.

(b) One of the following occurs:

(i) The precinct is in balance by matching the number of ballots to be recounted and the number of ballots issued in the precinct as shown in the poll book, the number of ballots tabulated as shown on the tabulator tape, or the number of ballots cast as shown by the county canvass.

(ii) The precinct was certified as out of balance during the county canvass and remains out of balance by an identical or fewer number of ballots after review during the recount.

(2) If a board of canvassers conducting a recount under this chapter determines that the ballots of a precinct are not eligible for recount under subsection (1)(a) or (b), the board of canvassers conducting that recount may still conduct the recount if a satisfactory explanation in a sworn affidavit, in a form as prescribed by the secretary of state, is provided by an election inspector, a clerk, or a member of the clerk's staff to the board of canvassers. An explanation must not be accepted by a board of canvassers as satisfactory unless the explanation documents that the security of the ballots is otherwise preserved. The secretary of state shall prepare and issue instructions for a board of canvassers to follow when determining if an explanation in a sworn affidavit is satisfactory under this subsection.

(3) If a board of canvassers conducting a recount determines that the ballots of a precinct are not eligible for recount, the original return of the votes for that precinct must be taken as correct.

(4) A board of canvassers may conduct a recount by the following means:

(a) A manual tally of the ballots.

(b) A tabulation of the ballots on an electronic voting system 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 an electronic voting system using the same software application used on election day.

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

(5) If a board of canvassers intends to conduct a recount on an electronic voting system, the board of canvassers 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 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 must use another means prescribed in subsection (4) to conduct the recount.

(6) The only documents that a board of canvassers may use to determine whether a precinct may be recounted are the poll book, the poll lists, the statement of results, the ballot container certificate, the total ballots counted by a tabulator, the county

canvass notations on the number of ballots and electors in the poll book, affidavits, and tabulator tapes.

History: 1954, Act 116, Eff. June 1, 1955 ;-- Am. 1965, Act 96, Imd. Eff. June 28, 1965 ;-- Am. 1995, Act 261, Eff. Mar. 28, 1996 ;-- Am. 1996, Act 583, Eff. Mar. 31, 1997 ;-- Am. 2000, Act 207, Imd. Eff. June 27, 2000 ;-- Am. 2012, Act 272, Imd. Eff. July 3, 2012 ;-- Am. 2024, Act 74, Eff. Apr. 2, 2025
Popular Name: Election Code

168.871a Repealed. 2024, Act 74, Eff. Apr. 2, 2025.

Compiler's Notes: The repealed section pertained to the procedure and resolution of a challenge raised by candidate or elector during a recount.

168.872 Board of canvassers; fraud or violation of law suspected; referral for investigation to prosecuting attorney or attorney general.

Sec. 872.

(1) If a board of canvassers conducting a recount has good reason to believe that any fraud or a violation of the law has been committed in the canvass or return of the votes, then that board of canvassers shall, subject to subsection (2), refer any matter the board of canvassers believes warrants investigation to the following:

(a) For a recount conducted by a board of county canvassers, the prosecuting attorney of the county in which the board of county canvassers is appointed.

(b) For a recount conducted by the board of state canvassers, the attorney general.

(2) The board of state canvassers shall refer a matter for investigation to the attorney general as provided under subsection (1) only if at least 1 member of each political party appointed to the board of state canvassers concurs in the decision to refer the matter for investigation.

(3) Any action taken in an investigation by a prosecuting attorney or the attorney general does not preclude any official recount of the ballots cast at any election, if otherwise allowed by the general election laws.

History: 1954, Act 116, Eff. June 1, 1955 ;-- Am. 1965, Act 82, Imd. Eff. June 24, 1965 ;-- Am. 2024, Act 74, Eff. Apr. 2, 2025
Popular Name: Election Code

168.873 Recount; willful interference; felony.

Sec. 873.

Any individual who willfully interferes with a recount or activities relating to a recount is guilty of a felony.

History: 1954, Act 116, Eff. June 1, 1955 ;-- Am. 2024, Act 74, Eff. Apr. 2, 2025
Popular Name: Election Code

168.874 Recount; return of ballots; manner of counting votes.

Sec. 874.

(1) 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 under section 871. In a public place where the candidates or ballot question committees participating in the ballot question and their counsel may be present, the board of canvassers shall proceed in the manner prescribed in section 871. The board of canvassers shall open the ballot containers from the precincts and make a recount of the ballots as to the candidates or ballot question. On 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.

(2) The board of canvassers shall conduct the recount so that the complete procedure may be observed and noted by the candidates or ballot question committees participating in the ballot question, their counsel, and not to exceed 2 individuals 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. Except as otherwise provided in subsection (3), all votes cast, whether for candidates or ballot questions, must be recounted in the following manner:

(a) One recount clerk shall call the votes for each candidate or ballot question involved in the recount.

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

(3) A recount may be conducted in an alternative manner other than provided under subsection (2) if that alternative manner is approved by the board of canvassers conducting the recount.

(4) The candidates or ballot question committees participating in the ballot question, their counsel, and those other individuals as described under subsection (2) must be allowed to observe each ballot as it is called, challenge the tabulation of a ballot, and take notes as desired for recordkeeping purposes. The board of canvassers shall identify by an exhibit number a ballot counted or rejected under challenge, keep a record of the challenge, and make a decision on all challenges before the conclusion of the recount.

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

Popular Name: Election Code

168.875 Recount; completion; deadline; exception; return of ballots and election materials.

Sec. 875.

(1) Except as otherwise provided in subsection (2), all recounts must be completed for a primary election not later than the twentieth day and for any other election not later than the thirtieth day immediately following the last day for filing petitions.

(2) Except as otherwise provided in this subsection, if a recount involves the result of an election as to the electors of President and Vice President of the United States, the recount must be 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. If a recount involving the result of an election as to the electors of President and Vice President of the United States cannot be 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 because of a government-declared emergency or court order, that recount must be completed as soon as possible, but not later than 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.

(3) As soon as the recount is completed, the board shall return any ballots to the respective containers and seal the containers. The board shall then return the ballots and election materials to the individuals having the care and custody of those items.

History: 1954, Act 116, Eff. June 1, 1955 ;-- Am. 1965, Act 82, Imd. Eff. June 24, 1965 ;-- Am. 1995, Act 261, Eff. Mar. 28, 1996 ;-- Am. 2024, Act 74, Eff. Apr. 2, 2025

Popular Name: Election Code

168.876 Recount; returns by board of canvassers, withdrawal of petition; final report made public.

Sec. 876.

The returns made by a board of canvassers upon recount are considered to be correct, notwithstanding anything in the previous returns from the city, township, ward, or precinct to the contrary. However, if the person petitioning for a recount withdraws the recount petition or discontinues the recount before the recount is complete, then the original return is considered correct regardless of any change shown by the recount at the time of the withdrawal of the petition or the discontinuance of the recount. The final report on the results of any recount must be made public.

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

Popular Name: Election Code

168.877 Repealed. 2024, Act 74, Eff. Apr. 2, 2025.

Compiler's Notes: The repealed section pertained to the review of an apparent error by certiorari.