



## Election Recounts: Process Summary

A candidate for a federal, state, county, city, township, village, or school office who believes that the canvass of the votes cast on the office is incorrect because of fraud or error in the precinct returns may petition for a recount of the votes cast in the precincts involved. Candidates seeking a precinct delegate position do not have the right to petition for a recount. (MCL 168.862; 168.879)

In addition, a registered elector who voted at an election at which a question appeared on the ballot, who believes that the canvass of the votes cast on the question is incorrect because of fraud or error in the precinct returns may petition for a recount of the votes cast in the precincts involved. (MCL 168.863; 168.880)

### **Recounts Conducted Under Authority of COUNTY CANVASSING BOARDS:**

The Board of County Canvassers is responsible for conducting recounts for:

- County, city, township, village and school offices.
- Probate Judge in single county districts and Municipal Court Judge.
- County, city, township, village and school ballot proposals.

**Preparation of Recount Petition:** A person who wishes to obtain a recount must submit a written, notarized statement which specifies the office or question involved; alleges that they possess a good-faith belief that they would have had a reasonable chance of winning the election, but for the canvass of the vote cast for the office or on the question is in error; and identifies the precincts in which a recount of the votes cast is desired. A recount request for an office must be submitted by an aggrieved candidate who sought the office involved; a recount request for a proposal must be submitted by a registered and eligible elector who voted on the proposal. (MCL 168.862; 168.863; 865)

**Submission of Recount Petition and Deposit:** A petition for a recount which will be conducted under the authority of the Board of County Canvassers is filed with the clerk of the Board of County Canvassers that originally conducted the canvass. A recount petition for a school district election, either for an office or proposal, is filed with the clerk of the Board of County Canvassers that certified the result of the school district election. The petition must be submitted no later than the sixth day after the completion of the canvass. A copy of the recount petition must be forwarded to the Secretary of State within two (2) days after its receipt. (MCL 168.866)

A deposit must be submitted with a recount petition for each precinct in which a recount is requested. The deposit amount is either \$25 per precinct, \$125 per precinct, or \$250 per precinct depending on the vote differential between the petitioner and winning candidate (or, in the case of a proposal, the differential between Yes and No votes). The deposit is refunded if the recount changes the outcome of the election. If the recount does not change the result of the election, the deposit is kept by the county. The required per-precinct deposit amount is determined as follows (MCL 168.867):

- \$25 per precinct; or
- \$125 per precinct, if the official canvass of votes shows that the number 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**; or
- \$250 per precinct, if the official canvass of votes shows that the number 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**.

**Note:** If more than one candidate is to be elected to the office, the applicable vote differential is between the petitioner and the winning candidate who received the least number of votes. The 0.5% or 5.0% figure is calculated based on the sum of the number of votes received by the petitioner and the winning candidate who received the least number of votes, to determine if the deposit amount is \$125 per precinct or \$250 per precinct.

In the case of a proposal, the applicable vote differential is between the "Yes" and the "No" votes. The 0.5% or 5.0% figure is calculated based on the total number of votes cast on the proposal, to determine if the deposit amount is \$125 per precinct or \$250 per precinct.

**Notice Requirement; Counter Petitioning Option:** Within 24 hours after the receipt of a recount petition filed by a candidate, the clerk receiving the petition is required to give notice of the filing to opposing candidates who sought nomination or election to the office involved. (If a large number of candidates was involved in the race, notice is only required to the two candidates who received the lowest number of votes among those candidates who were nominated or elected, and the 2 candidates who received the highest number of votes among those candidates who were not nominated or elected.) (MCL 168.868)

A candidate receiving such a notice may submit a "counter petition" if he or she wishes to have additional precincts recounted. (The counter petitioning option is moot if the original petition requests that the entire district be recounted.) A counter petition must be submitted within 48 hours after the submission of the original petition. The per-precinct deposit is calculated in the same manner as described above. (MCL 168.868)

A copy of the counter petition must be forwarded to the Secretary of State within four (4) days after its receipt. (MCL 168.868)



**Conduct of Recount:** Upon the county clerk's receipt of a recount petition, he or she notifies the Board of County Canvassers of the need to schedule a meeting to conduct the recount. The Board cannot begin the recount until after the county clerk has determined whether a recount petition has been filed on the state level which involves the county. If a recount petition has been filed on the state level which involves the county, the conduct of both recounts (the recount requested on the county level and the recount requested on the state level) are coordinated through the Department of State's Bureau of Elections. The Board of County Canvassers is not required to obtain state clearance to proceed with a recount of votes cast on a city, township, village or school office or question if the ballots involved are not sealed in ballot boxes containing ballots cast on state or county offices or questions. (MCL 168.869) The recount is conducted as provided under Michigan election law, MCL 168.861- 877.

**Recount Petition Objections:** On or before 4:00 p.m. of the seventh day after the original recount petition is filed, an opposing candidate may submit objections to the recount request to the Board of County Canvassers. The objections must be set forth in writing. A hearing is conducted by the Board to consider the objections. A ruling on the objections is issued by the Board within five days after the conduct of the hearing. If the objections are overturned by the Board, the recount can commence after the second business day following the issuance of the Board's decision. (MCL 168.868)

**Discontinuance of Recount:** If, at any time prior to the completion of the recount, the person requesting the recount withdraws his or her petition, the recount is immediately discontinued. In such an event, the original returns certified for the race or question are deemed to be correct. (MCL 168.876)

**Completion of Recount:** If a primary election, the recount must be completed by the twentieth day after the deadline for filing a counter petition. If a general election, the recount must be completed by the thirtieth day after the deadline for filing a counter petition. (MCL 168.875)

**Cost of Recount:** If a Board of County Canvassers recounts the votes cast on a city, township, village or school office or question, the expense of conducting the recount is charged back to the local unit. The local unit is then responsible for reimbursing the county treasurer for the expenses involved. (MCL 168.869)

**Refund of Recount Deposit:** If the results of the recount change the result of the election, the deposit is refunded to the petitioner. If the results of the recount do not change the result of the election, the deposit is retained by the county. If a counter petition was filed and the recount does not change the result of the election, the counter-petitioner's deposit is refunded. (MCL 168.867, 868)

In addition, if a precinct is determined to be 'not recountable', or not recounted due to the withdrawal of the recount petition, the money deposited for the recount of that precinct shall be refunded to the petitioner. If the votes cast in a precinct have been examined and recounted, the withdrawal of the recount petition shall not result in a refund of the deposit. (MCL 168.867)



# Recounts Conducted Under the Authority of The BOARD OF STATE CANVASSERS:

The Board of State Canvassers is responsible for conducting recounts for:

- Statewide offices.
- U.S. Senator, U.S. Representative in Congress, State Senator and State Representative.
- Judicial offices (except Probate Judge in single county districts and Municipal Court Judge.)
- Statewide ballot proposals.

**Preparation of Recount Petition:** A person who wishes to obtain a recount must submit a written, notarized statement which specifies the office or question involved; alleges that they possess a good-faith belief that they would have had a reasonable chance of winning the election, but for the canvass of the vote cast for the office or on the question is in error; and identifies the precincts in which a recount of the votes cast is desired. A recount request for an office must be submitted by an aggrieved candidate who sought the office involved; a recount request for a proposal must be submitted by a registered and eligible elector who voted on the proposal. (MCL 168.879; 168.880)

**Submission of Recount Petition and Deposit:** A petition for a recount which will be conducted under the authority of the Board of State Canvassers is filed with the Secretary of State. If a recount involves a U.S. House District, State Senate District or State House District that is wholly contained within a single county, the petition must be submitted no later than 48 hours "following the adjournment" of the meeting convened by the Board of State Canvassers to certify the election. For any other office, the petition must be submitted no later than 48 hours "following the completion of the canvass" of the election. If the office of the State Representative is involved, a copy of the petition is filed with the clerk of the State House of Representatives. If the office of State Senator is involved, a copy of the petition is filed with the Secretary of the Senate. (MCL 168.879)

A deposit must be submitted with a recount petition for each precinct in which a recount is requested. The deposit amount is either \$25 per precinct, \$125 per precinct, or \$250 per precinct depending on the vote differential between the petitioner and winning candidate (or, in the case of a proposal, the differential between Yes and No votes). The required per-precinct deposit amount is determined as follows (MCL 168.881):

- \$25 per precinct; or
- \$125 per precinct, if the official canvass of votes shows that the number 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**; or



- \$250 per precinct, if the official canvass of votes shows that the number 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**.

**Note:** If more than one candidate is to be elected to the office, the applicable vote differential is between the petitioner and the winning candidate who received the least number of votes. The 0.5% or 5.0% figure is calculated based on the sum of the number of votes received by the petitioner and the winning candidate who received the least number of votes, to determine if the deposit amount is \$125 per precinct or \$250 per precinct.

In the case of a proposal, the applicable vote differential is between the "Yes" and the "No" votes. The 0.5% or 5.0% figure is calculated based on the total number of votes cast on the proposal, to determine if the deposit amount is \$125 per precinct or \$250 per precinct.

**Notice Requirement: Counter Petitioning Option:** Within 48 hours after the receipt of a recount petition filed by a candidate, the Secretary of State is required to give notice of the filing to any opposing candidates who sought nomination or election to the office involved.

A candidate receiving notice of a recount may submit a "counter petition" if he or she wishes to have additional precincts recounted. (The counter petitioning option is moot if the original petition requests that the entire district be recounted.) A counter petition must be submitted no later than 4:00 p.m. on the seventh day after the submission of the original petition. A deposit must be submitted with the counter petition for each additional precinct in which a recount is requested. The per-precinct deposit is calculated in the same manner as described above.

**Conduct of Recount:** Upon the Secretary of State's receipt of a recount petition, the Department's Bureau of Elections immediately contacts the clerks of the counties involved to coordinate the conduct of the recount. (MCL 168.883) The recount is conducted as provided under Michigan election law, MCL 168.861 - 168.894.

**Recount Petition Objections:** On or before 4:00 p.m. of the seventh day after the original recount petition is filed, an opposing candidate may submit objections to the recount request to the Board of State Canvassers. The objections must be set forth in writing. A hearing is conducted by the Board to consider the objections. A ruling on the objections is issued by the Board within five days after the conduct of the hearing. If the objections are overturned by the Board, the recount can commence after the second business day following the issuance of the Board's decision. (MCL 168.882)

**Delegation of Authority:** The members of the Board of State Canvassers have the authority to delegate their supervisory authority over recounts to any state officer, state employee or county canvassing board member. (MCL 168.890)

**Discontinuance of Recount:** If, at any time prior to the completion of the recount, the person requesting the recount withdraws his or her petition, the recount is immediately discontinued. In such an event, the original returns certified for the race or question are deemed to be correct. (MCL 168.893)



**Automatic Recounts:** A recount of all precincts in the state is automatically conducted if the difference between the number of votes received by a candidate nominated or elected to a statewide office and the number of votes received by the second-place candidate is 2,000 votes or less. The provision does not extend to the office of State Board of Education, University of Michigan Regent, Michigan State University Trustee or Wayne State University Governor. A recount of all precincts in the state is similarly conducted if the difference between the "Yes" vote and the "No" vote cast on a statewide ballot proposal is 2,000 votes or less. (MCL 168.880a)

**Completion of Recount:** If a primary election, the recount must be completed by the twentieth day after the deadline for filing a counter petition. If a general election, the recount must be completed by the thirtieth day after the deadline for filing a counter petition. (MCL 168.875)

**Cost of Recount:** All costs associated with a recount conducted under the authority of the Board of State Canvassers - except for those expenses directly incurred by the members of the Board or the Department's Bureau of Elections staff for travel, meals, lodging etc. - are the responsibility of the county or counties involved. {MCL 168.894)

**Refund of Recount Deposit:** If the results of the recount change the result of the election, the deposit is refunded to the petitioner. If the results of the recount do not change the result of the election, the deposit is refunded to the county(ies) in which the recount was conducted. If a counter petition was filed and the recount does not change the result of the election, the counter-petitioner's deposit is refunded. (MCL 168.881, 882)

In addition, if a precinct is determined to be 'not recountable', or not recounted due to the withdrawal of the recount petition, the money deposited for the recount of that precinct shall be refunded to the petitioner. If the votes cast in a precinct have been examined and recounted, the withdrawal of the recount petition shall not result in a refund of the deposit. (MCL 168.881)

