

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

***** 168.871.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT
OF THE 2024 REGULAR SESSION SINE DIE *****

168.871.amended 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. (sine die).

Popular name: Election Code