

HOUSE BILL NO. HB0052

Elections-hand counting for recounts.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to elections; providing a process for
2 certain recounts to be conducted by hand counting the
3 votes; authorizing the secretary of state and county clerks
4 to require recounts as specified; providing for hand counts
5 to be requested by candidates as specified; specifying the
6 costs of recounts; clarifying when a counting board is
7 required to be appointed; amending dates related to
8 elections; amending provisions related to election recount
9 judges; requiring the completion of a hand count by the
10 county clerk of each county in the 2026 primary and general
11 elections; specifying requirements for the hand count;
12 requiring rulemaking; creating an account; making
13 conforming amendments; providing appropriations; and
14 providing for effective dates.

15

1 *Be It Enacted by the Legislature of the State of Wyoming:*

2

3 **Section 1.** W.S. 22-1-102(a)(xlii), 22-2-104(b) and
4 (d), 22-8-101(d), 22-8-102, 22-8-108(a), (c), (d) and by
5 creating a new subsection (e), 22-14-114(a),
6 22-16-103(c)(i), 22-16-109(a) through (c) and by creating
7 new subsections (d) through (g), 22-16-110(a)(intro),
8 22-16-111(a)(intro), (i), (ii) and (b), 22-16-113(a)(i),
9 (ii), (b) and (c) and 22-16-118 are amended to read:

10

11 **22-1-102. Definitions.**

12

13 (a) The definitions contained in this chapter apply
14 to words and phrases used in this Election Code and govern
15 the construction of those words and phrases unless they are
16 specifically modified by the context in which they appear.
17 As used in this Election Code:

18

19 (xlii) "Recount" is the counting of ballots by
20 hand or the processing of ballots through the tabulation
21 system for an additional time or times, ~~conducted~~ for the
22 specific purpose of counting votes again in any specific

1 race, based upon the criteria of W.S. 22-16-109 ~~or~~
2 ~~22-16-111~~ through 22-16-113;

3

4 **22-2-104. Election dates.**

5

6 (b) A primary election shall be held at the regular
7 polling places for each precinct on the first Tuesday after
8 the ~~third~~ first Monday in August in general election years
9 for the nomination of candidates for partisan and
10 nonpartisan offices to be filled at the succeeding general
11 election and for the election of major party precinct
12 committeemen and committeewomen.

13

14 (d) Every bond election shall be held on the same day
15 as a primary election or a general election, or on the
16 first Tuesday after the first Monday in May or November, or
17 on the first Tuesday after the ~~third~~ first Monday in
18 August.

19

20 **22-8-101. Notice of election officials needed; county**
21 **chairmen to submit list of names; municipal clerks list of**
22 **names appointment.**

23

1 (d) Not later than June 30, the county clerk on each
2 general election year shall appoint judges of election and
3 counting boards and alternates from lists submitted by the
4 county chairmen of the major and minor political parties.

5 This subsection shall not apply to judges appointed to
6 conduct recounts in accordance with W.S. 22-16-109 through
7 22-16-113.

8
9 **22-8-102. Qualifications.**

10
11 Except as otherwise provided by this section, judges of
12 election and members of counting boards shall be registered
13 electors and shall be physically, morally and mentally
14 competent to perform their duties. The county clerk may
15 appoint persons who are at least sixteen (16) years of age
16 to serve as judges of election or members of counting
17 boards if such persons meet all other requirements for
18 qualification of an elector. A judge of election shall not
19 be a member of a counting board at the same election except
20 as provided by W.S. 22-8-108(d) and (e).

21
22 **22-8-108. Appointment, composition and authority of**
23 **counting boards; when judges to count.**

1

2 (a) Unless ballots are tabulated by electronic voting
3 systems, the county clerk shall appoint a counting board
4 for each ~~paper ballot~~ polling place casting more than three
5 hundred (300) votes at the last general election, and may
6 appoint a counting board in such a polling place in which
7 one hundred fifty (150) or more such votes were cast at
8 such election. A counting board shall have three (3)
9 members or more to facilitate the counting of votes. No
10 more than one (1) person under the age of eighteen (18) may
11 be appointed as to each counting board.

12

13 (c) The counting board ~~in a paper ballot polling~~
14 ~~place~~ appointed under subsection (a) of this section has no
15 authority to act until polls are declared closed as
16 provided in W.S. 22-13-117, except as provided in W.S.
17 22-9-125(d). A counting board in an electronic voting
18 system counting center may commence preparing absentee
19 ballots for counting at any time on election day, or before
20 election day as provided in W.S. 22-9-125(d).

21

22 (d) For a polling place where a counting board need
23 not be appointed under subsection (a) of this section, the

1 judges of election shall count the votes. This subsection
2 shall not apply if ballots are tabulated by electronic
3 voting system.

4
5 (e) The county clerk shall appoint a counting board
6 for the purposes of completing recounts as provided in W.S.
7 22-16-109. The counting board under this subsection shall
8 consist of not less than three (3) members. Additional
9 counting board members may be appointed if deemed necessary
10 by the county clerk.

11
12 **22-14-114. Counting of ballots.**

13
14 (a) The following shall apply to the counting of
15 ballots:

16
17 (i) For ballots designed to be counted by
18 machine, each individual vote shall be determined by the
19 voting equipment and shall not be determined subjectively
20 by human tabulation except as provided below:

21
22 (A) When the intent of the voter is
23 unmistakable but the ballot was received in such damaged,

1 soiled, or other condition that it is rejected by the
2 machine. The secretary of state may promulgate rules
3 establishing standards for counting such ballots;—

4

5 (B) When being recounted by hand in
6 accordance with W.S. 22-16-109. The secretary of state may
7 promulgate rules establishing standards for counting such
8 ballots;

9

10 (C) When counting write-in votes by
11 candidate under W.S. 22-16-103(a)(iii).

12

13 (ii) For ballots not designed to be counted by
14 machine, only votes clearly marked, as provided by W.S.
15 22-14-104 and rules promulgated pursuant to this code,
16 shall be tallied;—

17

18 (iii) For write-in votes, names which are
19 misspelled or abbreviated or the use of nicknames of
20 candidates shall be counted for the candidate if the vote
21 is obvious to the board.

22

23 **22-16-103. County canvass procedures.**

1

2 (c) The county canvassing board shall:

3

4 (i) Meet as soon as all returns have been
5 received and abstracted, but if any provisional ballots
6 have been cast in the county, not before the time has
7 passed for provisional voters to document their eligibility
8 to register or to vote. The board shall meet at a time and
9 place designated by the county clerk, but no later than the
10 ~~first~~second Friday following the election;

11

12 **22-16-109. Recounts.**

13

14 (a) The county canvassing board shall make a recount
15 of precinct votes if it appears to the board that a recount
16 is required due to irregularities in that precinct. The
17 recount under this subsection may be conducted by a hand
18 count or by using electronic voting equipment as determined
19 by the county canvassing board.

20

21 (b) Prior to the county canvass, there shall be a
22 recount made of all the votes:

23

1 (i) Cast for any federal, statewide or
2 legislative office in which the difference in number of
3 votes cast for the winning candidate receiving the least
4 number of votes and the number of votes cast for the losing
5 candidate receiving the greatest number of votes is less
6 than ~~one percent (1%)~~ two percent (2%) of the number of
7 votes cast for the winning candidate receiving the least
8 number of votes cast for that office in that county. This
9 recount shall be made in the entire district in which the
10 candidates are standing for election in that county. This
11 recount shall be conducted by a hand count. A recount under
12 this subsection shall not be required if a recount is
13 required under paragraph (ii) of this subsection for the
14 same office;

15
16 (ii) Cast for any federal, statewide or
17 legislative office in which the difference in the number of
18 votes cast for the winning candidate receiving the least
19 number of votes and the number of votes cast for the losing
20 candidate receiving the greatest number of votes is less
21 than one percent (1%) of the number of votes cast for the
22 winning candidate receiving the least number of votes cast
23 for that office in the entire state or district. This

1 recount shall be made in each county in which the
2 candidates are standing for election. This recount shall be
3 conducted by a hand count;

4
5 (iii) Cast for any other office not specified in
6 paragraph (i) or (ii) of this subsection in which the
7 difference in number of votes cast for the winning
8 candidate receiving the least number of votes and the
9 number of votes cast for the losing candidate receiving the
10 greatest number of votes is less than two percent (2%) of
11 the number of votes cast for the winning candidate
12 receiving the least number of votes cast for that office.
13 This recount shall be made in the entire district in which
14 the candidates are standing for election. This recount
15 shall be conducted by electronic voting equipment.

16
17 (c) There shall be a recount made of all the votes
18 cast for any office if a losing candidate requests one
19 under provision of W.S. 22-16-110. This recount shall be
20 made in the entire district in which the candidate is
21 standing for election. This recount may be conducted by
22 hand count or by using electronic voting equipment as
23 determined by the candidate.

1

2 (d) Not later than the day following an election, the
3 secretary of state may require a recount of not more than
4 one (1) federal, statewide or legislative question or race.
5 The secretary of state shall specify which precincts are to
6 be recounted. This recount may be conducted by hand or by
7 using electronic voting equipment as specified by the
8 secretary of state.

9

10 (e) The county clerk shall have the discretion to
11 recount any ballot proposition or race either by election
12 district or precinct. This recount may be conducted by hand
13 or by using electronic voting equipment as specified by the
14 county clerk.

15

16 (f) If there is any discrepancy between the recount
17 results and the preliminary election results, the county
18 canvassing board shall determine the official result of the
19 election.

20

21 (g) There is created the election recount account.
22 Funds in the account shall not revert and are continuously
23 appropriated to the secretary of state for costs related to

1 administering hand recounts. The state treasurer shall
2 invest funds within the account in accordance with law. All
3 investment earnings from the account shall be deposited in
4 the general fund.

5

6 **22-16-110. How candidate may obtain recount; where**
7 **affidavit filed.**

8

9 (a) A candidate may obtain a recount of votes for the
10 office he is seeking by making and filing an affidavit
11 alleging that fraud or error occurred in counting,
12 returning or canvassing the votes cast in any part of the
13 district in which he is standing for election. The
14 affidavit shall specify whether the recount should be
15 conducted using electronic voting equipment or by hand
16 count using tally sheets. The affidavit shall be filed in
17 the same office the candidate filed his application for
18 nomination:

19

20 **22-16-111. Recount of ballot proposition.**

21

22 (a) A recount of votes of a ballot proposition may be
23 obtained ~~in one (1) of the following manners~~ as follows:

1

2

(i) A recount will be made:

3

4

(A) If the proposition is a statewide proposition and receives a number of votes, greater or lesser, within one percent (1%) of the number of votes required for passage. The one percent (1%) variance shall be calculated based upon the total number of votes cast on the proposition, except for constitutional amendments in which case the variance shall be calculated based upon the total number of votes cast in the election. This recount shall be conducted by a hand count;

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(ii) A recount will be made if requested in an affidavit signed by twenty-five (25) electors registered in a district voting on the question. The affidavit shall be filed with the county clerk not later than two (2) days

1 after the county canvass has been completed for
2 propositions voted on in one (1) county, and with the
3 secretary of state not later than two (2) days after the
4 state canvass has been completed for propositions voted on
5 in more than one (1) county. The affidavit shall be
6 accompanied by a deposit ~~of one hundred dollars (\$100.00)~~
7 as specified in W.S. 22-16-113(a). The affidavit shall
8 specify whether the recount should be conducted by hand
9 count or by electronic voting equipment.

10
11 (b) The county in which the recount is taken shall
12 pay the costs of the recount if the recount is required by
13 ~~subsection~~ paragraph (a)(i) of this section; and the
14 signers of the affidavit referred to in ~~subsection~~
15 paragraph (a)(ii) of this section shall be jointly and
16 severally liable for the costs of the recount requested by
17 them ~~up to five hundred dollars (\$500.00)~~ per county
18 recounted if the results of the election are not changed by
19 the recount.

20
21 **22-16-113. Recount deposit; expense of recount.**
22

1 (a) An affidavit requesting a recount must be
2 accompanied by the following deposit:

3
4 (i) If the ~~difference in number of votes cast as~~
5 ~~calculated pursuant to W.S. 22-16-109(b) is one percent~~
6 ~~(1%) or greater but less than five percent (5%), five~~
7 ~~hundred dollars (\$500.00)~~ affidavit requests the recount be
8 conducted by electronic voting equipment, an amount
9 determined by the county clerk not to exceed one thousand
10 dollars (\$1,000.00);

11
12 (ii) If the ~~difference in number of votes cast~~
13 ~~as calculated pursuant to W.S. 22-16-109(b) is five percent~~
14 ~~(5%) or greater, three thousand dollars (\$3,000.00)~~
15 affidavit requests the recount be conducted by hand count,
16 an amount determined by the county clerk not to exceed five
17 thousand dollars (\$5,000.00).

18
19 (b) If the recount shows sufficient error to change
20 the result of the election, the county in which the recount
21 is taken shall pay expenses of the recount and the deposit
22 shall be returned. Otherwise the applicant or applicants
23 seeking the recount shall be liable for the actual cost of

1 conducting the recount up to a maximum of the amount
2 deposited under subsection (a) of this section, per county
3 recounted. Every county clerk shall issue a complete
4 accounting of all costs of the recount to the candidate
5 requesting the recount, and shall refund any surplus to the
6 candidate. If the actual cost of conducting the recount
7 exceeds five thousand dollars (\$5,000.00), the county clerk
8 may seek reimbursement of reasonable expenses from the
9 secretary of state. Reasonable expenses are limited to
10 market facility rental fees, excluding facility rental fees
11 for facilities owned by the county or the state, wages at a
12 rate consistent with the compensation under W.S. 22-8-116,
13 per diem of twenty-five dollars (\$25.00) per day and
14 mileage for election judges and county clerk staff. The
15 secretary of state shall reimburse those reasonable
16 expenses from the election recount account. If requesting
17 reimbursement from the secretary of state, the county clerk
18 shall provide a complete accounting of all costs of the
19 recount and the deposit paid by the candidate.

20

21 (c) If the recount is initiated by the county clerk
22 or county canvassing board, ~~or required by W.S.~~
23 ~~22-16-109(b),~~ the cost of the recount shall be paid by the

1 county in which the recount is taken regardless of the
2 result of the recount. If the recount is initiated by the
3 secretary of state under W.S. 22-16-109(d) or required by
4 W.S. 22-16-109(b), the cost of the recount shall be paid by
5 the secretary of state regardless of the result of the
6 recount.

7

8 **22-16-118. Meeting of state canvassing board.**

9

10 The state canvassing board shall meet no later than the
11 ~~second~~third Wednesday following the election. The
12 secretary of state shall send a messenger to obtain
13 official county abstracts not filed in a reasonable length
14 of time. The canvassing board shall meet at the time and
15 place set by the secretary of state. The board shall review
16 the state abstracts prepared by the secretary of state,
17 compare them with the tabulation and materials prepared by
18 the secretary of state, resolve any tie votes, and certify
19 the abstract as the official state canvass.

20

21 **Section 2.** W.S. 22-8-108(b) and 22-16-111(c) are
22 repealed.

23

1 **Section 3.**

2

3 (a) In addition to the audits required under W.S.
4 22-6-130 and 22-11-109, each county clerk shall conduct a
5 hand count audit of actual ballots cast on election day
6 following the 2026 primary and 2026 general elections. Each
7 county clerk shall conduct a hand count audit of the
8 ballots for one (1) federal race and one (1) statewide race
9 as selected by the secretary of state. The secretary of
10 state shall notify the county clerk of each county which
11 races shall be audited not later than close of business on
12 the Wednesday following the election. The secretary of
13 state may select different federal and statewide races to
14 be audited for each county, but in no instance shall the
15 secretary of state select more than one (1) federal race
16 and one (1) statewide race per county. In addition to the
17 races selected by the secretary of state, the county clerk
18 shall conduct a hand count audit of each legislative race
19 printed on the ballot. The county canvassing board may
20 audit additional races in addition to those selected by the
21 secretary of state pursuant to the requirements of this
22 section. The results of each hand count audit and the
23 electronic count shall be compared to determine if there

1 were any inconsistencies or errors in the electronic voting
2 system count.

3

4 (b) Notwithstanding any other law, for the 2026
5 primary and general elections, a judge of election shall
6 not be a member of a counting board at the same election
7 except as provided by W.S. 22-8-108(d) or for purposes of a
8 hand count audit under this section.

9

10 (c) Pursuant to the requirements of subsection (a) of
11 this section, for the 2026 primary and general elections,
12 the county canvassing board shall select a requisite number
13 of electronic tabulating machines whose cumulative number
14 of ballots cast on election day totals as close to five
15 percent (5%) of the total number of ballots cast in the
16 respective county as possible. The county clerk shall audit
17 the ballots tabulated by those electronic tabulating
18 machines selected by the county canvassing board and
19 compare the ballots to the hand count audit result. The
20 hand count audit shall be conducted not later than nine (9)
21 days after the county canvas.

22

1 (d) Each hand count audit conducted under this
2 section shall be conducted as follows:

3

4 (i) The county clerk shall appoint audit boards
5 prior to the conclusion of the county canvass but shall not
6 be required to appoint the boards by the deadline set in
7 W.S. 22-8-101(d). The county clerk may appoint as many
8 audit boards as necessary, provided that each audit board
9 shall be made up of not less than three (3) qualified
10 electors with not greater than two (2) judges per audit
11 board being from the same political party;

12

13 (ii) In addition to any races selected by the
14 county canvassing board, audit boards appointed by the
15 county clerk shall audit those races selected by the
16 secretary of state and each legislative office printed on
17 the ballot. The audit boards appointed by the county clerk
18 shall audit those races on ballots that were tabulated by
19 the equipment selected by the county canvassing board;

20

21 (iii) Audit boards appointed by the county clerk
22 under this section shall tabulate each mark, undervote or
23 overvote as would be counted by electronic tabulating

1 equipment according to the instructions printed on the
2 ballot.

3

4 (e) Any inconsistencies or errors between the
5 original count tabulated by the electronic tabulating
6 machines and the hand count audit required under this
7 section shall be reported to the secretary of state not
8 less than nine (9) days after the date of the county
9 canvass.

10

11 (f) Any ballot inconsistencies or counting errors
12 between the original electronic ballot count and the hand
13 count audit required under this section discovered during
14 the hand count audit process shall be reported to the
15 secretary of state and the joint corporations, elections
16 and political subdivisions interim committee on or before
17 May 1, 2027.

18

19 **Section 4.**

20

21 (a) There is appropriated two hundred thousand
22 dollars (\$200,000.00) from the general fund to the election

1 recount account under W.S. 22-16-109(g), as created by
2 section 1 of this act.

3

4 (b) There is appropriated three hundred thousand
5 dollars (\$300,000.00) from the general fund to the
6 secretary of state for purposes of the secretary of state
7 providing training to county clerks, the county clerks'
8 staff and election volunteers. This appropriation shall be
9 for the period of July 1, 2026 and ending June 30, 2028.
10 This appropriation shall not be transferred or expended for
11 any other purpose and any unexpended, unobligated funds
12 remaining from this appropriation shall revert as provided
13 by law on June 30, 2028.

14

1 **Section 5.**

2

3 (a) Except as provided by subsection (b) of this
4 section, this act is effective January 1, 2027.

5

6 (b) Sections 3 and 5 of this act are effective
7 immediately upon completion of all acts necessary for a
8 bill to become law as provided by Article 4, Section 8 of
9 the Wyoming Constitution.

10

11

(END)