

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; requiring rulemaking; creating an
8 account; making conforming amendments; providing an
9 appropriation; and providing for an effective date.

10
11 *Be It Enacted by the Legislature of the State of Wyoming:*

12
13 **Section 1.** W.S. 22-1-102(a)(xlii), 22-8-102,
14 22-8-108(a), (c), (d) and by creating a new subsection (e),
15 22-14-114(a), 22-16-109(a) through (c) and by creating new

1 subsections (d) through (g), 22-16-110(a)(intro),
2 22-16-111(a)(intro), (i), (ii) and (b) and 22-16-113(a)(i),
3 (ii), (b) and (c) are amended to read:

4
5 **22-1-102. Definitions.**

6
7 (a) The definitions contained in this chapter apply
8 to words and phrases used in this Election Code and govern
9 the construction of those words and phrases unless they are
10 specifically modified by the context in which they appear.
11 As used in this Election Code:

12
13 (xlii) "Recount" is the counting of ballots by
14 hand or the processing of ballots through the tabulation
15 system for an additional time or times, ~~conducted~~ for the
16 specific purpose of counting votes again in any specific
17 race, based upon the criteria of W.S. 22-16-109 ~~or~~
18 ~~22-16-111~~ through 22-16-113;

19
20 **22-8-102. Qualifications.**

21
22 Except as otherwise provided by this section, judges of
23 election and members of counting boards shall be registered

1 electors and shall be physically, morally and mentally
2 competent to perform their duties. The county clerk may
3 appoint persons who are at least sixteen (16) years of age
4 to serve as judges of election or members of counting
5 boards if such persons meet all other requirements for
6 qualification of an elector. A judge of election shall not
7 be a member of a counting board at the same election except
8 as provided by W.S. 22-8-108(d) and (e).

9
10 **22-8-108. Appointment, composition and authority of**
11 **counting boards; when judges to count.**

12
13 (a) Unless ballots are tabulated by electronic voting
14 systems, the county clerk shall appoint a counting board
15 for each ~~paper ballot~~ polling place casting more than three
16 hundred (300) votes at the last general election, and may
17 appoint a counting board in such a polling place in which
18 one hundred fifty (150) or more such votes were cast at
19 such election. A counting board shall have three (3)
20 members or more to facilitate the counting of votes. No
21 more than one (1) person under the age of eighteen (18) may
22 be appointed as to each counting board.

23

1 (c) The counting board ~~in a paper ballot polling~~
2 ~~place~~ appointed under subsection (a) of this section has no
3 authority to act until polls are declared closed as
4 provided in W.S. 22-13-117, except as provided in W.S.
5 22-9-125(d). A counting board in an electronic voting
6 system counting center may commence preparing absentee
7 ballots for counting at any time on election day, or before
8 election day as provided in W.S. 22-9-125(d).

9
10 (d) For a polling place where a counting board need
11 not be appointed under subsection (a) of this section, the
12 judges of election shall count the votes. This subsection
13 shall not apply if ballots are tabulated by electronic
14 voting system.

15
16 (e) The county clerk shall appoint a counting board
17 for the purposes of completing recounts as provided in W.S.
18 22-16-109. The counting board under this subsection shall
19 consist of not less than three (3) members. Additional
20 counting board members may be appointed if deemed necessary
21 by the county clerk.

22
23 **22-14-114. Counting of ballots.**

1

2 (a) The following shall apply to the counting of
3 ballots:

4

5 (i) For ballots designed to be counted by
6 machine, each individual vote shall be determined by the
7 voting equipment and shall not be determined subjectively
8 by human tabulation except as provided below:

9

10 (A) When the intent of the voter is
11 unmistakable but the ballot was received in such damaged,
12 soiled, or other condition that it is rejected by the
13 machine. The secretary of state may promulgate rules
14 establishing standards for counting such ballots;;

15

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

20

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

23

1 (ii) For ballots not designed to be counted by
2 machine, only votes clearly marked, as provided by W.S.
3 22-14-104 and rules promulgated pursuant to this code,
4 shall be tallied;.

5
6 (iii) For write-in votes, names which are
7 misspelled or abbreviated or the use of nicknames of
8 candidates shall be counted for the candidate if the vote
9 is obvious to the board.

10
11 **22-16-109. Recounts.**

12
13 (a) The county canvassing board shall make a recount
14 of precinct votes if it appears to the board that a recount
15 is required due to irregularities in that precinct. The
16 recount under this subsection may be conducted by a hand
17 count or by using electronic voting equipment as determined
18 by the county canvassing board.

19
20 (b) Prior to the county canvass, there shall be a
21 recount made of all the votes;.

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
5 proposition and receives a number of votes, greater or
6 lesser, within one percent (1%) of the number of votes
7 required for passage. The one percent (1%) variance shall
8 be calculated based upon the total number of votes cast on
9 the proposition, except for constitutional amendments in
10 which case the variance shall be calculated based upon the
11 total number of votes cast in the election. This recount
12 shall be conducted by a hand count;

13

14 (B) If the ballot proposition is not a
15 statewide ballot proposition and the proposition receives a
16 number of votes, greater or lesser, within two percent (2%)
17 of the number of votes required for passage. This recount
18 shall be conducted by a hand count.

19

20 (ii) A recount will be made if requested in an
21 affidavit signed by twenty-five (25) electors registered in
22 a district voting on the question. The affidavit shall be
23 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), the cost of the
4 recount shall be paid by the secretary of state regardless
5 of the result of the recount.

6
7 **Section 2.** W.S. 22-8-108(b) and 22-16-111(c) are
8 repealed.

9
10 **Section 3.** There is appropriated two hundred thousand
11 dollars (\$200,000.00) from the general fund to the election
12 recount account under W.S. 22-16-109(g), as created by
13 section 1 of this act.

14
15 **Section 4.** This act is effective July 1, 2026.

16
17 (END)