

HB0173S01 compared with HB0173

~~deleted text~~ shows text that was in HB0173 but was deleted in HB0173S01.

inserted text shows text that was not in HB0173 but was inserted into HB0173S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Craig Hall proposes the following substitute bill:

VOTE REPORTING REQUIREMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses the information to be reported by election officials when tabulating election results.

Highlighted Provisions:

This bill:

- ▶ in certain circumstances, requires an election officer to report an estimate of the total number of ballots in the election official's custody that remain to be counted; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

HB0173S01 compared with HB0173

None

Utah Code Sections Affected:

AMENDS:

20A-3a-402, as renumbered and amended by Laws of Utah 2020, Chapter 31

20A-4-104, as last amended by Laws of Utah 2020, Chapter 31

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **20A-3a-402** is amended to read:

20A-3a-402. Custody of ballots voted at a polling place -- Disposition -- Counting -- Release of number of ballots cast.

(1) This section governs ballots voted at a polling place.

(2) (a) The election officer shall deliver all return envelopes containing valid ballots and valid provisional ballots that are in the election officer's custody to the counting center before noon on the day of the official canvass following the election.

(b) Valid ballots, including valid provisional ballots, may be processed and counted:

(i) by the election officer, or poll workers acting under the supervision of the election officer, before the date of the canvass; and

(ii) at the canvass, by the election officer or poll workers, acting under the supervision of the official canvassers of the election.

(c) When processing ballots, the election officer and poll workers shall comply with the procedures and requirements of Section 20A-3a-401 in opening envelopes, verifying signatures, confirming eligibility of the ballots, and depositing ballots in preparation for counting.

(3) (a) After all valid ballots, including valid provisional ballots have been deposited, the ballots shall be counted in the usual manner.

(b) After the polls close on the date of the election, the election officer shall publicly release the results of those ballots, including provisional ballots, that have been counted on or before the date of the election.

(c) Except as provided in Subsection (3)(d), on each day, beginning on the day after the date of the election and ending on the day before the date of the canvass, the election officer shall publicly release:

HB0173S01 compared with HB0173

(i) the results of all ballots, including provisional ballots, counted on that day[-]; and

(ii) an estimate of the total number of voted ballots in the custody of the election officer that have not yet been counted.

(d) (i) If complying with Subsection (3)(c) on a particular day will likely result in disclosing a vote cast by an individual voter, the election officer shall request permission from the lieutenant governor to delay compliance for the minimum number of days necessary to protect against disclosure of the voter's vote.

(ii) The lieutenant governor shall grant a request made under Subsection (3)(d)(i) if the lieutenant governor finds that the delay is necessary to protect against disclosure of a voter's vote.

(e) On the date of the canvass, the election officer shall provide a tally of all ballots, including provisional ballots, counted, and the resulting tally shall be added to the official canvass of the election.

(4) (a) On the day after the date of the election, the election officer shall determine the number of ballots received by the election officer at that time and shall make that number available to the public.

(b) The election officer may elect to publicly release updated totals for the number of ballots received by the election officer up through the date of the canvass.

Section 2. Section **20A-4-104** is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall publish public notice of the time and place of the test:

(i) (A) at least 48 hours before the test in one or more daily or weekly newspapers of general circulation in the county, municipality, or jurisdiction where the equipment is used;

(B) if there is no daily or weekly newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used, at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction; or

HB0173S01 compared with HB0173

(C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the test;

(iii) in accordance with Section 45-1-101, for at least 10 days before the day of the test; and

(iv) if the county, municipality, or jurisdiction has a website, on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all

HB0173S01 compared with HB0173

persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

- (a) make a true replication of the ballot with an identifying serial number;
- (b) substitute the replicated ballot for the damaged or defective ballot;
- (c) label the replicated ballot "replicated"; and
- (d) record the replicated ballot's serial number on the damaged or defective ballot.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) ~~(11)~~ Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.

~~(5)~~ (6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

~~(6)~~ (7) (a) The election officer or the election officer's designee shall:

- (i) separate, count, and tabulate any ballots containing valid write-in votes; and
- (ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

~~(7)~~ (8) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open

HB0173S01 compared with HB0173

to the public.

~~[(8)]~~ (9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

~~[(9)]~~ (10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.