

HB0422S01 compared with HB0422

~~text~~ shows text that was in HB0422 but was deleted in HB0422S01.

inserted text shows text that was not in HB0422 but was inserted into HB0422S01.

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Senator Lincoln Fillmore proposes the following substitute bill:

INITIATIVE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jason ~~B.~~ Kyle

Senate Sponsor: ~~_____~~ Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies provisions relating to a statewide initiative.

Highlighted Provisions:

This bill:

- ▶ contingent on the passage of a constitutional amendment, modifies the vote percentage required to pass a statewide initiative that would increase taxes; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

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Utah Code Sections Affected:

AMENDS:

20A-1-303, as last amended by Laws of Utah 2018, Chapter 187

20A-4-304, as last amended by Laws of Utah 2022, Chapter 342

20A-7-211, as last amended by Laws of Utah 2022, Chapter 18

Utah Code Sections Affected by Coordination Clause:

20A-7-211, as last amended by Laws of Utah 2022, Chapter 18

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

Section 1. Section **20A-1-303** is amended to read:

20A-1-303. Determining results.

(1) (a) Except as provided in [~~Title 20A,~~] Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when one person is to be elected or nominated, the person receiving the highest number of votes at any:

- (i) election for any office to be filled at that election is elected to that office; and
- (ii) primary for nomination for any office is nominated for that office.

(b) Except as provided in [~~Title 20A,~~] Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when more than one person is to be elected or nominated, the persons receiving the highest number of votes at any:

- (i) election for any office to filled at that election are elected to that office; and
- (ii) primary for nomination for any office are nominated for that office.

(2) [~~Any~~] Except as provided in Subsection (3), a ballot proposition submitted to voters for [their] approval or rejection:

- (a) passes if the number of "yes" votes is greater than the number of "no" votes; and
- (b) fails if:

- (i) the number of "yes" votes equal the number of "no" votes; or
- (ii) the number of "no" votes is greater than the number of "yes" votes.

(3) A statewide initiative submitted to voters for approval or rejection that would increase taxes:

(a) passes if the number of "yes" votes is greater than 60% of the total votes cast for or against the initiative; and

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(b) fails if the number of "yes" votes is equal to or fewer than 60% of the total votes cast for or against the initiative.

Section 2. Section **20A-4-304** is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

~~[(1) Each board of canvassers shall:]~~

~~(1) (a) [except] Except~~ as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction[;].

(b) Except as provided in Subsection (1)(c), a board of canvassers shall declare:

(i) "approved" ~~[those ballot propositions]~~ a ballot proposition that:

(A) ~~[had]~~ receives more "yes" votes than "no" votes; and

(B) ~~[were]~~ ~~{} was~~ submitted only to the voters within the board's jurisdiction; or

(ii) "rejected" ~~[those ballot propositions]~~ a ballot proposition that:

(A) ~~[had]~~ ~~{} receives~~ more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) ~~[were]~~ ~~{} was~~ submitted only to the voters within the board's jurisdiction[;].

(c) For a statewide initiative that would increase taxes, the state board of canvassers shall declare the initiative:

(i) "approved" if the number of "yes" votes is greater than 60% of the total votes cast for or against the initiative; or

(ii) "rejected" if the number of "yes" votes is equal to or fewer than 60% of the total votes cast for or against the initiative.

~~[(c)] (d) A board of canvassers shall:~~

(i) certify the vote totals for persons, and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction, and transmit those vote totals to the lieutenant governor; and

~~[(d)] (ii) if applicable, certify the results of each local district election to the local district clerk.~~

(2) As soon as the result is declared, the election officer shall prepare a report of the

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result, which shall contain:

- (a) the total number of votes cast in the board's jurisdiction;
 - (b) the names of each candidate whose name appeared on the ballot;
 - (c) the title of each ballot proposition that appeared on the ballot;
 - (d) each office that appeared on the ballot;
 - (e) from each voting precinct:
 - (i) the number of votes for each candidate;
 - (ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each ballot-counting phase; and
 - (iii) the number of votes for and against each ballot proposition;
 - (f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;
 - (g) the number of ballots that were rejected; and
 - (h) a statement certifying that the information contained in the report is accurate.
- (3) The election officer and the board of canvassers shall:
- (a) review the report to ensure that it is correct; and
 - (b) sign the report.
- (4) The election officer shall:
- (a) record or file the certified report in a book kept for that purpose;
 - (b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;
 - (c) publish a copy of the certified report in accordance with Subsection (5); and
 - (d) file a copy of the certified report with the lieutenant governor.
- (5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2):
- (a) (i) by publishing notice at least once in a newspaper of general circulation within the jurisdiction;
 - (ii) by posting one notice, and at least one additional notice per 2,000 population of the

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jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction, subject to a maximum of 10 notices; or

(iii) by mailing notice to each residence within the jurisdiction;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for one week; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for one week.

(6) Instead of including a copy of the entire certified report, a notice required under Subsection (5) may contain a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election]."; and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by

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precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 3. Section 20A-7-211 is amended to read:

20A-7-211. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the law proposed by the initiative petition shall be counted, canvassed, and delivered as provided in [~~Title 20A,~~] Chapter 4, Part 3, Canvassing Returns.

(2) After the state board of canvassers completes the canvass, the lieutenant governor shall certify to the governor the vote for and against the law proposed by the initiative petition.

(3) (a) The governor shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the state for and against each law proposed by an initiative petition; and

(ii) (A) except as provided in Subsection (3)(a)(ii)(B), declares [~~those laws~~] a law proposed by an initiative petition that [~~were~~] is approved by majority vote to be in full force and effect on the date described in Subsection 20A-7-212(2)[~~]; or~~

(B) for a law proposed by an initiative petition that would increase taxes, declares that law to be in full force and effect on the date described in Subsection 20A-7-212(2), if the initiative is approved by more than 60% of the total votes cast for or against the initiative.

(b) When the governor believes that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, the governor shall proclaim that measure to be law that receives the greatest number of affirmative votes, regardless of the difference in the majorities which those measures receive.

(c) Within 10 days after the governor's proclamation, any qualified voter who signed the initiative petition proposing the law that is declared by the governor to be superseded by another measure approved at the same election may bring an action in the appropriate court to review the governor's decision.

(4) Within 10 days after the day on which the court issues an order in an action described in Subsection (3)(c), the governor shall:

(a) proclaim all those measures approved by the people as law that the court determines are not entirely in conflict; and

(b) of all those measures approved by the people as law that the court determines to be

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entirely in conflict, proclaim as law, regardless of the difference in majorities, the law that receives the greatest number of affirmative votes, to be in full force and effect on the date described in Subsection 20A-7-212(2).

Section 4. Contingent effective date.

This bill takes effect on January 1, 2025, if the amendment to the Utah Constitution proposed by H.J.R. 17, Proposal to Amend Utah Constitution - Statewide Initiatives, 2023 General Session, passes the Legislature and is approved by a majority of those voting on the proposed amendment at the 2024 regular general election.

Section 5. Coordinating H.B. 422 with H.B. 38 -- Technical amendments.

If this H.B. 422 and H.B. 38, Initiative and Referendum Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication on January 1, 2025, so that the changes to Subsection 20A-7-211(3)(a) in H.B. 422 supersede the changes to Subsection 20A-7-211(3)(a) in H.B. 38.