

HOUSE BILL NO. HB0030

Election code revisions-3.

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

A BILL

for

1 AN ACT relating to elections; modifying requirements and
2 duties of various election officers; modifying
3 registration, canvassing and other voting provisions;
4 clarifying and amending other elections related provisions;
5 making conforming amendments; and providing for an
6 effective date.

7

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

9

10 **Section 1.** W.S. 22-11-108 and 22-14-114 are created to
11 read:

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13 **22-11-108. Retabulation.**

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15 A retabulation may be performed at the discretion of the
16 county clerk. If the retabulation indicates a different

1 count, the result of the last retabulation shall be the
2 official result unless a recount is conducted. If the
3 difference in the retabulations affects the result of any
4 race or ballot proposition, a recount under W.S.
5 22-16-109(a) shall be conducted.

6

7 **22-14-114. Counting of ballots.**

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9 For ballots designed to be counted by machine, each
10 individual vote shall be determined by the voting equipment
11 and shall not be determined subjectively by human
12 tabulation. For ballots not designed to be counted by
13 machine, only votes clearly marked, as provided by W.S.
14 22-14-104 and rules promulgated pursuant to this code,
15 shall be tallied. For write-in votes, names which are
16 misspelled or abbreviated or the use of nicknames of
17 candidates shall be counted for the candidate if the vote
18 is obvious to the board.

19

20 **Section 2.** W.S. 22-1-102(a)(xxviii) and by creating
21 new paragraphs (xxxix) through (xliii), 22-2-121(b),
22 22-3-102(a)(intro), 22-3-104, 22-3-114, 22-3-117(a),
23 22-5-214, 22-8-102, 22-8-110, 22-8-112(b), 22-9-107,
24 22-9-123, 22-13-104(a)(iv) and (b), 22-13-113(b),

1 22-14-104, 22-14-106 by creating a new subsection (b) and
2 renumbering (b) as (c), 22-14-111(a)(ii), 22-15-105,
3 22-15-106, 22-16-103(a) and by creating new subsections (c)
4 and (d), 22-16-106 by creating a new subsection (c),
5 22-16-112 by creating a new subsection (c), 22-21-103,
6 22-25-106(g), 22-25-107(a)(i), 22-29-113(k),
7 22-29-114(e)(intro) and 41-3-754 are amended to read:

8

9 **22-1-102. Definitions.**

10

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

16

17 (xxviii) "Registry agent" is a county clerk, his
18 deputies, a city clerk, his deputies, and an election judge
19 during ~~a primary or general~~ any election specified in W.S.
20 22-2-101(a)(i) through (viii);

21

22 (xxxix) "Acceptable identification" means one
23 (1) of the identification documents or other proof of

1 identity as specified by rule of the secretary of state as
2 adequate proof of the identity of a voter;

3

4 (xl) "Canvass" means the audit function that
5 culminates in the final certification of official election
6 returns;

7

8 (xli) "Provisional ballot" means a ballot
9 provided to a voter whose right to vote cannot be
10 determined at the polls or verified at the election office,
11 in order to allow the voter to vote;

12

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

18

19 (xliii) "Retabulation" is the process of running
20 ballots back through the tabulation system for an
21 additional time or times for the express purpose of
22 reconciling the count.

23

1 **22-2-121. Chief election officer to prepare forms;**
2 **rules; advice.**

3

4 (b) The secretary of state shall promulgate such
5 rules as are necessary to maintain uniform voting and vote
6 counting procedures and orderly voting.

7

8 **22-3-102. Qualifications; temporary registration.**

9

10 (a) A person may register to vote not less than
11 thirty (30) days before an election, at ~~a primary election,~~
12 ~~at a general election~~ any election specified in W.S.
13 22-2-101(a) (i) through (viii) or as provided by W.S.
14 22-3-117, who satisfies the following qualifications:

15

16 **22-3-104. Signing, subscribing and delivery of**
17 **registration oath; registration facilities in public**
18 **buildings.**

19

20 (a) A person registering to vote except as provided
21 ~~in subsection (b) or~~ in W.S. 22-3-117 shall present
22 acceptable identification and sign his legal name in full
23 on the registration oath form in the presence of a registry
24 agent:

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(i) In his proper polling place at ~~a primary or~~
~~general election~~ any election specified in W.S.
22-2-101(a)(i) through (viii); or

(ii) In the office of the county clerk or city
clerk in the principal office building of the county or
city in the presence of the registry agent.

(b) The completed and signed registration oath shall
then be subscribed by the registry agent and delivered to
the county clerk.

~~(b)~~ (d) A county or city clerk may establish and
maintain registration facilities in a public building owned
or occupied by a political subdivision or governmental
institution, agency or entity, after giving not less than
two (2) days notice by publication in a newspaper of
general circulation in the county and by posting such
notice in such clerk's office and on the front door of such
public building. The requirements of subsection (a) of this
section regarding the place of registration shall not apply
to a person registering in accordance with this subsection.

1 **22-3-114. Notification by registered elector of name**
2 **or address change.**

3

4 A registered elector who changes his name or changes his
5 residence from one address to another within the same county
6 shall notify the county clerk of the change, including in
7 the notification the name, address, precinct and social
8 security number (optional) under which registered and the
9 nature of the change.

10

11 **22-3-117. Absentee registration generally; use of**
12 **federal postcard.**

13

14 (a) Notwithstanding any other section or provision in
15 this chapter, any citizen of the United States who is a
16 resident of Wyoming ~~and who shall be absent from his place~~
17 ~~of residence or unable because of physical disability or~~
18 ~~infirmity to appear before a registry agent and apply for~~
19 ~~registration as provided in W.S. 22-3-104~~ may apply for
20 registration by providing acceptable identification to and
21 completing and subscribing, the form of voter registration
22 oath prescribed by W.S. 22-3-103 before any person
23 authorized by law to administer oaths, which person is
24 considered a registry agent for this purpose. Each county

1 clerk shall furnish the ~~form of~~ voter registration oath ~~to~~
2 ~~each person who applies for the same, in person, by~~
3 ~~telephone or mail, or through an agent~~ forms. The applicant
4 shall mail or return the completed voter registration oath
5 ~~shall be mailed or returned~~ form to the county clerk in the
6 county in which the ~~absentee~~ applicant resides. ~~and must be~~
7 ~~received in the county clerk's office before any election~~
8 ~~in order for the absentee registrant to be eligible to vote~~
9 ~~absentee in that election~~ In order to vote in the next
10 election, the application must be received in the county
11 clerk's office before the close of registration for that
12 election or be accompanied by an absentee ballot request
13 for elections where a voter may register at the polls.

14
15 **22-5-214. Change in party affiliation.**

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17 An elector may change his party affiliation by completing
18 an application signed before a notary or election official,
19 and filing it with the county clerk not later than thirty
20 (30) days before the primary election or at the polls on
21 the day of the primary or general election, or when
22 requesting an absentee ballot.

23
24 **22-8-102. Qualifications.**

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2 Judges of election and members of counting boards shall be
3 registered electors ~~of the precinct~~ and shall be
4 physically, morally and mentally competent to perform their
5 duties. A judge of election shall not be a member of a
6 counting board at the same election except as provided by
7 W.S. 22-8-108(d).

8

9 **22-8-110. Notice of appointment.**

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11 The county clerk shall immediately mail a notice of
12 appointment to each person selected to serve as a judge of
13 election or a member of a counting board or alternate. The
14 notice shall also state that attendance at the training
15 school for election officials is required unless similar
16 training is otherwise ~~provided~~ completed to the
17 satisfaction of the county clerk.

18

19 **22-8-112. Filling vacancies.**

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21 (b) If a judge is not present when polls open, or is
22 unable to complete his duties, the vacancy shall be filled
23 by a registered elector ~~of the precinct~~ appointed by those
24 judges present at the precinct polling place when the

1 vacancy occurs. If a member of a counting board is not
2 present when the polls close, or is unable to complete his
3 duties, the vacancy shall be filled by a registered elector
4 ~~of the precinct~~ appointed by those members of the counting
5 board who are present.

6

7 **22-9-107. Delivering ballots to qualified applicants.**

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9 If the clerk determines that the applicant is entitled to
10 vote, he shall mark the application "Accepted" and as soon
11 as ballots are available he shall immediately deliver to
12 the applicant, or the individual designated by the
13 applicant, the absentee ballot or ballots requested, ,
14 instructions for marking the ballot and the required
15 envelopes for use in returning the ~~same~~ ballot.

16

17 **22-9-123. Multiple voting prohibited.**

18

19 A person shall not vote by absentee ballot and in person at
20 the same election. If more than one (1) absentee ballot is
21 received by a clerk from the same person for the same
22 election, ~~none of the ballots~~ only the first ballot
23 received shall be counted.

24

1 **22-13-104. Procedure before elector permitted to**
2 **vote.**

3

4 (a) Before a qualified elector is permitted to vote a
5 judge of election may enter the following notations by his
6 name on the poll list:

7

8 (iv) If a person offering to vote is ~~challenged,~~
9 ~~a judge of election shall write the word "challenged" and~~
10 ~~the name of the challengers after the name of the elector.~~
11 ~~If a person challenged is permitted to vote on his~~
12 ~~affidavit, under W.S. 22-15-105, the word "sworn" shall be~~
13 ~~written after the names of the challengers~~ given a
14 provisional ballot the letter "P" shall be placed after the
15 person's name;

16

17 (b) A person offering to vote at an election whose
18 name does not appear on the precinct list may vote as a
19 challenged elector in accordance with chapter 15 of the
20 Election Code. ~~if a judge of an election obtains~~
21 ~~verification from the county clerk before the polls close~~
22 ~~stating that the person is entitled to vote in the county.~~

23

1 **22-13-113. Persons permitted in voting booth; time**
2 **limit.**

3

4 (b) A person may remain in the booth for not more
5 than ~~five (5)~~ ten (10) minutes.

6

7 **22-14-104. Entry of paper ballot votes on tally**
8 **sheet.**

9

10 Paper ballots shall be opened by the counting board and
11 every vote for a candidate or ballot proposition entered on
12 a tally list by a vertical mark, except that every fifth
13 mark shall diagonally cross the preceding four (4). The
14 counting board may determine the order of tallying
15 candidates and ballot propositions. A vote which is not
16 clearly marked ~~except when the intent of the voter is~~
17 ~~obvious to the counting board~~ shall not be tallied for that
18 office or question but votes clearly marked on the
19 remainder of the ballot shall be tallied. Ballots contained
20 in separate ballot boxes shall be counted and tallied
21 separately.

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23 **22-14-106. Certifying information in poll books;**
24 **form.**

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2 (b) Election judges shall certify the number of
3 provisional ballots cast.

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5 ~~(b)~~(c) The certificate required by subsection (a) of
6 this section shall be in substantially the following form
7 and shall be signed by the election judges:

8

9 At an election held in polling precinct No. in
10 election district No. in County, Wyoming, on the
11 day of, A.D. the total number of persons
12 voting was and the following named persons received
13 the number of votes annexed to their respective names for
14 the following offices: (Here insert the names of candidates
15 voted for with office and number of votes received, in
16 figures; in voting machine precincts, insert the name of
17 each candidate and the vote he received.)

18

19 At the same election the following ballot propositions
20 received the number of votes indicated for and against:
21 (Here list ballot propositions on the ballot according to
22 official designation or number and indicate the number of
23 votes for and against each proposition.)

24 Dated at this day of, A.D.

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2 Election Judges

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4 ATTEST

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6 Election Judges

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8 **22-14-111. Returning records and returns to clerk.**

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10 (a) As soon as possible after the tabulation of votes
11 is complete, election judges shall return by messenger to
12 the clerk who prepared the ballots for the election the
13 following records and returns in a sealed packet:

14

15 (ii) All ballots cast, including provisional
16 ballots;

17

18 **22-15-105. Challenged person may vote; generally.**

19

20 (a) If a person offering to vote is challenged, and
21 the challenge is not resolved in accordance with W.S.
22 22-15-106, an election judge shall offer the voter a ballot
23 clearly marked "provisional" and which cannot be
24 automatically tabulated.

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(b) A person challenged on any ground except not being registered to vote may vote by provisional ballot, if he subscribes this oath in writing before a judge of election:

"I do solemnly swear (or affirm) that I am the person I represent myself to be and that I am a qualified elector entitled to vote in this precinct at this election and that this is the only ballot I have or will vote in this election."

.....

Signature of voter

.....

Signature of judge

.....

Precinct and District No.

(c) The oath required by this section shall be printed on the provisional ballot envelope.

(d) A challenged voter may present information for consideration of the challenge to the county clerk. Any information presented shall be considered by the canvassing board with the provisional ballot.

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22-15-106. Where name not on registry.

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A person challenged on the ground that his name does not

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appear on the registry list may vote ~~by signing the oath~~

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~~contained in W.S. 22-15-105 and~~ if a judge of election

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obtains verification from the county clerk that the person

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is entitled to vote in that election within that county.

9

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22-16-103. County canvass procedures.

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(a) Prior to the county canvass, the county clerk

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shall: ~~;~~ ~~prior to the county canvass, summarize the number~~

14

~~of votes cast in each precinct for every candidate~~

15

~~appearing on the ballot and the total votes cast for write-~~

16

~~in candidates, and upon each ballot proposition by~~

17

~~examining.~~

18

19

(i) Examine the poll books, tally sheets, ~~and~~

20

~~certificates from each~~ precinct certifications and oaths of

21

election officials;

22

23

(ii) Summarize the number of votes cast in each

24

precinct for every candidate appearing on the ballot and

1 the total votes cast for write-in candidates, and upon each
2 ballot proposition;

3

4 (iii) The county clerk shall Count write-in
5 votes by candidate ~~prior to the county canvass~~ if the total
6 vote for write-in candidates may affect the result of an
7 election. For offices elected from districts involving more
8 than one (1) county, the secretary of state shall direct
9 the county clerks to count write-in votes by candidate if
10 on the basis of unofficial returns it appears the total
11 write-in votes may affect the result of an election.

12

13 (c) The county canvassing board shall:

14

15 (i) Meet as soon as all returns have been
16 received and abstracted at a time and place designated by
17 the county clerk, but no later than the first Friday
18 following the election;

19

20 (ii) Perform or review a reconciliation of the
21 ballots by precinct;

22

23 (iii) Review and determine the validity of
24 provisional ballots;

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(iv) Count and tabulate the votes on the provisional ballots which were determined to be valid;

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(v) Review and certify the abstracts after the validity of provisional ballots have been determined and discrepancies and ties have been resolved;

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9

(vi) Cause minutes of the meeting to be recorded, signed by the canvassing board and filed with the county clerk.

12

13

(d) The precinct returns of the municipal primary election shall be canvassed by the county canvassing board, which shall certify the results of such in writing to the county clerk and municipal clerk.

17

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22-16-106. Write-in candidates.

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(c) Any person may request to have the votes cast for any write-in candidate, whose votes did not affect the election, counted by filing a request with the appropriate election officers not later than two (2) days after the election in which the write-in votes occurred.

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2 **22-16-112. Precincts to be recounted; recount**
3 **official result.**

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5 (c) In no event shall a county clerk certify the
6 recount results later than seventy-two (72) hours after the
7 recount is requested.

8

9 **22-21-103. How bond question to be submitted to**
10 **electors; contents.**

11

12 Each bond question shall be submitted to a vote of the
13 qualified electors of the political subdivision. Every bond
14 election shall be held on the same day as a primary
15 election or a general election, or on the Tuesday next
16 following the first Monday in May or November, or on the
17 Tuesday next following the third Monday in August. If
18 calling the election in May, the body political subdivision
19 shall by March 1, provide written notification to the
20 county clerk, specifying the date of the election and the
21 bond question. If the political subdivision specifies the
22 date of the election to be a primary or general statewide
23 or other August or November election, then the political
24 subdivision shall provide notice to the county clerk ~~by the~~

1 ~~close of the filing periods as provided in W.S. 22-5-209~~
2 not less than one hundred ten (110) days before the
3 election if for a primary or other August election, and ~~in~~
4 ~~W.S. 22-2-109~~ not less than seventy (70) days before the
5 election, if for a general or other November election. The
6 bond question shall state the purpose of the bonds, the
7 maximum principal amount thereof, the maximum number of
8 years allowed for the indebtedness and the maximum rate of
9 interest to be paid thereon. The secretary of state may
10 promulgate reasonable rules for conducting bond elections
11 where the election is not held at the same time as the
12 general or primary election.

13

14 **22-25-106. Filing of campaign reports.**

15

16 (g) Candidates for federal office, ~~and~~ campaign
17 committees for candidates for federal office and federal
18 political action committees shall not be required to file
19 receipt and expenditure reports under this section if the
20 candidate or the committee is required to comply with
21 federal election law reporting requirements.

22

23 **22-25-107. Where statements to be filed.**

24

1 (a) All statements required under W.S. 22-25-101,
2 22-25-102 and 22-25-106 shall be filed as follows:

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4 (i) Any candidate for a municipal, county,
5 judicial, ~~hospital,~~ school or college board office and any
6 political action committee or candidate's campaign
7 committee supporting such a candidate and any political
8 action committee supporting or opposing a municipal
9 initiative or referendum or ballot proposition within the
10 county, shall file with the county clerk;

11

12 **22-29-113. General provisions relating to special**
13 **district elections.**

14

15 (k) A tie vote shall be broken by lots cast by the
16 canvassing ~~board~~ authority.

17

18 **22-29-114. Election procedures for elections other**
19 **than mail ballot elections; canvass, recount and contests.**

20

21 (e) Any special district election conducted by the
22 county clerk shall be canvassed by the county canvassing
23 board. ~~in accordance with chapter 16 of the Wyoming~~
24 ~~Election Code of 1973, as amended~~ or a canvassing board

1 appointed by the county clerk, consisting of two (2)
2 electors and the county clerk. If more than one (1) county
3 is involved, the election shall be canvassed in accordance
4 with chapter 16 of the Wyoming Election Code of 1973, as
5 amended, by a canvassing board drawn from the membership of
6 the appropriate county canvassing boards appointed by the
7 appropriate county commissioners. The commissioners shall
8 notify the county clerks of the canvassing board
9 appointments. Any special district election not conducted
10 by a county clerk shall be canvassed by a special district
11 canvassing board. The special district canvassing board
12 shall consist of the district secretary and two (2)
13 electors appointed by the district board. Any canvass shall
14 be conducted in accordance with chapter 16 of the Wyoming
15 Election Code of 1973, as amended. The canvass shall be
16 conducted within seven (7) days of the election. The
17 canvassing board shall have the authority to call for a
18 special election in accordance with W.S. 22-16-122. The
19 canvassing board shall:

20

21 **41-3-754. Bonds; election prior to issuance**
22 **generally.**

23

1 Whenever the board incorporated under this act shall by
2 resolution adopted by a majority of the said board,
3 determine that the interests of said district and the
4 public interest or necessity demand the acquisition,
5 construction or completion of any source of water supply,
6 water works, or other improvements, or facility, or the
7 making of any contract with the United States or other
8 persons or corporation, to carry out the objects or
9 purposes of said district, wherein the indebtedness or
10 obligation shall be created, to satisfy which shall require
11 a greater expenditure than the ordinary annual income and
12 revenue of the district shall permit, said board shall
13 order the submission of the proposition of insuring the
14 obligation or bonded or other indebtedness for the purposes
15 set forth in said resolution, to the qualified electors of
16 the district as shall have paid a tax on property in the
17 district in the year preceding the election, at an election
18 held for that purpose. Any election held for the purpose of
19 submitting any proposition or propositions of incurring the
20 obligation or indebtedness shall be held at an election as
21 permitted for bond elections by the Political Subdivision
22 Bond Election Law, W.S. 22-21-101 through 22-21-112. The
23 declaration of public interest or necessity herein required
24 and the provision for the holding of the election may be

1 included within one (1) and the same resolution, which
2 resolution, in addition to the declaration of public
3 interest or necessity shall recite the objects and purposes
4 for which the indebtedness is proposed to be incurred, the
5 estimated cost of the works or improvements, as the case
6 may be, the amount of principal of the indebtedness to be
7 incurred therefor, and the maximum rate of interest to be
8 paid on the indebtedness. The resolution shall also recite
9 the date upon which the election shall be held and the
10 manner of holding the same and the method of voting for or
11 against the incurring of the proposed indebtedness. The
12 resolution shall also fix the compensation to be paid the
13 officers of the election and shall designate the precincts
14 and polling places and shall appoint for each polling
15 place, ~~from each precinct from the electors thereof,~~ the
16 officers of the election, which officers shall be
17 registered electors and shall consist of three (3) judges,
18 one (1) of whom shall act a clerk, who shall constitute a
19 board of election for each polling place. The description
20 of precincts may be made by reference to any order or
21 orders of the board of county commissioners of the county
22 or counties in which the district or any part thereof is
23 situated or by reference to any previous order, or
24 resolution of the board or by detailed description of the

