

BILL ANALYSIS

Senate Research Center

H.B. 1599
By: Danburg (Shapiro)
State Affairs
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Engrossed

DIGEST AND PURPOSE

During the recent presidential election in Florida, one candidate asked for a recount in selected counties that might have given that candidate an advantage in the recount. Current Texas law allows the loser of an election to petition for a recount and select which precincts are to be recounted. H.B. 1599 allows the winning candidate to also select precincts for recount if an election recount petition is approved and sets forth provisions for the automatic counting of ballots, both initially and in a recount.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2.002, Election Code, to require the authority responsible for ordering the first election to order the second election, not later than the fifth day after the day the automatic recount required by this section is completed or the final canvass following the automatic recount, rather than the first election, is completed, if applicable. Requires an automatic recount, if the tie vote is not resolved under this section, to be conducted in accordance with Chapter 216 before the second election is held. Provides that if the recount resolves the tie, the second election is not held. Makes conforming changes.

SECTION 2. Amends Section 211.002, Election Code, by adding Subdivision (11) to define "automatic recount."

SECTION 3. Amends Title 13, Election Code, by adding Chapter 216, as follows:

CHAPTER 216. AUTOMATIC RECOUNT

Sec. 216.001. **APPLICABILITY OF CHAPTER.** Provides that this chapter applies only to an election that results in a tie vote as provided by Section 2.002(i).

Sec. 216.002. **CONDUCT OF AUTOMATIC RECOUNT GENERALLY.** Provides that this title applies to a recount conducted under this chapter with appropriate modifications as prescribed by the secretary of state, except as otherwise provided by this chapter.

Sec. 216.003. **INITIATING AUTOMATIC RECOUNT.** Requires the authority designated under Section 212.026, for purposes of initiating an automatic recount, to request the recount in the same manner as a recount petitioner under this title.

Sec. 216.004. **COUNTING PROCEDURES.** Provides that the method of counting votes in an automatic recount is the same method of counting used in the election that resulted in the tie vote.

Sec. 216.005. COST OF AUTOMATIC RECOUNT. Provides that Chapter 212E does not apply to an automatic recount. Requires the cost of an automatic recount to be paid by each political subdivision or county executive committee, as applicable, served by a presiding officer designated under Section 213.001.

SECTION 4. Amends Section 127.125(b), Election Code, to require a manager to have the ballots examined to detect any irregularly marked ballots and to determine whether the ballots to be counted automatically are ready for counting and can be properly counted. Requires the manager to have each irregularly marked ballot duplicated to indicate the intent of the voter if the voter's intent is clearly ascertainable, unless other law prohibits counting the vote. Requires the manager to approve the ballots for counting after making the appropriate determinations and taking the appropriate actions.

SECTION 5. Amends Section 212.0241(b), Election Code, to authorize a candidate for nomination or election to an office to obtain an initial recount of electronic voting system results in an election in which the person was a candidate only if the candidate is shown by the election returns not to be nominated or elected. Authorizes a candidate shown to be nominated or elected to obtain an initial recount if an opposing candidate's initial recount petition is approved for a recount that is covered by Section 212.131(c) and that does not include all of the voting system precincts in the election.

SECTION 6. Amends Section 212.028, Election Code, to require a petition for a winning candidate in response to an opposing candidate's petition as described by Section 212.0241(b) to be submitted not later than 48 hours after receipt of the notice of approval under Section 212.032. Makes a conforming change.

SECTION 7. Amends Section 212.131(c), Election Code, to authorize an initial recount of votes cast in a particular voting system to include any one or more counties covered by the election, but requires it to include all the election, rather than voting system, precincts in which a particular voting system is used in each county recounted, in an election for which there is a final canvass at the state level.

SECTION 8. Amends Section 214.049(d), Election Code, to require a ballot to be processed in the manner prescribed by Sections 127.125 and 127.126, except as otherwise provided by this subchapter.

SECTION 9. Effective date: September 1, 2001.