BILL ANALYSIS

Senate Research Center

88R20918 LRM-F

C.S.S.B. 2071
By: Bettencourt
State Affairs
4/12/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the National Conference of State Legislatures, 22 states and Washington, D.C., provide for automatic or mandatory recounts, which are conducted if the margin between the top two candidates is within certain parameters. The threshold to trigger an automatic recount ranges from a margin of one percent to only in the case of a tie vote. The most common trigger is 0.5 percent.

S.B. 2071 establishes the process for an automatic recount if a candidate or ballot measure for the approval of bonds is approved or defeated by 0.5 percent. For the initial recount, sampling will be conducted to sample the following for discrepancies:

- 100 percent of electronic ballots
- Five percent of early voting ballots voted by mail
- Five percent of the polling place locations established for early voting
- Five percent of the polling place locations established for election day

Lastly, if it is determined there are discrepancies of one percent or greater of any of the four categories based on the statistical sample then a full recount of the election will be ordered.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 2071 amends current law relating to automatic recounts of certain elections.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 2 (Section 216.004, Election Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 216.001, Election Code, as follows:

Sec. 216.001. APPLICABILITY OF CHAPTER. Provides that Chapter 216 (Automatic Recount) applies only to an election that results in:

(1) creates this subdivision from existing text;

(2) a candidate defeated or eliminated by one-half of one percent or less of the votes cast for that office; or

(3) a measure submitted to voters that is approved or defeated by one-half of one percent or less of the votes cast on that measure.

SECTION 2. Amends Section 216.004, Election Code, as follows:

Sec. 216.004. COUNTING PROCEDURES. (a) Creates this subsection from existing text. Provides that the method of counting votes in an automatic recount consists of using a generally accepted sampling technique to sample the following for discrepancies:

(1) 100 percent of electronic ballots;

(2) five percent of early voting ballots voted by mail;

(3) five percent of the polling place locations established for early voting; and

(4) five percent of the polling place locations established for election day.

Deletes existing text providing 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.

(b) Requires the authority, if the authority designated under Section 212.026 (Authority to Whom Petition Submitted) determines there are discrepancies of one percent or greater for any of the four categories based on the statistical sample under Subsection (a), to order a recount under Section 216.003 (Initiating Automatic Recount).

(c) Requires the secretary of state to adopt rules and procedures for the implementation of this section.

SECTION 3. Effective date: September 1, 2023.