

### Part 3 Canvassing Returns

#### **20A-4-301 Board of canvassers.**

- (1)
  - (a) Each county legislative body is the board of county canvassers for:
    - (i) the county; and
    - (ii) each local district whose election is conducted by the county if:
      - (A) the election relates to the creation of the local district;
      - (B) the county legislative body serves as the governing body of the local district; or
      - (C) there is no duly constituted governing body of the local district.
  - (b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at a date and time determined by the county clerk that is no sooner than seven days after the election and no later than 14 days after the election.
  - (c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:
    - (i) the county treasurer;
    - (ii) the county assessor; or
    - (iii) the county sheriff.
  - (d) Attendance of the number of persons equal to a simple majority of the county legislative body, but not less than three persons, shall constitute a quorum for conducting the canvass.
  - (e) The county clerk is the clerk of the board of county canvassers.
- (2)
  - (a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.
  - (b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body:
    - (i) for canvassing of returns from a municipal general election, no sooner than seven days after the election and no later than 14 days after the election; or
    - (ii) for canvassing of returns from a municipal primary election, no sooner than seven days after the election and no later than 14 days after the election.
  - (c) Attendance of a simple majority of the municipal legislative body shall constitute a quorum for conducting the canvass.
- (3)
  - (a) The legislative body of the entity authorizing a bond election is the board of canvassers for each bond election.
  - (b) The board of canvassers for the bond election shall comply with the canvassing procedures and requirements of Section 11-14-207.
  - (c) Attendance of a simple majority of the legislative body of the entity authorizing a bond election shall constitute a quorum for conducting the canvass.

Amended by Chapter 377, 2014 General Session

#### **20A-4-302 Duties of the board of canvassers -- Receiving returns.**

- (1) If the election returns from each voting precinct in which polls were opened have been received at the time the board of canvassers convenes, the board of canvassers shall canvass the election returns as provided in this part.
- (2) If all of the election returns have not been received, the board shall postpone the canvass from day to day, Sundays and legal holidays excepted, until:
  - (a) all of the election returns are received; or
  - (b) the board has postponed the canvass seven times.
- (3)
  - (a) If the election officer has not received the election returns from any voting precinct within seven days after the election, the election officer shall send a messenger to the judges to obtain the missing election returns.
  - (b) The messenger shall obtain the election returns from the judges and return the election returns to the election officer.
  - (c) The election officer shall pay the messenger 10 cents per mile for the distance necessarily traveled.
- (4) If the board determines that election returns were not received from a voting precinct because the polls did not open in that precinct, the board shall:
  - (a) sign a certificate attesting to that fact; and
  - (b) file the certificate with the election officer.

Enacted by Chapter 1, 1993 General Session

**20A-4-303 Duties of the board of canvassers -- Canvassing the returns.**

- (1)
  - (a) The board of canvassers shall canvass the election returns by publicly opening the returns and determining from them the votes of each voting precinct for:
    - (i) each person voted for; and
    - (ii) for and against each ballot proposition voted upon at the election.
  - (b) The board of canvassers shall, once having begun the canvass, continue until it is completed.
- (2) In canvassing returns, the board of canvassers may not:
  - (a) reject any election returns if the board can determine the number of votes cast for each person from it;
  - (b) reject any election returns if the election returns:
    - (i) do not show who administered the oath to the judges of election;
    - (ii) show that the election judges failed to fill out all the certificates in the pollbooks; or
    - (iii) show that the election judges failed to do or perform any other act in preparing the returns that is not essential to determine for whom the votes were cast; or
  - (c) reject any returns from any voting precinct that do not conform with the requirements for making, certifying, and returning the returns if those returns are sufficiently explicit to enable the board of canvassers to determine the number of votes cast for each person and for and against each ballot proposition.
- (3)
  - (a) If it clearly appears to the election officer and board of canvassers that certain matters are omitted or that clerical mistakes exist in election returns received, they shall transmit the election returns to the election judges for correction.
  - (b) Upon receipt of the election returns for correction from the board of canvassers, the election judges shall correct the election returns as required by the facts.

- (c) The clerk and the board of canvassers may adjourn from day to day to await receipt of corrected election material.
- (4) If a recount is conducted as authorized by Section 20A-4-401, the board of canvassers shall canvass the results of that recount as provided in this section and Section 20A-4-401.

Amended by Chapter 133, 2002 General Session

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

- (1) Each board of canvassers shall:
  - (a) except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, 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) declare:
    - (i) "approved" those ballot propositions that:
      - (A) had more "yes" votes than "no" votes; and
      - (B) were submitted only to the voters within the board's jurisdiction;
    - (ii) "rejected" those ballot propositions that:
      - (A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and
      - (B) were submitted only to the voters within the board's jurisdiction;
  - (c) 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) 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 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 canvassing 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, publish the certified report described in Subsection (2):
- (a)
    - (i) at least once in a newspaper of general circulation within the jurisdiction;
    - (ii) if there is no newspaper of general circulation within the jurisdiction, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction; or
    - (iii) by mailing notice to each residence within the jurisdiction;
  - (b) on the Utah Public Notice Website created in Section 63F-1-701, for one week;
  - (c) in accordance with Section 45-1-101, for one week; and
  - (d) if the jurisdiction has a website, on the jurisdiction's website for one week.
- (6) Instead of publishing the entire certified report under Subsection (5), the election officer may publish 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 precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Amended by Chapter 255, 2019 General Session

Amended by Chapter 433, 2019 General Session

**20A-4-305 Delivery of checked official register to county clerk after canvass.**

Within 10 days after the canvass of a November municipal election, local district election, bond election, or special election, the clerk or recorder shall transmit the checked official register to the county clerk.

Amended by Chapter 228, 2008 General Session

**20A-4-306 Statewide canvass.**

- (1)
  - (a) The state board of canvassers shall convene:
    - (i) on the fourth Monday of November, at noon; or
    - (ii) at noon on the day following the receipt by the lieutenant governor of the last of the returns of a statewide special election.
  - (b) The state auditor, the state treasurer, and the attorney general are the state board of canvassers.
  - (c) Attendance of all members of the state board of canvassers shall be required to constitute a quorum for conducting the canvass.
- (2)
  - (a) The state board of canvassers shall:
    - (i) meet in the lieutenant governor's office; and
    - (ii) compute and determine the vote for officers and for and against any ballot propositions voted upon by the voters of the entire state or of two or more counties.
  - (b) The lieutenant governor, as secretary of the board shall file a report in his office that details:
    - (i) for each statewide officer and ballot proposition:
      - (A) the name of the statewide office or ballot proposition that appeared on the ballot;
      - (B) the candidates for each statewide office whose names appeared on the ballot, plus any recorded write-in candidates;
      - (C) the number of votes from each county cast for each candidate and for and against each ballot proposition;
      - (D) the total number of votes cast statewide for each candidate and for and against each ballot proposition; and
      - (E) the total number of votes cast statewide; and
    - (ii) for each officer or ballot proposition voted on in two or more counties:
      - (A) the name of each of those offices and ballot propositions that appeared on the ballot;
      - (B) the candidates for those offices, plus any recorded write-in candidates;
      - (C) the number of votes from each county cast for each candidate and for and against each ballot proposition; and
      - (D) the total number of votes cast for each candidate and for and against each ballot proposition.
  - (c) The lieutenant governor shall:
    - (i) prepare certificates of election for:
      - (A) each successful candidate; and
      - (B) each of the presidential electors of the candidate for president who received a majority of the votes;
    - (ii) authenticate each certificate with his seal; and
    - (iii) deliver a certificate of election to:
      - (A) each candidate who had the highest number of votes for each office; and
      - (B) each of the presidential electors of the candidate for president who received a majority of the votes.
- (3) If the lieutenant governor has not received election returns from all counties on the fifth day before the day designated for the meeting of the state board of canvassers, the lieutenant governor shall:

- (a) send a messenger to the clerk of the board of county canvassers of the delinquent county;
  - (b) instruct the messenger to demand a certified copy of the board of canvasser's report required by Section 20A-4-304 from the clerk; and
  - (c) pay the messenger the per diem provided by law as compensation.
- (4) The state board of canvassers may not withhold the declaration of the result or any certificate of election because of any defect or informality in the returns of any election if the board can determine from the returns, with reasonable certainty, what office is intended and who is elected to it.
- (5)
- (a) At noon on the fourth Monday after the regular primary election, the lieutenant governor shall:
    - (i) canvass the returns for all multicounty candidates required to file with the office of the lieutenant governor; and
    - (ii) publish and file the results of the canvass in the lieutenant governor's office.
  - (b) Not later than the August 1 after the primary election, the lieutenant governor shall certify the results of the primary canvass to the county clerks.
- (6)
- (a) At noon on the fourth Tuesday in March of a year in which a presidential election will be held, the lieutenant governor shall:
    - (i) canvass the returns of the presidential primary election; and
    - (ii) publish and file the results of the canvass in the lieutenant governor's office.
  - (b) The lieutenant governor shall certify the results of the presidential primary election canvass to each registered political party that participated in the primary not later than the April 15 after the primary election.

Amended by Chapter 433, 2019 General Session