Bill to partially amend the Public Official Election Act

(Sponsored by Rep. Park Dae-chul)

Reason for the proposal

In our country, votes are counted using ballot sorting machines after ballot boxes are moved to counting stations following the end of the voting session. However, the possibility of ballot sorting machine – errors continues to be raised with every election.

Moreover, there is a lack of regulations that guarantee the safety and credibility of early voting management, including no legal ground to check how ballot boxes are stored after the early voting period. This situation must be fixed.

The purpose is to introduce content to the effect that manual counting should be a method of counting in principle and to strengthen the management of voting and counting in public elections, including ways to improve measures and procedures taken during early voting.

Main content

A. Inclusion of a serial number printed on an early voting ballot paper in a bar code shape on both detached and undetached part of the paper and to provide each voter with part of ballot paper by tearing off detaching portion of the serial number when using the ballot paper printing machine (Article 151, Section 7 and Article 158, Section 3).

B. Recording video images of the storing and transporting processes of the mail-in ballot boxes and early voting ballot boxes and allow election management officials and observers to check recorded videos at any time while they are being filmed (Article 176, Section 3, Section 5, and Section 6).

C. Use of manual counting as a method of counting in principle and allowing other mechanical and electronic equipment to be used for supplementary purposes (Article 178, Section 1 and Section 2).

D. A ban on reporting vote counts per candidate before the counting results are officially announced, and punishing those who report such results in advance by imprisonment of no more than 3 years or by a fine not exceeding 6 million won (Article 178, Section 4, Article 256, Section 1(6)).

E. Punishing people who interrupt observers who monitor the voting or counting process, such as early voting observers, voting observers, and counting observers without reasonable reasons by imprisonment of no more than 3 years (Article 242, Section 1(2)).

Public Official Election Act Partial Amendment Bill

To amend parts of the Public Official Election Act as follows.

Renumber Article 151, Section 6 through Section 9, as Section 7 through Section 10, insert Section 6 in the same article as follows, replace "be marked" in Section 7 (previously Section 6) with "be marked separately on both detached and undetached in accordance with Article 158, Section 3," and replace "Section 6" in Section 8 (previously Section 7) of the same article with "Section 7."

> (6) When the Gu/Si/Gun election commission delivers ballot papers that it prints and the Eup/Myeon/Dong election commission keep them after sealing them and then turn over the sealed ballot papers in accordance with Article 5, necessary measures need to be taken to prevent ballot papers from being misprinted or being leaked or stolen. In this case, the Gu/Si/Gun election commission and Eup/Myeon/Dong election commission can request cooperation including providing security assistance, to the chief of a police station in charge to prevent leaked or stolen ballot papers, and the chief of a police station who received such a request should follow it if there is no special reason not to do so.

Replace "without cutting off the serial number" in Article 158, Section 3, with "by cutting off the serial number on the detached portion," renumber Section 6 through 8 of the article as Section 7 through 9, insert Section 6 as follows in the article, add paragraph 1 of Section 7 (previously Section 6) at the end as follows, and change paragraph 2 of the section as follows.

> (6) The official in charge of early voting management shall close the entrance of the early voting station when it is time to close it during the early voting period, and shall proceed with following procedures under the supervision of the early voting observer. If an early voting observer refuses to observe the process without providing a reasonable reason, this would be interpreted as the individual surrendering its right to do so, and this should be recorded in the election minute.

> 1. When an eligible voter is provided with a ballot paper, along with an envelope for return, pursuant to Section 3 and Section 4, slots of the early voting ballot box shall be sealed and closed, and the leftover ballot papers and the detached portion of the ballot paper with the serial number on it shall be sealed separately.

2. When an individual votes without being provided with an envelope for return in accordance with Section 5, the slots of the early voting ballot box and the locks thereof shall be closed and sealed, and the key for the ballot box, leftover ballot papers, and the detached serial number portion of ballot papers shall be sealed separately.

In such cases, leftover ballot papers and the detached portion of the ballot paper with the serial number on it shall be returned together, and this return process can be accompanied by one voting observer for each candidate and up to two police officers in uniform required for the escort.

In such a case, the return process of keys for early voting ballot boxes, leftover ballot papers, and detached portion of ballot paper with the serial number on it shall apply the protocol described under paragraph 1.

Regarding Article 176, Section 2, replace "Article 158, Section 6(2)" with "Article 158, Section 7(2)," replace "Section 3" of the article with "Section 4," insert Section 3 in the same article as follows, replace "the ballot boxes delivered by mail as referred to in paragraph (1) and the early voting ballot boxes as referred to in paragraph (2)" with "the mail-in ballot boxes and the early voting ballot boxes," and insert Section 5 and Section 6 in the article as follows.

(3) Gu/Si/Gun election commission shall take videos, in accordance with Article 2 of the Personal Information Protection Act, of mail-in ballot boxes as referred to in paragraph (1) and the early voting ballot boxes as referred to in paragraph (2) from the period where they are stored and then moved to counting stations.

(5) The Gu/Si/Gun election commission shall take videos of the process where mail-in ballot boxes and early voting ballot boxes are transferred to counting stations pursuant to Section 4.

(6) Early voting management officials and counting officials or early voting observers and counting observers can check the videos anytime while they are taken, as referred to in Section 3 and Section 5.

Change Article 178, Section 1, to as follows, replace "may use" in Section 2 of the article with "may use as supplementary purpose," and delete a clause in Section 4 in the article.

(1) In principle, the ballot counting shall proceed by manually calculating votes.

Replace "the ballot papers" with "the ballot papers (including image files of ballot papers)."

Renumber Article 242, Section 1(2), as Article 242, Section 1 (3), and insert paragraph 2 in the section as follows.

2. A person who interrupts without reasonable reasons observers who monitor the voting or counting process, such as early voting observers, voting observers, and counting observers.

Insert paragraph 6 in Article 256, Section 1 as follows.

6. A person who reports the number of votes before it is officially announced, in violation of Article 178, Section 4.

Renumber Article 278, Section 6, as Article 278, Section 7, insert Section 6 in the article as follows and replace "programs for operating the computer systems" in Section 7 (previously Section 6) with "programs for operating the computer systems and others."

(6) If the National Election Commission uses a mechanical device, electronic system, programs for operating the computer systems and others to computerize the election management process, including that of voting and counting, it shall receive security and safety certification from an independent professional institution or experts, as prescribed by the National Election Commission Regulations.

Addenda

Article 1 (Enforcement Date)

This Act shall enter into force six months after its promulgation.

Article 2 (Example of Application)

The amended clauses will be applied starting from the election that the date for the preparation of the integrated voter list is due after its promulgation.

Comparison between the current and amended law

Current	Amended
Article 151 (Preparation of Ballot Papers and Boxes) (1)-(5) <Omitted> **<Newly inserted>** **(6)** Notwithstanding paragraphs (1) and (5), the Gu/Si/Gun election commission shall instruct the official in charge of early voting management to produce ballot papers to be distributed at early voting polling stations with a ballot paper printer at early voting polling stations. In such cases, the serial numbers printed on the ballot papers shall **be marked** in the form of bar code (referring to a code marked in the shape of a bar for recognition by computer), and such bar code may contain the name of election, the name of constituency, and the name of the competent election commission. **(7)** When preparing ballot papers under paragraph (1) or **(6)**, a space shall be inserted between each column of a political party or candidate, and the detailed preparation method shall be prescribed by the National Election Commission Regulations. (8)·(9) <Omitted>	Article 151 (Preparation of Ballot Papers and Boxes) (1)-(5) <Same as the current> **(6) When the Gu/Si/Gun election commission delivers ballot papers that it prints and the Eup/Myeon/Dong election commission keep them after sealing them and then turn over the sealed ballot papers in accordance with Article 5, necessary measures need to be taken to prevent ballot papers from being misprinted or being leaked or stolen. In this case, the Gu/Si/Gun election commission and Eup/Myeon/Dong election commission can request cooperation including providing security assistance, to the chief of a police station in charge to prevent leaked or stolen ballot papers, and the chief of a police station who received such a request should follow it if there is no special reason not to do so.** **(7)**--. ----**be marked separately on both detached and undetached in accordance with Article 158, Section 3**,---. **(8)** --**(7)**--. (9)·(10) <Same as the current (8) and (9)>

Article 158 (Early Voting) (1)・(2) <Omitted> (3) The official in charge of early voting management shall print ballot papers for the relevant election with a ballot paper printer, affix his/her seal on the blank for "official in charge of early voting management", and give a ballot paper to an eligible voter **without cutting off the serial number**, along with an envelope for return. (4)・(5) <Omitted> **<Newly inserted>**	Article 158 (Early Voting) (1)・(2) <Same as the current> (3) --- --- --- --- --- ------------------------**by cutting off the serial number on the detached portion**------------. (4)・(5) <Same as the current> **(6) The official in charge of early voting management shall close the entrance of the early voting station when it is time to close it during the early voting period, and shall proceed with following procedures under the supervision of the early voting observer. If an early voting observer refuses to observe the process without providing a reasonable reason, this would be interpreted as the individual surrendering its right to do so, and this should be recorded in the election minute.** **1. When an eligible voter is provided with a ballot paper, along with an envelope for return, pursuant to Section 3 and Section 4, slots of the early voting ballot box shall be sealed and closed, and the leftover ballot papers and the detached portion of the ballot paper with the serial number on it shall be sealed separately.** **2. When an individual votes without being provided with an envelope for return in accordance with Section 5, the slots of the early voting ballot box and the locks thereof shall be closed and sealed, and the key for the ballot box, leftover ballot papers, and the detached serial number portion of ballot papers shall be sealed separately.**

(6) The official in charge of early voting management shall transfer ballot papers after the closing of early voting each day during the early voting period or after the end of the early voting period, in the presence of early voting observers, in accordance with the following procedures: 1. If ballot papers have been given for voting along with an envelope for return in accordance with paragraph (3) or (4), the early voting ballot box shall be opened, the number of early voters shall be counted, and then ballot papers shall be transferred to the head of the competent post office to dispatch the ballot papers by registered mail;	**(7)**--.
\<Newly inserted\>	**In such case, leftover ballot papers and detached portion of ballot paper with serial number on it shall be returned together, and this return process can be accompanied by one voting observer for each candidate and up to two police officers in uniform required for the escort.**
2. If an envelope for return has not been given for voting in accordance with paragraph (5), the relevant early voting ballot box shall be transferred directly to the competent Gu/Si/Gun election commission. **In such cases, Article 170 shall apply mutatis mutandis to the delivery of early voting ballot boxes.**	2. -- **In such cases, leftover ballot papers and the detached portion of the ballot paper with the serial number on it shall be returned together, and this return process can be accompanied by one voting observer for each candidate and up to two police officers in uniform required for the escort.**
(7)·(8) \<Omitted\>	(7)·(8) \<Same as the current\>

Article 176 (Receipt of Delivered Early Votes, Home Votes, and Shipboard Votes and Counting thereof)	Article 176 (Receipt of Delivered Early Votes, Home Votes, and Shipboard Votes and Counting thereof)
(1) <Omitted>	(1) <Same as the current>
(2) Upon receipt of early voting ballot boxes transferred in accordance **with Article 158 (6) 2**, a Gu/Si/Gun election commission shall inspect the closing and sealing of the ballot boxes in the presence of the party-recommended members of the Gu/Si/Gun election commission and keep them safe.	(2) -- ----------------------**with Article 158 (7) 2**, -- -- -- -- -----------------.
<Newly inserted>	**(3) Gu/Si/Gun election commission shall take videos, in accordance with Article 2 of the Personal Information Protection Act, of mail-in ballot boxes as referred to in paragraph (1) and the early voting ballot boxes as referred to in paragraph (2) from the period where they are stored and then moved to counting stations.**
(3) The ballot boxes delivered by mail as referred to in paragraph (1) and the early voting ballot boxes as referred to in paragraph (2) may be transferred to the counting center at or after 6 p.m. (8 p.m. in special elections) on the election day and may be opened for ballot counting, in the presence of counting observers, separately from ballot papers in ordinary ballot boxes.	**(4) The mail-in ballot boxes and the early voting ballot boxes**-- -- -- -- -- -- ------------------------.
<Newly inserted>	**(5) The Gu/Si/Gun election commission shall take videos of the process where mail-in ballot boxes and early voting ballot boxes are transferred to counting stations pursuant to Section 4.**
<Newly inserted>	**(6) Early voting management officials and counting officials, or early voting observers and counting observers can check the videos anytime while they are taken as referred to in Section 3 and Section 5.**

Article 178 (Proceeding of Ballot Counting)	Article 178 (Proceeding of Ballot Counting)
(1) The ballot counting and the calculation of votes shall proceed under classifications by voting district.	**(1) In principle, the ballot counting shall proceed by manually calculating votes.**
(2) In order to make it easier to count ballot papers, a Gu/Si/Gun election commission may sort ballot papers into valid votes and invalid votes or sort ballot papers for each candidate (referring to a political party in cases of an election of proportional representation members of the National Assembly or an election of proportional representation members of local councils) or **may use** machines or electronic computer systems necessary for computing.	(2) -- -- -- -- -- -- -- ----------------- **may use as supplementary** -- -- ---.
(3) <Omitted>	(3) <Same as the current>
(4) No one shall report the number of votes obtained by each candidate, referred to in paragraph (3), before it is officially announced: **Provided, That the foregoing shall not apply where data about ballot counting are reported as provided by an election commission.**	(4) -- -- --------------------. **<Delete underlined clause>**
(5) <Omitted>	(5) <Same as the current>
Article 186 (Keeping Ballot Papers, Ballot-Counting Records, and Election Records, etc.)	Article 186 (Keeping Ballot Papers, Ballot-Counting Records, and Election Records, etc.)
Each Gu/Si/Gun election commission shall keep **the ballot papers**, ballot boxes, voting records, ballot-counting records, election records, and all other documents related to the election during the term of the elected candidates; the City/Do election commission shall keep the totalization records and the election records and all other documents related to the election; the National Election Commission shall keep the election records and all other documents related to the election: Provided, That where no dispute over the election under in Articles 219, 222 and 223 arises or is pending, the recordkeeping period may be shortened as prescribed by the National Election Commission Regulations.	Each Gu/Si/Gun election commission shall keep **the ballot papers (including image files of ballot papers),** -- -- -- -- -- -- -- -- -- -- -- -- -- ----------------------.

Article 242 (Interference with and Intervention in Voting or Ballot Counting) (1) Any of the following persons shall be punished by imprisonment with labor for not more than three years: 1. <Omitted> **<Newly inserted>** **2.** <Omitted> (2)·(3) <Omitted>	Article 242 (Interference with and Intervention in Voting or Ballot Counting) (1)--- --- ------------------------------------. 1. <Same as the current> **2. A person who interrupts without reasonable reasons observers who monitor the voting or counting process, such as early voting observers, voting observers, and counting observers.** **3.** <Same as current paragraph 2> (2)·(3) <Same as the current>
Article 256 (Violation of Various Restrictive Provisions) (1) Any of the following persons shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding six million won. 1-5 <Omitted> **<Newly inserted>** (2)-(5) <Omitted>	Article 256 (Violation of Various Restrictive Provisions) (1) --- --- ---. 1-5 <Same as the current> **6. A person who reports the number of votes before it is officially announced, in violation of Article 178, Section 4.** (2)-(5) <Same as the current>
Article 278 (Voting and Counting of Votes by Computer Systems) (1)-(5) <Omitted> **<Newly inserted>** **(6)** In the computerization of the management of election affairs such as voting, ballot-counting and others, the procedures for and methods of voting and ballot-counting, the commission of computer	Article 278 (Voting and Counting of Votes by Computer Systems) (1)-(5) <Same as the current> **(6) If the National Election Commission uses a mechanical device, electronic system, programs for operating the computer systems and others to computerize the election management process, including that of voting and counting, it shall receive security and safety certification from an independent professional institution or experts, as prescribed by the National Election Commission Regulations.**

experts as the polling station staff and counting staff, the preparation, verification and preservation of the **programs for operating the computer systems**, the composition and operation of the electronic election promotion council and other necessary matters shall be prescribed by the National Election Commission Regulations.	**(7)**--- -- -- -- -- -- -- -------------------**programs for operating the computer systems and others,** -- -- -- ---------------.