
State Government Committee

HB 2335

Brief Description: Updating vote recording and reporting.

Sponsors: Representatives Romero, McDermott, Schmidt and Ruderman; by request of Secretary of State.

Brief Summary of Bill

- Changes the process for certifying voting devices and vote tallying systems.
- Prohibits punch card voting after January 1, 2007.
- Makes tampering with electronic voting, electronic vote recording, vote tabulation, and elections results reporting systems a gross misdemeanor.

Hearing Date: 1/25/02

Staff: Catherine Blinn (786-7114).

Background:

Voting systems and vote tallying systems must have the approval of the secretary of state in order to be used by county auditors to conduct elections. The Secretary of State must inspect, evaluate, and publicly test all voting systems and components of voting systems. The secretary of state determines whether the voting system conforms with requirements set in statute and rule, and meets safety requirements. The secretary of state makes a report following each examination, and provides a copy of the report to each county auditor. Any modification, change, or improvement to any voting system or component of a system that does not impair the accuracy, efficiency or capacity, or extend its function, may be made without another re-examination or re-approval.

For approval, voting devices must:

- Maintain secrecy in the act of voting;
- Permit the voter to vote for any person, for any office, and upon any measure for which he or she has the right to vote;
- Correctly register votes cast;

- Provide that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tallying system, except when voting for president and vice-president of the United States; and
- Have been tested, certified, and used in at least one other state or election jurisdiction, with the exception of functions that are unique to Washington.

County auditors are responsible for the preparation, maintenance, and operation of the systems used in their respective counties. An agreement to purchase or lease a voting system is subject to the approval by the secretary of state that the equipment is the same as that certified, and that the equipment is operating correctly following delivery to the county. In each polling place, the voting devices containing ballots for candidates from each congressional, legislative or county council district must be grouped together, and physically separated from those devices containing ballots for other districts. Voters are directed to the correct group of voting devices.

The secretary of state may publish recommended procedures for operating the approved vote tallying systems. For approval, vote tallying systems must:

- Correctly count the votes on ballots that have the proper number of votes marked;
- Ignore votes marked for any office or issue in which more than the allowable number of votes have been marked, but correctly count the properly voted portions of the ballot;
- Accumulate a count of the specific number of ballots tallied for each precinct, the total votes by candidate for each office, and the total votes for and against each issue in that precinct;
- Accommodate name rotation;
- Produce precinct and cumulative totals in printed form; and
- Have been tested, certified, and used in at least one other state or election jurisdiction, with the exception of functions that are unique to this state.

In preparing a voting device for an election, a record must be made of the ballot format installed in each device and the precinct or portion of a precinct for which that device has been prepared. At least three days prior to each state primary and general election, the secretary of state must test the programming for each vote tallying system. The test must verify that the system will correctly count the vote cast for all candidates and measures appearing on the ballot. If any error is detected, the cause of the error must be determined and corrected, and an errorless total must be produced before the election takes place. The county auditor and party observers must certify that the test was conducted in accordance with law.

No voting device may be used in counties with over 70,000 people unless it records on a separate ballot the votes cast for persons and for measures. Such separate ballots must be available for audit purposes after the election. Counties with less than 70,000 people may use devices that do not use separate ballots if the device was certified before 1993, the device satisfies other requirements, and not more than twenty percent of the votes cast during an election are cast using such a device.

Knowingly deceiving any voter in recording his or her vote by providing incorrect or misleading recording information, or by providing faulty election equipment or records

constitutes a gross misdemeanor. Knowingly recording the vote of another in a manner other than as designated by the voter constitutes a gross misdemeanor.

Summary of Bill:

The secretary of state is no longer required to make the tests of voting systems public, but must hold public demonstrations of the systems. Once the secretary of state completes a certification report, it must be posted "to a publicly available electronic medium".

Any modification, change, or improvement to any voting system or component of a system must be submitted to the secretary of state for review. After review, the modification may be accepted if it does not impair system accuracy, efficiency or capacity, or extend system function. If, after the review, the secretary of state determines that the modification does extend system function, the modification must be submitted for re-examination or re-approval.

County auditors must provide proof that voting systems and their component software, in the version used, are state certified. The test following a purchase or lease of a voting system to determine if the system is the same as that certified by the secretary of state must be conducted by the purchaser or lessee. Approval of a voting device or vote tallying system no longer requires that the device or system be tested, certified and used in at least one other state, but instead requires that it be tested and approved by an appropriate independent testing authority approved by the federal elections commission.

Polling places are no longer required to physically separate voting devices containing ballots for one district from voting devices containing ballots for another district. During the test conducted at least three days prior to the election, the county auditor must again provide proof that the version of the voting system and software in use are state certified. Counties with less than 70,000 people are no longer allowed to use voting devices that fail to separately record the votes cast for persons and the votes cast for measures. Beginning January 1, 2007, punch card voting devices may not be used to conduct elections.

A person is also guilty of a gross misdemeanor if he or she knowingly tampers with or impedes the use of any form of electronic voting or vote recording system, or tampers with or impedes access to any vote tabulation system or election results reporting system.

The statute requiring county auditors to instruct precinct election officers, counting center personnel, and political party observers is repealed.

Rulemaking Authority: No express authority.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.