

# SENATE BILL REPORT

## SB 5219

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As Reported By Senate Committee On:  
Government Operations & Elections, February 7, 2003

**Title:** An act relating to voting systems certification.

**Brief Description:** Enhancing voting systems certification.

**Sponsors:** Senators Roach, Kastama, Fairley, Stevens, Benton, Kohl-Welles and Esser; by request of Secretary of State.

**Brief History:**

**Committee Activity:** Government Operations & Elections: 2/4/03, 2/7/03 [DPS].

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Majority Report:** That Substitute Senate Bill No. 5219 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Stevens, Vice Chair; Fairley, Kastama, McCaslin and Reardon.

**Staff:** Ronda Larson (786-7429)

**Background:** The Secretary of State must inspect, publicly test, and approve equipment for voting and vote tallying before county auditors can use it to conduct elections. A report of such inspection then goes to the county auditor.

The Secretary of State may not approve equipment for voting and vote tallying unless he or she tested it, the equipment is certified, and the equipment is used in at least one other state. Where a county auditor changes a voting system, it need not be re-examined or re-approved if the changes do not impair the equipment's accuracy or efficiency.

In polling places, each voting device may contain ballots from only a single district. Voting devices must be physically separated according to district. At least three days prior to each primary and general election, the county auditor must test the vote tallying systems and software to be used in the election. The county auditor and party observers must certify that their county's test was conducted in accordance with law.

It is a gross misdemeanor to knowingly deceive any voter in the recording of his or her vote by providing incorrect or misleading information, or by providing faulty election equipment or records. It is also a gross misdemeanor to knowingly record a vote in a manner other than that designated by the voter.

**Summary of Substitute Bill:** The Secretary of State must hold a public demonstration of systems in addition to publicly testing them. The Secretary of State must post his or her certification report "to a publicly available electronic medium." County auditors must submit

all voting system changes to the Secretary of State for review. No re-examination or re-approval is necessary, however, if the review finds that a change does not impair the accuracy or efficiency of the system.

County auditors must provide proof that voting systems and their component software, in the version used, are state certified. 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. Instead, the equipment must be tested and approved by an appropriate independent testing authority approved by the Federal Elections Commission. During the test conducted at least three days prior to the election, the county auditor must again prove that the voting system and software are state certified.

Polling places are no longer required to physically separate voting machines based on district. Rather, the ballot displayed to the voter must contain names for candidates for only one district. Votes cast must be correctly recorded on a "record" rather than a "ballot," and the "cast vote record" must still be available for audit purposes after the election. A "cast vote record" is the record of a voter's unique set of choices. It can be either an electronic record or a physical ballot. Punch card voting machines may not be used as of January 1, 2006.

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

**Substitute Bill Compared to Original Bill:** The original bill eliminated the requirement that the Secretary of State publicly test all voting machines and the requirement that county auditors instruct election officers in elections procedures. The substitute bill reinstates these requirements.

**Appropriation:** None.

**Fiscal Note:** Requested on January 31, 2003.

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

**Testimony For:** The bill allows county auditors to use computerized voting technology. The Federal Election Commission has standards for computerized voting. This bill adopts those standards. The bill should not be amended to account for instant runoff voting. Multiple votes and ranked voting are not yet authorized in the statute. If the Legislature authorizes instant runoff voting, the statute can be adjusted at that time.

**Testimony Against:** The bill should be amended to accommodate instant runoff voting. When buying the new electronic voting machines under this bill, counties should be required to buy hardware that can accommodate instant runoff voting software so they do not have to buy new hardware in the future when voters decide they want instant runoff voting.

**Testified:** PRO: Dean Logan, Secretary of State; Karen Flynn, Kitsap County Auditor  
CON: Brent White, Coalition for Instant Runoff Voting in Washington; Jerry Cronk, Coalition for Instant Runoff Voting in Washington; Ivy Sager-Rosenthal, Washington Public Interest Research Group.

