
**Technology, Telecommunications
& Energy Committee**

HB 2745

Brief Description: Enhancing integrity of voting systems.

Sponsors: Representatives Miloscia, Nixon, Simpson, G., Talcott, Rockefeller and Upthegrove;
by request of Secretary of State.

Brief Summary of Bill

- Prohibits the use of punchcard voting machines after January 1, 2006.
- Alters the certification and de-certification process for voting systems.
- Prohibits counting systems from being connected to or operated on an electronic network.
- Requires the transfer of information from the ballot counting system to another system to be via disk, tape, or other physical means rather than a direct electronic connection.
- Requires Direct Recording Electronic (DRE) voting machines to produce a machine-countable paper record of each vote, which may be reviewed by a voter prior to finalizing the votes.
- Requires the Secretary of State to convene a task force of elections and computer security experts to study the potential for election fraud.

Hearing Date: 1/27/04

Staff: Katie Blinn (786-7114).

Background:

Certification:

Voting equipment and vote tallying equipment must be approved by the Secretary of State (Secretary) in order to be used by county auditors to conduct elections. The Secretary must inspect, evaluate, and publicly test all voting equipment, make a report following each examination, and provide a copy of the report to each county auditor. Any change that does not impair the equipment's accuracy, efficiency or capacity, or extend its function, may be made without another examination or approval.

Voting machines must:

- Maintain secrecy;
- Permit the voter to vote for any person, office, and measure for which he or she has the right to vote;
- Correctly register votes cast;
- Prevent a vote for more than one candidate by a single operation of the device, except for president and vice-president of the United States; and
- Be tested, certified, and used in at least one other state or election jurisdiction, except for functions that are unique to Washington.

Vote tallying equipment must:

- Correctly count the votes on properly marked ballots;
- Ignore improperly marked portions of a ballot while counting the properly marked portions of the ballot;
- Count the number of ballots tallied for each precinct, the number of votes for each candidate, and the number of votes for and against each issue;
- Accommodate name rotation;
- Produce precinct and cumulative totals in printed form; and
- Be tested, certified, and used in at least one other state or election jurisdiction, except for functions that are unique to Washington.

County auditors are responsible for the preparation, maintenance, and operation of equipment used in their counties. An agreement to purchase or lease a voting system is subject to the Secretary's approval that the equipment is actually the same as that certified, and that the equipment is still operating correctly after it is delivered to the county.

Regular Testing and Procedures:

Before an election, the format of each ballot in each machine and the precinct for which the machine has been prepared must be recorded. At least three days prior to each primary and general election, the Secretary must conduct a logic and accuracy test on each vote tallying system. If an error is detected, the cause of the error must be determined and corrected before the election. Voting machines must correctly record the votes on a ballot, and the ballot must be available for audit purposes after the election. At the polling place, voting machines containing ballots for one congressional, legislative or county council district must be grouped together and physically separated from machines containing ballots for other districts.

DRE Voting Machines:

The federal Help America Vote Act of 2002 (HAVA) requires states to place an electronic voting device in each polling place that is accessible to persons with disabilities, allowing them to vote in privacy. The devices currently on the market that meet these requirements are known as DRE's, for Direct Recording Electronic.

Summary of Bill:

Certification:

The Secretary must publicly demonstrate all voting systems submitted for review. Once the Secretary completes a certification report, it must be posted to the internet. No changes may be made to a voting system without notifying the Secretary for a further examination or approval. Certification of a voting device or vote tallying system, or the component software, no longer

requires that it be used in at least one other state, but instead requires that it be tested and approved by an independent testing authority approved by the Federal Election Assistance Commission. The Secretary may withdraw the certification of any voting system hardware, software, or component for cause, after conducting a public hearing. After January 1, 2006, punch card voting machines are prohibited.

Regular Testing and Procedures:

County auditors must provide written, signed verification during a logic and accuracy test that the voting system and its component software, in the version used, are 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 must be conducted by the county auditor as the purchaser or lessee. During the logic and accuracy test conducted prior to an election, the county auditor must again provide proof that the voting system in use is certified, and that all ballot styles have been programmed correctly. A log must be created recording the details of each test. All voting equipment must be sealed, kept in a secure location, and protected against unauthorized access until election day.

Polling places are no longer required to physically separate voting machines with ballots for one district from voting machines with ballots for another district. Rather, the ballot displayed to the voter must contain names for candidates for only one district. Ballot counting systems may not be connected to, or operated on, any electronic network, including internal office networks, the internet, or the World Wide Web. Wireless communications may not be used in a voting system. All elements of a ballot counting system must be observable and secured. Ballot counting systems must produce periodic reports in between counting sessions. Transfer of information from the ballot counting system to another system must be made via disk, tape, or other physical means rather than a direct electronic connection. The provisions do not prevent the state from participating in the SERVE pilot project for military and overseas voters, authorized during the 2003 legislative session.

DRE Voting Machines:

DRE voting machines must produce a machine-countable paper record of each vote, which may be reviewed by the voter prior to finalizing his or her vote. The paper record may not be removed from the polling place. If the DRE is programmed to display ballots in multiple languages, each paper record must be printed in the language used by the applicable voter. The electronic record is the official record of each vote, but the paper record must be used for recounts. However, the paper record must be treated with the same procedure and security as traditional ballots. Unauthorized removal of a DRE paper record from a polling place is a class C felony.

Task Force:

The Secretary must convene a task force of elections and computer security experts known as the Washington Voting Systems Board to study and determine the potential for election fraud. The Board shall include county auditors, computer experts, the director of the department of information services, the director of elections, a representative of the Washington disability access group, and the Secretary. The Secretary shall report to the Legislature during the 2005 and 2006 legislative sessions on the status of a variety of election issues.

Appropriation: None.

Fiscal Note: Requested on January 19, 2004.

Effective Date: The provisions regarding DRE voting machines take effect January 1, 2006. The remaining provisions take effect July 1, 2004.