

By the Committee on Ethics and Elections; and Senators Posey,  
Lawson, Bronson and Sebesta

313-1610-01

1                                   A bill to be entitled  
2           An act relating to voting systems; amending s.  
3           97.021, F.S.; modifying the definition of the  
4           term "ballot"; defining the terms "overvote"  
5           and "undervote"; amending s. 101.151, F.S.;  
6           modifying specifications for ballots; requiring  
7           the Department of State to adopt rules  
8           prescribing uniform ballots; repealing ss.  
9           101.141, 101.181, 101.191, and 101.5609, F.S.,  
10          relating to the specifications and form of  
11          ballots, to conform; amending s. 103.101, F.S.,  
12          to conform; amending s. 101.5603, F.S.;  
13          eliminating references to punchcard ballots and  
14          devices; amending s. 101.5606, F.S.;  
15          prohibiting the use of punchcard voting  
16          systems; creating s. 101.595, F.S.; requiring  
17          supervisors of elections and the Department of  
18          State to report on overvotes and undervotes  
19          following the general election; requiring the  
20          Division of Elections to review the voting  
21          systems certification standards to ensure that  
22          new technologies are available and  
23          appropriately certified for use; providing  
24          effective dates.

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26 Be It Enacted by the Legislature of the State of Florida:

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28           Section 1. Effective September 2, 2002, subsection (2)  
29 of section 97.021, Florida Statutes, is amended to read:

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1           97.021 Definitions.--For the purposes of this code,  
2 except where the context clearly indicates otherwise, the  
3 term:

4           (2) "Ballot" or "official ballot" when used in  
5 reference to:

6           (a) "Voting machines," except when reference is made  
7 to write-in ballots, means that portion of the printed strips  
8 of cardboard, paper, or other material that is within the  
9 ballot frames containing the names of candidates, or a  
10 statement of a proposed constitutional amendment or other  
11 question or proposition submitted to the electorate at any  
12 election.

13           (b) "Paper ballots" means that printed sheet of paper  
14 containing the names of candidates, or a statement of proposed  
15 constitutional amendments or other questions or propositions  
16 submitted to the electorate at any election, on which sheet of  
17 paper an elector casts his or her vote.

18           (c) "Electronic or electromechanical devices" means a  
19 ballot which is voted by the process of electronically  
20 designating ~~punching~~ or marking with a marking device for  
21 tabulation by automatic tabulating equipment or data  
22 processing equipment.

23           Section 2. Present subsections (18) through (27) of  
24 section 97.021, Florida Statutes, are redesignated as  
25 subsections (19) through (28) respectively, present  
26 subsections (28) through (30) are redesignated as subsection  
27 (30) through (32) respectively, and new subsections (18) and  
28 (28) are added to that section to read:

29           97.021 Definitions.--For the purposes of this code,  
30 except where the context clearly indicates otherwise, the  
31 term:

1           (18) "Overvote" means that the elector marks or  
2 designates more names than there are persons to be elected to  
3 an office or designates more than one answer to a ballot  
4 question.

5           (28) "Undervote" means that the elector does not  
6 properly designate any choice for an office or ballot  
7 question.

8           Section 3. Section 101.151, Florida Statutes, is  
9 amended to read:

10           101.151 Specifications for ballots ~~general election~~  
11 ~~ballot.--In counties in which voting machines are not used,~~  
12 ~~and in other counties for use as absentee ballots not designed~~  
13 ~~for tabulation by an electronic or electromechanical voting~~  
14 ~~system, the general election ballot shall conform to the~~  
15 ~~following specifications:~~

16           (1) Paper ballots ~~The ballot~~ shall be printed on paper  
17 of such thickness that the printing cannot be distinguished  
18 from the back.

19           ~~(2) Across the top of the ballot shall be printed~~  
20 ~~"Official Ballot, General Election," beneath which shall be~~  
21 ~~printed the county, the precinct number, and the date of the~~  
22 ~~election. The precinct number, however, shall not be required~~  
23 ~~for absentee ballots. Above the caption of the ballot shall~~  
24 ~~be two stubs with a perforated line between the stubs and~~  
25 ~~between the lower stub and the top of the ballot. The top~~  
26 ~~stub shall be stub No. 1 and shall have printed thereon,~~  
27 ~~"General Election, Official Ballot," and then shall appear the~~  
28 ~~name of the county, the precinct number, and the date of the~~  
29 ~~election. On the left side shall be a blank line under which~~  
30 ~~shall be printed "Signature of Voter." On the right side~~  
31 ~~shall be "Initials of Issuing Official," above which there~~

1 ~~shall be a blank line. The second stub shall be the same,~~  
2 ~~except there shall not be a space for signature of the~~  
3 ~~elector. Both stubs No. 1 and No. 2 on ballots for each~~  
4 ~~precinct shall be prenumbered consecutively, beginning with~~  
5 ~~"No. 1." However, a second stub shall not be required for~~  
6 ~~absentee ballots.~~

7 ~~(3)(a) Beneath the caption and preceding the names of~~  
8 ~~candidates shall be the following words: "To vote for a~~  
9 ~~candidate whose name is printed on the ballot, place a cross~~  
10 ~~(X) mark in the blank space at the right of the name of the~~  
11 ~~candidate for whom you desire to vote. To vote for a write-in~~  
12 ~~candidate, write the name of the candidate in the blank space~~  
13 ~~provided for that purpose."~~

14 (2)(a) The ballot shall have headings under which  
15 shall appear the names of the offices and names of duly  
16 nominated candidates for the respective offices in the  
17 following order: the heading "~~Electors~~ for President and Vice  
18 President" and thereunder the names of the candidates for  
19 President and Vice President of the United States nominated by  
20 the political party which received the highest vote for  
21 Governor in the last general election of the Governor in this  
22 state, ~~above which shall appear the name of said party.~~ Then  
23 shall appear the names of other candidates for President and  
24 Vice President of the United States who have been properly  
25 nominated. Votes cast for write-in candidates for President  
26 and Vice President shall be counted as votes cast for the  
27 presidential electors supporting such candidates. Then shall  
28 follow the heading "Congressional" and thereunder the offices  
29 of United States Senator and Representative in Congress; then  
30 the heading "State" and thereunder the offices of Governor and  
31 Lieutenant Governor, Secretary of State, Attorney General,

1 Comptroller, Treasurer, Commissioner of Education,  
2 Commissioner of Agriculture, state attorney, and public  
3 defender, together with the names of the candidates for each  
4 office and the title of the office which they seek; then the  
5 heading "Legislative" and thereunder the offices of state  
6 senator and state representative; then the heading "County"  
7 and thereunder clerk of the circuit court, clerk of the county  
8 court (when authorized by law), sheriff, property appraiser,  
9 tax collector, district superintendent of schools, and  
10 supervisor of elections. Thereafter follows: members of the  
11 board of county commissioners, and such other county and  
12 district offices as are involved in the ~~general~~ election, in  
13 the order fixed by the Department of State followed, in the  
14 year of their election, by "Party Offices," and thereunder the  
15 offices of state and county party executive committee members.  
16 ~~When a write-in candidate has qualified for any office, a~~  
17 ~~subheading "Write-in Candidate for ...(name of office)..."~~  
18 ~~shall be provided followed by a blank space in which to write~~  
19 ~~the name of the candidate.~~With respect to write-in  
20 candidates, if two or more candidates are seeking election to  
21 one office, only one blank space shall be provided.  
22 (b) ~~Immediately following the name of each office on~~  
23 ~~the ballot shall be printed, "Vote for One."~~ When more than  
24 one candidate is nominated for office, the candidates for such  
25 office shall qualify and run in a group or district, and the  
26 group or district number shall be printed beneath the name of  
27 the office. ~~The name of the office shall be printed over each~~  
28 ~~numbered group or district and each numbered group or district~~  
29 ~~shall be clearly separated from the next numbered group or~~  
30 ~~district, the same as in the case of single offices.~~  
31 ~~Following the group or district number shall be printed the~~

1 ~~words, "Vote for One," and the names of the candidates in the~~  
2 ~~respective groups or districts shall be arranged thereunder.~~

3 (c) If in any election all the offices as set forth in  
4 paragraph (a) are not involved, those offices to be filled  
5 shall be arranged on the ballot in the order named.

6 (3)(a)(4) The names of the candidates of the party  
7 which received the highest number of votes for Governor in the  
8 last election in which a Governor was elected shall be placed  
9 first under the heading for each office on the general  
10 election ballot, together with an appropriate abbreviation of  
11 party name; the names of the candidates of the party which  
12 received the second highest vote for Governor shall be second  
13 under the heading for each office, together with an  
14 appropriate abbreviation of the party name.

15 (b)(5) Minor political party candidates and candidates  
16 with no party affiliation shall have their names appear on the  
17 general election ballot following the names of recognized  
18 political parties, in the same order as they were certified.

19 (4)(a) The names of candidates for each office shall  
20 be arranged alphabetically as to surnames on a primary  
21 election ballot.

22 (b) When two or more candidates running for the same  
23 office on a primary election ballot have the same or a similar  
24 surname, the word "incumbent" shall appear next to the  
25 incumbent's name.

26 (5) The primary election ballot shall be arranged so  
27 that the offices of Governor and Lieutenant Governor are  
28 joined in a single voting space to allow each elector to cast  
29 a single vote for the joint candidacies for Governor and  
30 Lieutenant Governor, if applicable.

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1           (6) The general election ballot shall be arranged so  
2 that the offices of President and Vice President are joined in  
3 a single voting space to allow each elector to cast a single  
4 vote for the joint candidacies for President and Vice  
5 President and so that the offices of Governor and Lieutenant  
6 Governor are joined in a single voting space to allow each  
7 elector to cast a single vote for the joint candidacies for  
8 Governor and Lieutenant Governor.

9           ~~(7)~~~~(6)~~ Except for justices or judges seeking  
10 retention, the names of unopposed candidates shall not appear  
11 on the general election ballot. Each unopposed candidate  
12 shall be deemed to have voted for himself or herself.

13           (8)(a) The Department of State shall adopt rules  
14 prescribing a uniform primary and general election ballot for  
15 each certified voting system. The rules shall incorporate the  
16 requirements set forth in this section and shall prescribe  
17 additional matters and forms which include, without  
18 limitation:

19           1. Clear and unambiguous ballot instructions and  
20 directions;

21           2. Individual race layout; and

22           3. Overall ballot layout.

23           (b) The department rules shall graphically depict a  
24 sample uniform primary and general election ballot form for  
25 each certified voting system.

26           ~~(7) The same requirement as to the type, size, and~~  
27 ~~kind of printing of official ballots in primary elections as~~  
28 ~~provided in s. 101.141(5) shall govern the printing of~~  
29 ~~official ballots in general elections.~~

30           ~~(8) Should the above directions for complete~~  
31 ~~preparation of the ballot be insufficient, the Department of~~

1 ~~State shall determine and prescribe any additional matter or~~  
2 ~~form. Not less than 60 days prior to a general election, the~~  
3 ~~Department of State shall mail to each supervisor of elections~~  
4 ~~the format of the ballot to be used for the general election.~~

5 ~~(9) The provisions of s. 101.141(7) shall be~~  
6 ~~applicable in printing of said ballot.~~

7 Section 4. Subsections (8) and (9) of section 103.101,  
8 Florida Statutes, are amended to read:

9 103.101 Presidential preference primary.--

10 (8) All names of candidates or delegates shall be  
11 listed as directed by the Department of State. ~~The ballot as~~  
12 ~~prescribed in this section shall be used.~~

13 ~~(9) The presidential preference primary ballot shall~~  
14 ~~be in substantially the following form:~~

15  
16 OFFICIAL PRESIDENTIAL PREFERENCE

17 PRIMARY BALLOT

18  
19 No. .... Party

20 ....COUNTY, FLORIDA

21  
22 Precinct No. ....

23  
24 ...(Date)...

25  
26 ...(Signature of Voter)... ..(Initials of Issuing  
27 Official)...

28  
29 Stub No. 1

30  
31 OFFICIAL PRESIDENTIAL PREFERENCE



1 PRIMARY ~~BALLOT~~  
2  
3 No. .... Party  
4 ....~~COUNTY~~, FLORIDA  
5  
6 Precinct No. ....  
7  
8 ...~~(Date)~~...  
9  
10 ...~~(Initials of Issuing Official)~~...  
11  
12 Stub No. 2  
13  
14 OFFICIAL ~~PRESIDENTIAL PREFERENCE~~  
15 PRIMARY ~~BALLOT~~  
16  
17 .... Party  
18 ....~~COUNTY~~, FLORIDA  
19  
20 Precinct No. ....  
21  
22 ...~~(Date)~~...  
23  
24 Place a cross (X) in the blank space to the right of the name  
25 of the presidential candidate for whom you wish to vote,  
26  
27 For President  
28  
29 ...~~(Name of Candidate)~~...  
30  
31 ...~~(Name of Candidate)~~...

1  
2 ~~or place a cross (X) in the blank space to the right of the~~  
3 ~~name of the delegate(s) for whom you wish to vote.~~

4  
5 ~~...(Name of Delegate)...~~ ~~...(Name of Candidate)...~~

6 Section 5. Effective September 2, 2002, subsections  
7 (5) and (8) of section 101.5603, Florida Statutes, are amended  
8 to read:

9 101.5603 Definitions relating to Electronic Voting  
10 Systems Act.--As used in this act, the term:

11 (5) "Marking device" means ~~either an approved~~  
12 ~~apparatus used for the piercing of ballots by the voter or any~~  
13 approved device for marking a ballot with ink or other  
14 substance which will enable the ballot to be tabulated by  
15 means of automatic tabulating equipment.

16 (8) "Voting device" means ~~either an apparatus in which~~  
17 ~~ballots are inserted and used in connection with a marking~~  
18 ~~device for the piercing of ballots by the voter or an~~  
19 apparatus by which votes are registered electronically.

20 Section 6. Effective September 2, 2002, section  
21 101.5606, Florida Statutes, is amended to read:

22 101.5606 Requirements for approval of systems.--

23 (1) No electronic or electromechanical voting system  
24 shall be approved by the Department of State unless it is so  
25 constructed that:

26 (a)~~(1)~~ It permits and requires voting in secrecy.

27 (b)~~(2)~~ It permits each elector to vote at any election  
28 for all persons and offices for whom and for which the elector  
29 is lawfully entitled to vote, and no others; to vote for as  
30 many persons for an office as the elector is entitled to vote

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1 for; and to vote for or against any question upon which the  
2 elector is entitled to vote.

3 (c)~~(3)~~ The automatic tabulating equipment will be set  
4 to reject all votes for any office or measure when the number  
5 of votes therefor exceeds the number which the voter is  
6 entitled to cast or when the voter is not entitled to cast a  
7 vote for the office or measure.

8 (d)~~(4)~~ It is capable of correctly counting votes.

9 (e)~~(5)~~ It permits each voter at a primary election to  
10 vote only for the candidates seeking nomination by the  
11 political party in which such voter is registered, for any  
12 candidate for nonpartisan office, and for any question upon  
13 which the voter is entitled to vote.

14 (f)~~(6)~~ At presidential elections it permits each  
15 elector, by one operation, to vote for all presidential  
16 electors of a party or for all presidential electors of  
17 candidates for President and Vice President with no party  
18 affiliation.

19 (g)~~(7)~~ It provides a method for write-in voting.

20 (h)~~(8)~~ It is capable of accumulating a count of the  
21 specific number of ballots tallied for a precinct,  
22 accumulating total votes by candidate for each office, and  
23 accumulating total votes for and against each question and  
24 issue of the ballots tallied for a precinct.

25 (i)~~(9)~~ It is capable of tallying votes from ballots of  
26 different political parties from the same precinct, in the  
27 case of a primary election.

28 (j)~~(10)~~ It is capable of automatically producing  
29 precinct totals in printed, marked, or punched form, or a  
30 combination thereof.

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1           (k)~~(11)~~ If it is of a type which registers votes  
2 electronically, it will permit each voter to change his or her  
3 vote for any candidate or upon any question appearing on the  
4 official ballot up to the time that the voter takes the final  
5 step to register his or her vote and to have the vote  
6 computed.

7           (1)~~(12)~~ It is capable of providing records from which  
8 the operation of the voting system may be audited.

9           (2) No voting system that uses an apparatus or device  
10 for the piercing of ballots by the voter shall be used in the  
11 state.

12           Section 7. Effective September 2, 2002, subsection (7)  
13 of section 101.5614, Florida Statutes, is amended to read:

14           101.5614 Canvass of returns.--

15           (7) Absentee ballots may be counted by automatic  
16 tabulating equipment if they have been ~~punched or~~ marked in a  
17 manner which will enable them to be properly counted by such  
18 equipment.

19           Section 8. Section 101.595, Florida Statutes, is  
20 created to read:

21           101.595 Analysis and reports of voter error.--

22           (1) No later than December 15 of each general election  
23 year, the supervisor of elections in each county shall review  
24 the ballots with overvotes and undervotes and report the  
25 number of each to the Department of State, along with the  
26 likely reasons for the errors and other information as may be  
27 useful to evaluate the performance of the voting system and  
28 identify problems with ballot design and instructions which  
29 may have contributed to voter confusion.

30           (2) The Department of State, upon receipt of such  
31 information, shall prepare a public report on the performance

1 of each type of voting system. The report must contain, but  
2 is not limited to, the following information:

3 (a) The overall error rate for each system used in the  
4 election;

5 (b) An identification of problems with the ballot  
6 design or instructions which may have contributed to voter  
7 confusion; and

8 (c) Recommendations for correcting any problems  
9 identified.

10 (3) The Department of State shall submit the report to  
11 the Governor, the President of the Senate, and the Speaker of  
12 the House of Representatives by January 31 of each year  
13 following a general election.

14 Section 9. Effective upon this act becoming a law, the  
15 Division of Elections shall review the voting systems  
16 certification standards and ensure that new technologies are  
17 available for selection by boards of county commissioners  
18 which meet the requirements for voting systems and meet user  
19 standards. The Division of Elections shall continuously review  
20 the voting systems certification standards to ensure that new  
21 technologies are appropriately certified for all elections in  
22 a timely manner. The division shall also develop methods to  
23 determine the will of the public with respect to voting  
24 systems.

25 Section 10. Sections 101.141, 101.181, 101.191 and  
26 101.5609, Florida Statutes, are repealed.

27 Section 11. Except as otherwise expressly provided in  
28 this act, this act shall take effect January 1, 2002.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB 1120

The committee substitute prohibits the use of punchcard voting systems beginning with the 2002 First Primary Election. The bill maintains current law allowing the county commission and supervisors of elections to determine the type of voting system to be used in the county, as long as the system has been certified for use. The committee substitute requires the Division of Elections to review the voting systems certification standards to ensure that new technologies are appropriately certified in a timely manner. The bill requires the Division of Elections to adopt rules providing for a uniform ballot design for each voting system used in the state. Finally, the bill requires a report on the performance of the voting systems used following each general election.