

By Senator Wilson

33-952B-06

1                                   A bill to be entitled  
2           An act relating to voting systems; amending s.  
3           20.10, F.S., relating to the organizational  
4           structure of the Department of State;  
5           specifying that the Bureau of Voting Systems  
6           Certification and the Bureau of Voting Systems  
7           Security are located within the Division of  
8           Elections; creating s. 101.018, F.S.; creating  
9           the Bureau of Voting Systems Security for the  
10          purpose of ensuring the security of voting  
11          systems used in the state; specifying the  
12          duties of the bureau; requiring that the bureau  
13          provide a monthly report to the director of the  
14          Division of Elections and the Secretary of  
15          State; requiring that any identified security  
16          problem be remedied within a specified period;  
17          providing that a manufacturer that fails to  
18          remedy a security problem is subject to a fine  
19          for each day of such failure; authorizing the  
20          division to adopt emergency rules following the  
21          failure of a manufacturer to remedy a  
22          medium-level or high-level security problem  
23          which occurs proximate to a primary or general  
24          election; amending s. 101.5606, F.S.; requiring  
25          that voting systems approved by the Department  
26          of State allow the voter to correct an error in  
27          voting; requiring that such systems produce a  
28          paper record, be furnished with illumination,  
29          be equipped with an audio-stimulus voting  
30          feature, and include a sip-and-puff switch  
31          attachment; amending s. 101.5612, F.S.;

1           revising the testing requirements for  
2           electronic or electromechanical voting systems  
3           that are configured to include electronic or  
4           electromechanical tabulation devices; requiring  
5           that each device be tested; providing effective  
6           dates.

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

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10           Section 1. Subsection (2) of section 20.10, Florida  
11 Statutes, is amended to read:

12           20.10 Department of State.--There is created a  
13 Department of State.

14           (2) The following divisions of the Department of State  
15 are established:

16           (a) Division of Elections.

17           1. Bureau of Voting Systems Certification.

18           2. Bureau of Voting Systems Security.

19           (b) Division of Historical Resources.

20           (c) Division of Corporations.

21           (d) Division of Library and Information Services.

22           (e) Division of Cultural Affairs.

23           (f) Division of Administration.

24           Section 2. Section 101.018, Florida Statutes, is  
25 created to read:

26           101.018 Bureau of Voting Systems Security.--

27           (1) There is created a Bureau of Voting Systems  
28 Security within the Division of Elections of the Department of  
29 State which shall be responsible for ensuring the security of  
30 the voting systems that are certified for use in this state.

31           (2) The bureau shall:

1           (a) Continuously test the hardware and software of the  
2 voting systems for the purpose of identifying security  
3 problems.

4           (b) Test any voting system in response to a credible  
5 published report of security problems.

6           (c) Notify the manufacturer of the voting system if a  
7 security problem is identified.

8           (d) Work with the manufacturer of the voting system to  
9 develop a remedy for the identified security problem.

10           (3) The bureau shall provide a monthly written report  
11 to the director of the Division of Elections and the Secretary  
12 of State for each certified voting system which must, at a  
13 minimum:

14           (a) Identify each security problem;

15           (b) Identify the source of any potential security  
16 breach resulting from the problem as "external," such as a  
17 security breach involving voters, or "internal," such as a  
18 security breach involving employees of the supervisor of  
19 elections, poll workers, or manufacturer's field  
20 representatives;

21           (c) Detail the scenarios in which the potential threat  
22 could be realized;

23           (d) Discuss the likelihood of success for each of the  
24 scenarios;

25           (e) Identify the scope of the potential threat,  
26 detailing factors such as the number of machines that might be  
27 impacted, the number of votes that could be affected in a  
28 statewide election, and the number of counties that could be  
29 affected; and

1           (f) Based on paragraphs (a)-(e) and any other relevant  
2 factors, classify the security threat posed by the problem as  
3 "high," "medium," or "low."

4           (4)(a) A security problem that is identified in the  
5 bureau's report must be remedied within 60 days after the  
6 manufacturer receives notice of the problem or 14 days before  
7 the next regularly scheduled primary or general election,  
8 whichever occurs first. A problem shall be considered remedied  
9 when the bureau so certifies in writing to the division  
10 director and, in the case of a high threat, to the Secretary  
11 of State.

12           (b) Any manufacturer who fails to remedy a security  
13 problem shall be fined \$25,000 per day for each day following  
14 the period specified in paragraph (a). In addition, if the  
15 failure to remedy a medium-level or high-level security  
16 problem is proximate to a scheduled primary or general  
17 election, the division shall adopt emergency rules to protect  
18 the integrity of the voting process.

19           Section 3. Effective January 1, 2008, section  
20 101.5606, Florida Statutes, is amended to read:

21           101.5606 Requirements for approval of systems.--No  
22 electronic or electromechanical voting system shall be  
23 approved by the Department of State unless it is so  
24 constructed that:

25           (1) It permits and requires voting in secrecy.

26           (2) It permits each elector to vote at any election  
27 for all persons and offices for whom and for which the elector  
28 is lawfully entitled to vote, and no others; to vote for as  
29 many persons for an office as the elector is entitled to vote  
30 for; and to vote for or against any question upon which the  
31 elector is entitled to vote.

1           (3) It immediately rejects a ballot where the number  
2 of votes for an office or measure exceeds the number which the  
3 voter is entitled to cast or where the tabulating equipment  
4 reads the ballot as a ballot with no votes cast.

5           (4) For systems using marksense ballots, it accepts a  
6 rejected ballot pursuant to subsection (3) if a voter chooses  
7 to cast the ballot, but records no vote for any office that  
8 has been overvoted or undervoted.

9           (5) It is capable of correctly counting votes.

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

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

19          (8) It provides a method for write-in voting.

20          (9) 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          (10) 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          (11) It is capable of automatically producing precinct  
29 totals in printed, marked, or punched form, or a combination  
30 thereof.

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

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

9           (14) It uses a precinct-count tabulation system.

10          (15) It does not use an apparatus or device for the  
11 piercing of ballots by the voter.

12          (16) It produces and retains a voter-verified  
13 permanent paper record having a manual audit capacity that  
14 records each vote to be cast and that is viewed by the voter  
15 from behind a window or other device before the ballot is  
16 cast.

17          (17) It is furnished with illumination sufficient to  
18 enable the voter to read the ballot while in the booth.

19          (18) It is equipped with an audio-stimulus voting  
20 feature that communicates the complete content of the ballot  
21 in a human voice and permits a voter who is blind or visually  
22 impaired to cast a secret ballot using, at the option of the  
23 voter, voice-only or tactile-discernible controls.

24          (19) It includes a sip-and-puff switch voting  
25 attachment.

26           Section 4. Paragraph (a) of subsection (4) of section  
27 101.5612, Florida Statutes, is amended to read:

28           101.5612 Testing of tabulating equipment.--

29           (4)(a)1. For electronic or electromechanical voting  
30 systems configured to include electronic or electromechanical  
31 tabulation devices ~~that which~~ are distributed to the

1 | precincts, all ~~or a sample~~ of the devices to be used in the  
2 | election shall be publicly tested. ~~If a sample is to be~~  
3 | ~~tested, the sample shall consist of a random selection of at~~  
4 | ~~least 5 percent of the devices for an optical scan system or 2~~  
5 | ~~percent of the devices for a touchscreen system or 10 of the~~  
6 | ~~devices for either system, as applicable, whichever is~~  
7 | ~~greater.~~ The test shall be conducted by processing a group of  
8 | ballots, causing the device to output results for the ballots  
9 | processed, and comparing the output of results to the results  
10 | expected for the ballots processed. The group of ballots shall  
11 | be produced so as to record a predetermined number of valid  
12 | votes for each candidate and on each measure and to include  
13 | for each office one or more ballots which have activated  
14 | voting positions in excess of the number allowed by law in  
15 | order to test the ability of the tabulating device to reject  
16 | such votes.

17 |         2. If any tested tabulating device is found to have an  
18 | error in tabulation, it shall be deemed unsatisfactory. ~~For~~  
19 | ~~each device deemed unsatisfactory, the canvassing board shall~~  
20 | ~~take steps to determine the cause of the error, shall attempt~~  
21 | ~~to identify and test other devices that could reasonably be~~  
22 | ~~expected to have the same error, and shall test a number of~~  
23 | ~~additional devices sufficient to determine that all devices~~  
24 | ~~are satisfactory.~~ Upon deeming any device unsatisfactory, the  
25 | canvassing board may ~~require all devices to be tested or may~~  
26 | declare that all devices are unsatisfactory.

27 |         3. If the operation or output of any tested tabulation  
28 | device, such as spelling or the order of candidates on a  
29 | report, is in error, such problem shall be reported to the  
30 | canvassing board. The canvassing board shall then determine if  
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1 the reported problem warrants its deeming the device  
2 unsatisfactory.

3 Section 5. Except as otherwise expressly provided in  
4 this act, this act shall take effect July 1, 2006.

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7 SENATE SUMMARY

8 Establishes the Bureau of Voting Systems Security within  
9 the Division of Elections. Provides duties of the bureau  
10 and requires that it make certain reports to the Division  
11 of Elections and the Secretary of State. Provides that a  
12 penalty be imposed if the manufacturer of a voting system  
13 fails to remedy a problem within a specified time.  
14 Authorizes the division to adopt emergency rules. Revises  
15 the requirements for voting systems approved by the  
16 Department of State. Requires that a voter be allowed to  
17 correct an error in voting. Requires that the system  
18 produce a paper record, be furnished with illumination,  
19 be equipped with an audio-stimulus voting feature, and  
20 include a sip-and-puff switch attachment. Revises the  
21 testing requirements for voting systems that include  
22 electronic or electromechanical tabulation devices.  
23 Requires that each such device be tested.  
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