

By Senator Villalobos

38-1255B-07

1 A bill to be entitled
2 An act relating to voting systems; amending s.
3 101.5603, F.S.; providing definitions; amending
4 s. 101.5606, F.S.; requiring a voter-verifiable
5 paper record of votes cast using electronic
6 voting systems; requiring that electronic
7 voting systems provide standardized reporting
8 of election results; amending s. 101.56062,
9 F.S.; deleting requirements for certain audio
10 and visual capabilities for accessible voting
11 systems; creating s. 101.56075, F.S.; requiring
12 the use of marksense ballots on election days;
13 requiring the use of marksense ballots or a
14 direct recording electronic voting method
15 having a voter-verifiable paper record at early
16 voting sites; requiring an accessible voter
17 interface device at polling places and early
18 voting sites; amending s. 101.591, F.S.;
19 requiring postelection audits of voting
20 systems; requiring rulemaking by the Department
21 of State; deleting provisions providing for
22 voting system audits directed by the
23 Legislature; amending s. 102.166, F.S.;
24 requiring manual recounts of votes cast using a
25 direct recording electronic voting method to
26 use the paper record, which is the official
27 ballot for manual recounts; providing effective
28 dates.

30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 101.5603, Florida Statutes, is
2 amended to read:

3 101.5603 Definitions relating to Electronic Voting
4 Systems Act.--As used in this act, the term:

5 (1) "Automatic tabulating equipment" includes
6 apparatus necessary to automatically examine, count, and
7 record votes.

8 (2) "Ballot" means the card, tape, or other vehicle
9 upon which the elector's choices are recorded.

10 (3) "Ballot information" means the material containing
11 the names of offices and candidates and the questions to be
12 voted on.

13 ~~(4)~~ "Direct recording electronic voting method" means
14 an electronic voting method that uses electronic components
15 for the functions of ballot presentation, vote selection, vote
16 capture, vote recording, and tabulation which are logically
17 and physically integrated into a single unit. The unit may
18 include peripheral equipment such as a printer, headphones,
19 and other similar items. A direct recording electronic voting
20 method produces a tabulation of the voting data stored in a
21 removable memory component and in printed hard copy.

22 ~~(5)~~~~(4)~~ "Electronic or electromechanical voting system"
23 means a system of casting votes by use of voting devices or
24 marking devices and counting ballots by employing automatic
25 tabulating equipment or data processing equipment, and the
26 term includes touchscreen systems.

27 ~~(6)~~~~(5)~~ "Marking device" means any approved device for
28 marking a ballot with ink or other substance which will enable
29 the ballot to be tabulated by means of automatic tabulating
30 equipment.

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1 ~~(7)(6)~~ "Secrecy envelope" means an opaque device, used
2 for enclosing a marked ballot, which conceals the voter's
3 choices.

4 ~~(8)(7)~~ "Software" means the programs and routines used
5 to employ and control the capabilities of data processing
6 hardware, including, without limitation, operating systems,
7 compilers, assemblers, utilities, library routines,
8 maintenance routines, applications, and computer networking
9 programs.

10 (9) "Voter-verifiable paper audit record" means the
11 individual permanent paper record produced by a direct
12 recording electronic voting method which records each
13 selection on the ballot and allows the voter to confirm his or
14 her selections before the ballot is cast.

15 ~~(10)(8)~~ "Voting device" means an apparatus by which
16 votes are registered electronically.

17 Section 2. Section 101.5606, Florida Statutes, is
18 amended to read:

19 101.5606 Requirements for approval of systems.--No
20 electronic or electromechanical voting system shall be
21 approved by the Department of State unless it is so
22 constructed that:

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

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

30 (3) It immediately rejects a ballot where the number
31 of votes for an office or measure exceeds the number which the

1 voter is entitled to cast or where the tabulating equipment
2 reads the ballot as a ballot with no votes cast.

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

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

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

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

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

18 (9) It is capable of accumulating a count of the
19 specific number of ballots tallied for a precinct,
20 accumulating total votes by candidate for each office, and
21 accumulating total votes for and against each question and
22 issue of the ballots tallied for a precinct.

23 (10) It is capable of tallying votes from ballots of
24 different political parties from the same precinct, in the
25 case of a primary election.

26 (11) It is capable of automatically producing precinct
27 totals in printed, marked, or punched form, or a combination
28 thereof.

29 (12) If it is of a type that records votes
30 electronically, a paper record for each vote cast is made
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1 available for inspection and verification by the voter before
2 the ballot is cast.

3 ~~(13)(12)~~ If it is of a type which records ~~registers~~
4 votes electronically, it will permit each voter to change his
5 or her vote for any candidate or upon any question appearing
6 on the official ballot up to the time that the voter takes the
7 final step to record ~~register~~ his or her vote and to have the
8 vote counted ~~computed~~.

9 ~~(14)(13)~~ It is capable of providing records from which
10 the operation of the voting system may be audited.

11 ~~(15)(14)~~ It uses a precinct-count tabulation system.

12 ~~(16)(15)~~ It does not use an apparatus or device for
13 the piercing of ballots by the voter.

14 ~~(17)~~ It provides standardized election results
15 reporting as determined by the Department of State.

16 Section 3. Subsections (1) and (2) of section
17 101.56062, Florida Statutes, are amended to read:

18 101.56062 Standards for accessible voting systems.--

19 (1) Notwithstanding anything in this chapter to the
20 contrary, each voting system certified by the Department of
21 State for use in local, state, and federal elections must
22 include the capability to install accessible voter interface
23 devices in the system configuration which will allow the
24 system to meet the following minimum standards:

25 (a) The voting system must provide a tactile input or
26 audio input device, or both.

27 (b) The voting system must provide a method by which
28 voters can confirm any tactile or audio input by having the
29 capability of audio output using synthetic or recorded human
30 speech that is reasonably phonetically accurate.

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1 (c) Any operable controls on the input device which
2 are needed for voters who are visually impaired must be
3 discernible tactilely without actuating the keys.

4 ~~(d) Audio and visual access approaches must be able to~~
5 ~~work both separately and simultaneously.~~

6 (d)(e) If a nonaudio access approach is provided, the
7 system may not require color perception. The system must use
8 black text or graphics, or both, on white background or white
9 text or graphics, or both, on black background, unless the
10 office of the Secretary of State approves other high-contrast
11 color combinations that do not require color perception.

12 (e)(f) Any voting system that requires any visual
13 perception must offer the election official who programs the
14 system, prior to its being sent to the polling place, the
15 capability to set the font size, as it appears to the voter,
16 from a minimum of 14 points to a maximum of 24 points.

17 ~~(g) The voting system must provide audio information,~~
18 ~~including any audio output using synthetic or recorded human~~
19 ~~speech or any auditory feedback tones that are important for~~
20 ~~the use of the audio approach, through at least one mode, by~~
21 ~~handset or headset, in enhanced auditory fashion (increased~~
22 ~~amplification), and must provide incremental volume control~~
23 ~~with output amplification up to a level of at least 97 dB SPL.~~

24 ~~(h) For transmitted voice signals to the voter, the~~
25 ~~voting system must provide a gain adjustable up to a minimum~~
26 ~~of 20 dB with at least one intermediate step of 12 dB of gain.~~

27 ~~(i) For the safety of others, if the voting system has~~
28 ~~the possibility of exceeding 120 dB SPL, then a mechanism must~~
29 ~~be included to reset the volume automatically to the voting~~
30 ~~system's default volume level after every use, for example~~
31 ~~when the handset is replaced, but not before. Also, universal~~

1 ~~precautions in the use and sharing of headsets should be~~
2 ~~followed.~~

3 (f)(j) If sound cues and audible information such as
4 "beeps" are used, there must be simultaneous corresponding
5 visual cues and information.

6 (g)(k) Controls and operable mechanisms must be
7 operable with one hand, including operability with a closed
8 fist, and operable without tight grasping, pinching, or
9 twisting of the wrist.

10 (h)(l) The force required to operate or activate the
11 controls must be no greater than 5 pounds of force.

12 (i)(m) Voting booths must have voting controls at a
13 minimum height of 36 inches above the finished floor with a
14 minimum knee clearance of 27 inches high, 30 inches wide, and
15 19 inches deep, or the accessible voter interface devices must
16 be designed so as to allow their use on top of a table to meet
17 these requirements. Tabletop installations must include
18 adequate privacy.

19 (j)(n) Any audio ballot must provide the voter with
20 the following functionalities:

21 1. After the initial instructions that the system
22 requires election officials to provide to each voter, the
23 voter should be able to independently operate the voter
24 interface through the final step of casting a ballot without
25 assistance.

26 2. The voter must be able to determine the races that
27 he or she is allowed to vote in and to determine which
28 candidates are available in each race.

29 3. The voter must be able to determine how many
30 candidates may be selected in each race.

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1 4. The voter must be able to have confidence that the
2 physical or vocal inputs given to the system have selected the
3 candidates that he or she intended to select.

4 5. The voter must be able to review the candidate
5 selections that he or she has made.

6 6. Prior to the act of casting the ballot, the voter
7 must be able to change any selections previously made and
8 confirm a new selection.

9 7. The system must communicate to the voter the fact
10 that the voter has failed to vote in a race or has failed to
11 vote the number of allowable candidates in any race and
12 require the voter to confirm his or her intent to undervote
13 before casting the ballot.

14 8. The system must prevent the voter from overvoting
15 any race.

16 9. The voter must be able to input a candidate's name
17 in each race that allows a write-in candidate.

18 10. The voter must be able to review his or her
19 write-in input to the interface, edit that input, and confirm
20 that the edits meet the voter's intent.

21 11. There must be a clear, identifiable action that
22 the voter takes to "cast" the ballot. The system must make
23 clear to the voter how to take this action so that the voter
24 has minimal risk of taking the action accidentally but, when
25 the voter intends to cast the ballot, the action can be easily
26 performed.

27 12. Once the ballot is cast, the system must confirm
28 to the voter that the action has occurred and that the voter's
29 process of voting is complete.

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1 13. Once the ballot is cast, the system must preclude
2 the voter from modifying the ballot cast or voting or casting
3 another ballot.

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5 The functionalities required in this paragraph for
6 certification may be satisfied by either the voting device or
7 by the entire voting system.

8 (2) Such voting system must include at least one
9 accessible voter interface device installed in each polling
10 place ~~that~~ ~~which~~ meets the requirements of this section,
11 ~~except for paragraph (1)(d).~~

12 Section 4. Effective July 1, 2008, section 101.56075,
13 Florida Statutes, is created to read:

14 101.56075 Voting methods.--

15 (1) Except as provided in subsection (3), all voting
16 at polling places on election day shall be by marksense
17 ballot, tabulated at the precinct.

18 (2) At early voting sites, each supervisor of
19 elections shall provide for voting by either a marksense
20 ballot or by a direct recording electronic voting method
21 equipped with a voter-verifiable paper audit record as
22 required by s. 101.5606(12).

23 (3) In each polling place and early voting site, there
24 shall be at least one accessible voter interface device that
25 meets the requirements of s. 101.56062.

26 Section 5. Effective July 1, 2008, section 101.591,
27 Florida Statutes, is amended to read:

28 101.591 Voting system audit.--

29 (1) Immediately following each election, the
30 supervisor of elections shall conduct a manual audit in
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1 randomly selected precincts of the voting systems used in the
2 election as follows:

3 (a) The audit shall consist of a public manual tally
4 of the ballots cast, including absentee and early voting
5 ballots, in 2 percent of the precincts chosen at random by the
6 county canvassing board. If 2 percent of the precincts is less
7 than one entire precinct, the audit shall be conducted in one
8 precinct chosen at random by the county canvassing board. Such
9 precincts shall be selected at a publicly noticed county
10 canvassing board meeting.

11 (b) The audit shall be conducted using the marksense
12 ballots and the voter-verifiable paper audit records of
13 ballots cast on direct recording electronic voting methods.

14 (c) The supervisor of elections shall provide public
15 notice before the beginning of the audit by posting a notice
16 in four conspicuous places around the county.

17 (d) The audit must be completed no later than the end
18 of the 9th day following certification of the election by the
19 county canvassing board.

20 (2) Within 15 days after completion of the audit, the
21 supervisor of elections shall provide a report to the
22 department on the results of the audit of a county, state, or
23 federal election in a standard format as prescribed by the
24 department. An audit report for all other elections in the
25 county shall be maintained by the supervisor of elections.

26 (3) The department shall adopt rules to provide
27 uniform procedures for conducting audits under this section.

28 ~~(1) The Legislature, upon specific appropriation and~~
29 ~~directive, may provide for an independent audit of the voting~~
30 ~~system in any county. Within 30 days after completing the~~
31 ~~audit, the person conducting the audit shall furnish a copy of~~

1 ~~the audit to the supervisor of elections and the board of~~
2 ~~county commissioners.~~

3 ~~(2) An audit conducted pursuant to subsection (1)~~
4 ~~shall consist of a study and evaluation of the voting system~~
5 ~~used during any primary, general, municipal, or presidential~~
6 ~~preference primary election to provide reasonable assurance~~
7 ~~that the system is properly controlled, can accurately count~~
8 ~~votes, provides adequate safeguards against unauthorized~~
9 ~~manipulation and fraud, and complies with the requirements of~~
10 ~~law and rules of the Department of State.~~

11 Section 6. Effective July 1, 2008, subsection (1) of
12 section 102.166, Florida Statutes, is amended to read:

13 102.166 Manual recounts.--

14 (1) If the second set of unofficial returns pursuant
15 to s. 102.141 indicates that a candidate for any office was
16 defeated or eliminated by one-quarter of a percent or less of
17 the votes cast for such office, that a candidate for retention
18 to a judicial office was retained or not retained by
19 one-quarter of a percent or less of the votes cast on the
20 question of retention, or that a measure appearing on the
21 ballot was approved or rejected by one-quarter of a percent or
22 less of the votes cast on such measure, the board responsible
23 for certifying the results of the vote on such race or measure
24 shall order a manual recount of the overvotes and undervotes
25 cast in the entire geographic jurisdiction of such office or
26 ballot measure. A manual recount may not be ordered, however,
27 if the number of overvotes, undervotes, and provisional
28 ballots is fewer than the number of votes needed to change the
29 outcome of the election. A manual recount of votes recorded on
30 a direct recording electronic voting method shall be conducted
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1 using the voter verifiable paper audit record, which shall be
2 considered the official ballot for the manual recounts.

3 Section 7. Except as otherwise expressly provided in
4 this act, this act shall take effect July 1, 2007.

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7 SENATE SUMMARY

8 Defines the terms "direct recording electronic voting
9 method" and "voter-verifiable paper audit record."
10 Requires a voter-verifiable paper record of votes cast
11 using electronic voting systems. Requires electronic
12 voting systems to provide standardized election results
13 reporting. Removes requirements for certain audio and
14 visual capabilities for accessible voting systems.
15 Requires the use of marksense ballots on election days.
16 Requires the use of marksense ballots or a direct
17 recording electronic voting method with a
18 voter-verifiable paper record at early voting sites.
19 Requires an accessible voter interface device at polling
20 places and early voting sites. Requires postelection
21 voting system audits. Requires rulemaking. Removes
22 provisions providing for voting system audits directed by
23 the Legislature. Requires manual recounts of votes cast
24 using a direct recording electronic voting method to use
25 the paper record, which is the official ballot for manual
26 recounts.
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