

1 A bill to be entitled

2 An act relating to voting systems; amending s. 101.5601,
3 F.S.; revising a cross-reference in the short title of the
4 "Electronic Voting Systems Act," to conform to changes
5 made by this act; amending s. 101.5606, F.S.; requiring
6 electronic or electromechanical voting systems to produce
7 a paper record of votes; requiring the manufacturers of
8 electronic or electromechanical voting systems and certain
9 election officials to meet specified requirements with
10 respect to the creation, use, and alteration of system
11 software and with respect to avoiding conflicts of
12 influence; creating s. 101.56061, F.S.; providing for the
13 preservation of paper records of votes; requiring that
14 paper records be suitable for manual audits; providing
15 that paper records are the true and correct records of
16 votes cast; providing for paper records of certain
17 absentee voters; amending s. 101.5607, F.S.; requiring the
18 Secretary of State to certify all hardware and software
19 used in electronic or electromechanical voting systems;
20 creating s. 101.5615, F.S. providing prohibitions relating
21 to electronic or electromechanical voting systems;
22 creating s. 101.592, F.S.; requiring the Secretary of
23 State to conduct random manual audits for each general
24 election; providing procedures and requirements relating
25 to random manual audits; amending s. 101.715, F.S.;
26 requiring the Secretary of State to ensure that election
27 officials are given specified instructions relating to
28 people having a disability; providing an effective date.

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

Section 1. Section 101.5601, Florida Statutes, is amended to read:

101.5601 Short title.--Sections 101.5601-101.5615 ~~101.5601-101.5614~~ may be cited as the "Electronic Voting Systems Act."

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

101.5606 Requirements for approval of systems.--

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

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

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

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

(d) ~~(4)~~ For systems using marksense ballots, it accepts a rejected ballot pursuant to paragraph (c) ~~subsection (3)~~ if a voter chooses to cast the ballot, but records no vote for any

57 office that has been overvoted or undervoted.

58 (e)~~(5)~~ It is capable of correctly counting votes.

59 (f)~~(6)~~ It permits each voter at a primary election to vote
60 only for the candidates seeking nomination by the political
61 party in which such voter is registered, for any candidate for
62 nonpartisan office, and for any question upon which the voter is
63 entitled to vote.

64 (g)~~(7)~~ At presidential elections it permits each elector,
65 by one operation, to vote for all presidential electors of a
66 party or for all presidential electors of candidates for
67 President and Vice President with no party affiliation.

68 (h)~~(8)~~ It provides a method for write-in voting.

69 (i)~~(9)~~ It is capable of accumulating a count of the
70 specific number of ballots tallied for a precinct, accumulating
71 total votes by candidate for each office, and accumulating total
72 votes for and against each question and issue of the ballots
73 tallied for a precinct.

74 (j)~~(10)~~ It is capable of tallying votes from ballots of
75 different political parties from the same precinct, in the case
76 of a primary election.

77 (k)~~(11)~~ It is capable of automatically producing precinct
78 totals in printed, marked, or punched form, or a combination
79 thereof.

80 (l)~~(12)~~ If it is of a type which registers votes
81 electronically, it will permit each voter to change his or her
82 vote for any candidate or upon any question appearing on the
83 official ballot up to the time that the voter takes the final
84 step to register his or her vote and to have the vote computed.

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85 ~~(m) (13)~~ It is capable of providing records from which the
86 operation of the voting system may be audited.

87 ~~(n) (14)~~ It uses a precinct-count tabulation system.

88 ~~(o) (15)~~ It does not use an apparatus or device for the
89 piercing of ballots by the voter.

90 (p) It produces or requires the use of an individual
91 voter-verified paper record of the vote that shall be made
92 available for inspection and verification by the voter before
93 the vote is cast. For purposes of this subsection, examples of
94 such a record include a paper ballot prepared by the voter for
95 the purpose of being read by an optical scanner, a paper ballot
96 prepared by the voter to be mailed to an election official,
97 whether from a domestic or overseas location, a paper ballot
98 created through the use of a ballot-marking device, or a paper
99 printout of the vote produced by a touchscreen or other
100 electronic voting machine, so long as in each case the record
101 permits the voter to verify the record in accordance with this
102 subsection.

103 1. The electronic or electromechanical voting system shall
104 provide the voter with an opportunity to correct any error made
105 by the system in the voter-verified paper record before the
106 permanent voter-verified paper record is preserved in accordance
107 with s. 101.56061.

108 2. The electronic or electromechanical voting system shall
109 not preserve the voter-verifiable paper records in any manner
110 that makes it possible to associate a voter with the record of
111 the vote.

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112 (2) The manufacturer of the electronic or
113 electromechanical voting system and the election officials using
114 such system meet the following applicable requirements:

115 (a) The manufacturer and the election officials shall
116 document the chain of custody for the handling of software used
117 in connection with the electronic or electromechanical voting
118 system.

119 (b) The manufacturer of the software used in the operation
120 of the system shall provide the Secretary of State with updated
121 information regarding the identification of each person who
122 participated in the writing of the software, including specific
123 information regarding whether the person has ever been convicted
124 of a crime involving election fraud.

125 (c) In the same manner and to the same extent described in
126 s. 101.5615(1), the manufacturer shall provide the codes used in
127 any software used in connection with the system to the Secretary
128 of State and may not alter such codes once the election
129 officials have certified the system unless such system is
130 recertified by such election officials.

131 (d) The manufacturer shall meet standards established by
132 the Secretary of State to prevent the existence or appearance of
133 any conflict of interest with respect to candidates for public
134 office and political parties, including standards to ensure that
135 the manufacturer and its officers and directors do not hold
136 positions of authority in any political party or in any partisan
137 political campaign.

138 Section 3. Section 101.56061, Florida Statutes, is created
139 to read:

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140 101.56061 Preservation of paper record of vote; manual
141 audit requirements.--

142 (1) The permanent paper record produced in accordance with
143 s. 101.5606(16) shall be preserved:

144 (a) In the case of votes cast at the polling place on the
145 date of the election, in the manner in which all other paper
146 ballots are preserved within such polling place;

147 (b) In the case of votes cast at the polling place prior
148 to the date of the election or cast by mail, in a manner that is
149 consistent with the manner employed by the jurisdiction for
150 preserving such ballots in general; or

151 (c) In the case of votes cast other than as specified in
152 paragraph (a) or paragraph (b), in a manner that is consistent
153 with the manner employed by the jurisdiction for preserving
154 paper ballots in general.

155 (2) Each paper record produced under s. 101.5606(16) shall
156 be suitable for a manual audit equivalent to that of a paper
157 ballot voting system.

158 (3) In the event of any inconsistencies or irregularities
159 between electronic records and the individual permanent paper
160 records, the individual permanent paper record shall be the true
161 and correct record of the votes cast.

162 (4) In the case of votes cast by absent uniformed services
163 voters and overseas voters, the ballots cast by such voters
164 shall serve as the permanent paper record under s. 101.5606(16)
165 in accordance with protocols established by the Secretary of
166 State in consultation with the Secretary of Defense that
167 preserve the privacy of the voter and are consistent with the

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168 requirements of the Uniformed and Overseas Citizens Absentee
 169 Voting Act.

170 Section 4. Section (3) is added to section 101.5607,
 171 Florida Statutes, to read:

172 101.5607 Department of State to maintain voting system
 173 information; prepare software; certify software and hardware.--

174 (3) All software and hardware used in any electronic or
 175 electromechanical voting system shall be certified by the
 176 Secretary of State as meeting the requirements of s. 101.5615(1)
 177 and (2).

178 Section 5. Section 101.5615, Florida Statutes, is created
 179 to read:

180 101.5615 Electronic or electromechanical voting system
 181 prohibitions.--

182 (1) An electronic or electromechanical voting system may
 183 not at any time contain or use any undisclosed software. An
 184 electronic or electromechanical voting system containing or
 185 using software shall disclose the source code, object code, and
 186 executable representation of that software to the Secretary of
 187 State, and the secretary shall make that source code, object
 188 code, and executable representation available for inspection
 189 upon request to any person.

190 (2) An electronic or electromechanical voting system may
 191 not contain, use, or be accessible by any wireless, power-line,
 192 or concealed communication device.

193 (3) A component of any electronic or electromechanical
 194 voting device upon which votes are cast may not be connected to
 195 the Internet.

196 Section 6. Section 101.592, Florida Statutes, is created
197 to read:

198 101.592 Mandatory random audits.--

199 (1) The Secretary of State shall conduct random,
200 unannounced hand counts of the voter-verified records required
201 to be produced and preserved pursuant to s. 301(a)(2) of the
202 Help America Vote Act of 2002 for each general election in at
203 least 2 percent of the precincts in each county.

204 (2) The Secretary of State shall conduct an audit under
205 this section of the election results in accordance with the
206 following procedures:

207 (a) Not later than 24 hours after the county supervisor of
208 elections announces the final vote count in each precinct in the
209 county, the secretary shall determine and announce the precincts
210 in the county in which the secretary will conduct the audits.

211 (b) With respect to votes cast at the precinct or an
212 equivalent location on or before the date of the election, other
213 than provisional ballots described in paragraph (c), the
214 secretary shall count by hand the voter-verified records
215 required to be produced and preserved pursuant to s.
216 301(a)(2)(A) of the Help America Vote Act of 2002 and compare
217 those records with the count of such votes as announced by the
218 county.

219 (c) With respect to votes cast at the precinct or an
220 equivalent location on or before the date of the election, other
221 than votes cast before the date of the election described in
222 paragraph (b) or votes cast by provisional ballot on the date of
223 the election that are certified and counted by the county on or

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224 after the date of the election, including votes cast by absent
225 uniformed services voters and overseas voters under the
226 Uniformed and Overseas Citizens Absentee Voting Act, the
227 secretary shall count by hand the applicable voter-verified
228 records required to be produced and preserved under s.
229 301(a)(2)(A) of the Help America Vote Act of 2002 and compare
230 that count with the count of such votes as announced by the
231 county.

232 (3) In the case of a county in which the final count of
233 absentee and provisional votes is not announced until after the
234 expiration of the 7-day period that begins on the date of the
235 election, the Secretary of State shall initiate the process
236 described in subsection (2) for conducting the audit not later
237 than 24 hours after the county announces the final vote count
238 for the votes cast at the precinct or equivalent location on or
239 before the date of the election and shall initiate the recount
240 of the absentee and provisional votes pursuant to paragraph
241 (2)(c) not later than 24 hours after the county announces the
242 final count of such votes.

243 (4) Each county and jurisdiction in which an audit is
244 conducted under this section shall provide the Secretary of
245 State with the information and materials requested by the
246 Secretary of State to enable the secretary to carry out the
247 audit.

248 (5) The selection of the precincts in a county to be
249 subject to hand counts under this section shall be made by the
250 Secretary of State on an entirely random basis using a uniform
251 distribution in which all precincts in a county have an equal

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252 chance of being selected, in accordance with such procedures as
253 the secretary determines appropriate, except that:

254 (a) At least one precinct shall be selected in each county
255 or an equivalent jurisdiction.

256 (b) The Secretary of State shall publish the procedures
257 for conducting hand counts in the Florida Administrative Weekly
258 prior to the selection of the precincts.

259 (6) As soon as practicable after the completion of an
260 audit conducted under this section, the Secretary of State shall
261 announce and publish the results of the audit and shall include
262 in the announcement a comparison of the results of the election
263 in the precinct as determined by the secretary under the audit
264 and the final vote count in the precinct as announced by the
265 county, broken down by the categories of votes described in
266 paragraphs (2)(b) and (c).

267 (7) A county may not certify the results of an election
268 that is subject to an audit under this section prior to the
269 completion of the audit or announce and publish of the results
270 of the audit conducted under subsection (6) except to the extent
271 necessary to enable the state to provide for the final
272 determination of any controversy or contest concerning the
273 appointment of its presidential electors prior to the deadline
274 described in U.S.C. Title III, s. 6.

275 (8) If the Secretary of State finds that any of the hand
276 counts conducted under this section show cause for concern about
277 the accuracy of the results of an election in a county or in a
278 jurisdiction within the county, the secretary may conduct hand
279 counts under this section at such additional precincts or

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280 equivalent locations within the county or jurisdiction as the
281 secretary considers appropriate to resolve any concerns and
282 ensure the accuracy of the results.

283 Section 7. Subsection (6) is added to section 101.715,
284 Florida Statutes, to read:

285 101.715 Accessibility of polling places for people having
286 a disability.--

287 (6) The Secretary of State shall ensure that all election
288 officials are instructed on the right of any person who requires
289 assistance to vote by reason of blindness, a disability, or the
290 inability to read or write to be given assistance and to choose
291 the person to give such assistance under s. 208 of the federal
292 Voting Rights Act of 1965.

293 Section 8. This act shall take effect July 1, 2007.