

By the Committee on Ethics and Elections; and Senators  
Constantine and Justice

582-2513-07

1                                   A bill to be entitled

2           An act relating to voting systems; amending s.

3           101.151, F.S.; authorizing the use of

4           ballot-on-demand technology to produce certain

5           marksense ballots; creating s. 101.56075, F.S.;

6           requiring all voting to be by marksense ballot;

7           providing an exemption for voters with

8           disabilities; amending s. 101.5612, F.S.;

9           requiring the use of certain marksense ballots

10          for pre-election testing; amending s. 101.591,

11          F.S.; requiring post-election, random audits of

12          voting systems; providing general audit

13          procedures; mandating that audit results be

14          reported to the Department of State;

15          prescribing requirements for audit reports;

16          granting rulemaking authority to the department

17          to adopt detailed, uniform audit procedures and

18          a standard audit reporting form; providing

19          procedures for the purchase of new voting

20          systems and ballot equipment and the

21          disposition of existing touchscreen voting

22          systems for certain counties; authorizing the

23          Department of State to purchase optical scan

24          voting equipment and ballot-on-demand equipment

25          for certain counties; appropriating funds for

26          such purpose; providing effective dates.

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

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30           Section 1. Effective July 1, 2008, subsection (1) of

31 section 101.151, Florida Statutes, is amended to read:

1           101.151 Specifications for ballots.--

2           (1)(a) Marksense ballots shall be printed on paper of  
3 such thickness that the printing cannot be distinguished from  
4 the back and shall meet the specifications of the voting  
5 system that will be used to tabulate the ballots.

6           (b) Early voting sites may employ a ballot-on-demand  
7 production system to print individual marksense ballots,  
8 including provisional ballots, for eligible electors pursuant  
9 to s. 101.657. Ballot-on-demand technology may be used to  
10 produce marksense absentee ballots. Not later than 30 days  
11 before an election, the Secretary of State may also authorize  
12 in writing the use of ballot-on-demand technology for the  
13 production of election-day ballots.

14           Section 2. Effective July 1, 2008, section 101.56075,  
15 Florida Statutes, is created to read:

16           101.56075 Voting methods.--

17           (1) Except as provided in subsection (2), all voting  
18 shall be by marksense ballot utilizing a marking device for  
19 the purpose of designating ballot selections.

20           (2) Persons with disabilities may vote on a voter  
21 interface device that meets the voting system accessibility  
22 requirements for individuals with disabilities pursuant to  
23 section 301 of the federal Help America Vote Act of 2002 and  
24 s. 101.56062.

25           Section 3. Effective July 1, 2008, subsection (5) is  
26 added to section 101.5612, Florida Statutes, to read:

27           101.5612 Testing of tabulating equipment.--

28           (5) Any tests involving marksense ballots pursuant to  
29 this section shall employ pre-printed ballots, if pre-printed  
30 ballots will be used in the election, and ballot-on-demand  
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1 ballots, if ballot-on-demand technology will be used to  
2 produce ballots in the election, or both.

3 Section 4. Effective July 1, 2008, section 101.591,  
4 Florida Statutes, is amended to read:

5 (Substantial rewording of section. See  
6 s. 101.591, F.S., for present text.)  
7 101.591 Voting system audit.--

8 (1) Immediately following the certification of each  
9 election, the county canvassing board or the local board  
10 responsible for certifying the election shall conduct a manual  
11 audit of the voting systems used in randomly selected  
12 precincts.

13 (2) The audit shall consist of a public manual tally  
14 of the votes cast in the "President and Vice President" or  
15 "Governor and Lieutenant Governor" race that appears at the  
16 top of the ballot or, if neither appears, the first race  
17 appearing on the ballot pursuant to s. 101.151(2), or, in the  
18 case of a purely municipal election, the first municipal race  
19 or issue on that ballot. The tally shall include election-day,  
20 absentee, early voting, provisional, and overseas ballots, in  
21 at least 1 percent but no more than 2 percent of the precincts  
22 chosen at random by the county canvassing board or the local  
23 board responsible for certifying the election. If 1 percent of  
24 the precincts is less than one entire precinct, the audit  
25 shall be conducted using at least one precinct chosen at  
26 random by the county canvassing board or the local board  
27 responsible for certifying the election. Such precincts shall  
28 be selected at a publicly-noticed canvassing board meeting.

29 (3) The canvassing board shall post a notice of the  
30 audit, including the date, time, and place, in four  
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1 conspicuous places in the county and on the home page of the  
2 county supervisor of elections web site.

3 (4) The audit must be completed and the results made  
4 public no later than 11:59 p.m. on the 9th day following  
5 certification of the election by the county canvassing board  
6 or the local board responsible for certifying the election.

7 (5) Within 15 days after completion of the audit, the  
8 county canvassing board or the board responsible for  
9 certifying the election shall provide a report with the  
10 results of the audit to the Department of State in a standard  
11 format as prescribed by the department. The report shall  
12 contain, but is not limited to, the following items:

13 (a) The overall accuracy of audit.

14 (b) A description of any problems or discrepancies  
15 encountered.

16 (c) The likely cause of such problems or  
17 discrepancies.

18 (d) Recommended corrective action with respect to  
19 avoiding or mitigating such circumstances in future elections.

20 Section 5. The Department of State shall adopt rules  
21 to implement the provisions of s. 101.591, Florida Statutes,  
22 as amended by section 4 which prescribe detailed audit  
23 procedures for each voting system, which shall be uniform to  
24 the extent practicable, along with the standard form for audit  
25 reports.

26 Section 6. (1) Notwithstanding ss. 101.292-101.295  
27 and s. 101.5604, Florida Statutes, as a condition of the state  
28 purchasing optical scan voting equipment and ballot-on-demand  
29 equipment to replace touchscreen equipment as provided in  
30 section 7, each recipient county hereby authorizes the  
31 Secretary of State to act as its agent to negotiate the

1 purchase of new equipment and the sale, exchange, or other  
2 disposition of existing touchscreen voting equipment that is  
3 not necessary to conduct voting for individuals with  
4 disabilities. Further, each such county hereby designates the  
5 Secretary of State as the authorized recipient of all proceeds  
6 realized from the sale, exchange, or other disposition of the  
7 voting equipment up to and including the state's cost to fund  
8 the county's new equipment. The secretary shall deposit the  
9 proceeds in the Grants and Donations Trust Fund within 60 days  
10 after the sale, exchange, or other disposition.

11 (2) A county commission may choose to opt out of this  
12 state funding scheme by filing a notice to that effect with  
13 the Department of State no later than June 30, 2007. Any  
14 county choosing to opt out shall continue to be governed by  
15 the provisions of ss. 101.292-101.295 and s. 101.5604, Florida  
16 Statutes, with respect to the purchase of new voting systems  
17 and equipment.

18 Section 7. Effective July 1, 2007:

19 (1) The Department of State is authorized to purchase:

20 (a) Election-day optical scan voting equipment, for  
21 the following counties: Broward, Charlotte, Collier,  
22 Hillsborough, Indian River, Lake, Lee, Martin, Miami-Dade,  
23 Nassau, Palm Beach, Pasco, Pinellas, Sarasota, and Sumter.

24 (b) Ballot-on-demand equipment for use at early voting  
25 sites, including optical scan tabulators, for the following  
26 counties: Bay, Brevard, Broward, Charlotte, Clay, Collier,  
27 Escambia, Hillsborough, Indian River, Jackson, Lake, Lee,  
28 Levy, Marion, Martin, Miami-Dade, Nassau, Okaloosa, Orange,  
29 Osceola, Palm Beach, Pasco, Pinellas, Santa Rosa, Sarasota,  
30 St. Johns, Sumter, Taylor, and Washington.

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1           (2) The sum of \$27,861,850 is appropriated from the  
2 Grants and Donations Trust Fund to the Division of Elections  
3 within the Department of State for the purpose of implementing  
4 this section.

5           Section 8. Except as otherwise expressly provided in  
6 this act, this act shall take effect upon becoming a law.

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8                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
9   COMMITTEE SUBSTITUTE FOR  
10   Senate Bill 962

11 The committee substitute substantially differs from the  
12 original bill in that it: requires precinct-based optical  
13 scan voting for all voters on election-day and at early  
14 voting, except for disabled voters who may continue to vote on  
15 existing touchscreen machines; authorizes the use of  
16 ballot-on-demand ballot production technology for absentee and  
17 early voting, and allows its use on election-day if the  
18 Secretary of State so authorizes; replaces an unused audit  
19 provision in Florida Statutes with a post-election,  
20 post-certification requirement that local canvassing boards  
21 audit the top race on the ballot in at least 1% but not more  
22 than 2% of the precincts; appropriates approximately \$27.9  
23 million to the Department of State to purchase new voting  
24 equipment for the counties, and provides for the Secretary of  
25 State shall act as the buying and selling agent for the  
26 counties; provides various effective dates, all leading to  
27 implementation of the act for the fall 2008 primary election.  
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