

Amendment No.16

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

Committee/Subcommittee hearing bill: Appropriations Committee
Representative Edwards offered the following:

Amendment (with title amendment)

Between lines 111 and 112, insert:

Section 3. Subsection (3) of section 101.5605, Florida Statutes, is amended to read:

101.5605 Examination and approval of equipment.—

(3) (a) Before the Department of State approves the electronic or electromechanical voting system, the person who submitted it for examination shall provide the department the name, mailing address, and telephone number of a registered agent in this state, which agent must have and continuously maintain an office in this state. Any change in the name, address, or telephone number of the registered agent shall promptly be made known to the department.

(b) Before entering into a contract for the sale or lease of a voting system approved under this section to any county, the person entering into such contract with a county shall provide the department the name, mailing address, and telephone

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21 number of a registered agent in this state, which agent must
22 have and continuously maintain an office in this state. Any
23 change in the name, address, or telephone number of the
24 registered agent shall promptly be made known to the department.

25 (c) The department's proof of delivery or attempted
26 delivery to the last mailing address of the registered agent on
27 file with the department at the time of delivery or attempted
28 delivery shall be valid for all notice purposes.

29 (d)~~(a)~~ Within 30 days after completing the examination and
30 upon approval of any electronic or electromechanical voting
31 system, the Department of State shall make and maintain a report
32 on the system, together with a written or printed description
33 and drawings and photographs clearly identifying the system and
34 the operation thereof. As soon as practicable after such filing,
35 the department shall send a notice of certification and, upon
36 request, a copy of the report to the governing bodies of the
37 respective counties of the state. Any voting system that does
38 not receive the approval of the department shall not be adopted
39 for or used at any election.

40 (e)~~(b)~~ After a voting system has been approved by the
41 Department of State, any change or improvement in the system is
42 required to be approved by the department prior to the adoption
43 of such change or improvement by any county. If any such change
44 or improvement does not comply with the requirements of this
45 act, the department shall suspend all sales of the equipment or
46 system in the state until the equipment or system complies with
47 the requirements of this act.

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48 Section 4. Section 101.56065, Florida Statutes, is created
49 to read:

50 101.56065 Disclosure of voting systems defects;
51 investigations for voter systems defects; penalties.--

52 (1) For purposes of this section "defect" means any
53 failure, fault, or flaw in an electronic or electromechanical
54 voting system approved pursuant to s. 101.5605 and s. 101.5606
55 that results in nonconformance to the standards under which the
56 voting system was approved. "Defect" further includes the
57 voting system manufacturer or vendor's failure to make available
58 hardware or software to the counties who have purchased the
59 approved voting system to permit the voting system to function
60 in the manner as approved by the Department of State.

61 (2) (a) Any person who has submitted a voting system for
62 approval by the Department of State in accordance with s.
63 101.5605 prior to July 1, 2013, and any person who has sold or
64 leased to a county any voting system approved by the Department
65 of State prior to July 1, 2013, shall file with the Department a
66 disclosure of any defect in the voting system. If there are no
67 defects in the voting system, the person shall state in the
68 disclosure that no defects exist in the voting system.

69 (b) Each person required to file a disclosure under
70 paragraph (a) shall file a disclosure no later than October 1,
71 2013, and thereafter shall file a disclosure no later than July
72 1 of every odd-numbered year.

73 (c) If at any time a person who has submitted a voting
74 system for approval by the Department of State in accordance
75 with s. 101.5605 or any person who has sold or leased to a

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76 county any voting system approved by the Department of State
77 becomes aware of the existence of a defect in a system that
78 person has submitted for approval or sold or leased to a county,
79 that person shall file with the Department a disclosure of the
80 defect within 30 days of the discovery of the defect.

81 (d) If a person discloses to the department that a defect
82 exists in a voting system, the department may suspend all sales
83 or leases of the equipment or system in the state and may
84 suspend the use of the system in any elections in the state.
85 The Secretary shall provide written notice of any such
86 suspension to the Supervisor of Elections in each county in
87 which use of the voting system is suspended. If the Secretary
88 at any time determines that defects no longer exist in the
89 voting system, the Secretary may lift the suspension. The
90 Secretary shall provide written notice that the suspension has
91 been lifted to the Supervisor of Elections in each county in
92 which use of the voting system was suspended.

93 (e) If no person files a required disclosure for a voting
94 system previously approved by the department, that system shall
95 no longer be approved for sale or lease in the state or for use
96 at elections in the state. The Secretary shall provide written
97 notice to all Supervisor of Elections that the system is no
98 longer approved. After approval of a system has been withdrawn
99 pursuant to this paragraph, no such system may be sold, leased
100 or used in the state until it has been submitted for examination
101 and approval and adopted for use pursuant to section 101.5605.

102 (3) (a) When the Secretary of State has reasonable cause to
103 believe an electronic or electromechanical voting system

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104 approved pursuant to s. 101.5605 contains a defect either
105 before, during, or after an election, which defect has not been
106 disclosed pursuant to subsection (2), the Secretary of State may
107 investigate whether the voting system has a defect.

108 (b) The Secretary of State may initiate the investigation
109 in paragraph (a) on his or her own initiative or upon the
110 written request of the supervisor of elections of a county in
111 which a defect allegedly exists or existed.

112 (c) Upon initiating an investigation, the Secretary shall
113 provide written notice to any person who submitted the voting
114 system for approval by the Department of State in accordance
115 with s. 101.5605, any person who has entered into a contract for
116 the sale or lease of the voting system to any county, and all
117 the supervisors of elections.

118 (d) In order to carry out the responsibilities prescribed
119 by this section, the Department of State is empowered to
120 subpoena and bring before its duly authorized representatives
121 any person in the state, or any person doing business in the
122 state, or any person who has filed or is required to have filed
123 any application, document, papers, or other information with an
124 office or agency of this state or a political subdivision
125 thereof and to require the production of any papers, books, or
126 other records relevant to any investigation. Duly authorized
127 representatives of the department are empowered to administer
128 all oaths and affirmations in the manner prescribed by law to
129 witnesses who shall appear before them concerning any relevant
130 matter of the investigation. Should any witness fail to respond
131 to the lawful subpoena of the department or, having responded,

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132 fail to answer all lawful inquiries or to turn over evidence
133 that has been subpoenaed, the department may file a complaint
134 before any circuit court of the state, upon the filing of which
135 the court shall take jurisdiction of the witness and the subject
136 matter of said complaint and shall direct the witness to respond
137 to all lawful questions and to produce all documentary evidence
138 in the witness's possession which is lawfully demanded. The
139 failure of any witness to comply with such order of the court
140 shall constitute a direct and criminal contempt of court, and
141 the court shall punish said witness accordingly.

142 (e) The Secretary of State shall prepare a written report
143 of any investigation conducted pursuant to this section.

144 (4) During an investigation pursuant to subsection (2), the
145 Secretary may suspend the use of the voting system which is the
146 subject of the investigation, and any upgrade to such voting
147 system, in any election in the state. The Secretary shall
148 provide written notice of the suspension to the Supervisor of
149 Elections in each county in which use of the voting system is
150 suspended.

151 (5) (a) If the Secretary of State determines by clear and
152 convincing evidence that a defect exists in the voting system,
153 the Secretary of State shall provide written notice to any
154 person who submitted the voting system for approval by the
155 Department of State in accordance with s. 101.5605 and any
156 person who entered into a contract for the sale or lease of the
157 voting system to any county in which the defect existed.

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158 (b) Any person entitled to receive notice pursuant to
159 paragraph (a) shall, within 10 days, file a written response to
160 the department

161 1. Denying that the alleged defect exists, setting forth
162 the reasons for such denial; or

163 2. Admitting that the defect exists or existed as alleged
164 by the department.

165 i. If the defect has been cured, the person shall provide
166 an explanation of how the defect was cured.

167 ii. If the defect has not been cured, the person shall
168 inform the department whether the defect can be cured and may
169 provide to the department a plan for curing the defect within 10
170 days from the time of service of the response.

171 (6) If, after receiving a response from a person entitled
172 to notice, the department determines that a defect does not
173 exist, or that a defect that did exist has been cured within 10
174 days of a timely filed response, the department shall take no
175 further action.

176 (7) If the department determines that a defect exists, and
177 a person entitled to notice has not filed a written response or
178 a person entitled to notice has failed to cure a defect or the
179 defect cannot be cured, the Secretary shall impose a civil
180 penalty of \$25,000 for each defect plus an amount equal to the
181 actual costs incurred by the department in conducting the
182 investigation against:

183 (a) Any person who submitted the voting system for
184 approval by the Department of State in accordance with s.
185 101.5605; and

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186 (b) Any person who entered into a contract with any county
187 for the sale or lease of the voting system to any county in
188 which the defect existed.

189 (8) If the Secretary of State finds that a defect existed:

190 (a) The Secretary may prohibit the use of the voting system
191 which is the subject of the investigation, and any upgrade to
192 such system, in any election in the state. The Secretary shall
193 provide written notice of the suspension to the Supervisor of
194 Elections in each county in which use of the voting system is
195 suspended.

196 (b) If the Secretary determines that defects no longer
197 exist in a voting system, the use of which has been suspended
198 pursuant to paragraph (a), the Secretary may lift the suspension
199 and authorize the use of the voting system in any elections in
200 the state. The Secretary shall provide written notice that the
201 suspension has been lifted and the voting system is authorized
202 for use in elections to the Supervisor of Elections in each
203 county in which use of the voting system was suspended.

204 (c) If the defect cannot be cured, the Secretary of State
205 may disapprove the voting system, and any upgrades to such
206 voting system, for use at elections in the state. The Secretary
207 shall provide written notice to all Supervisor of Elections that
208 the system is no longer approved. After approval of a system
209 has been withdrawn pursuant to this paragraph, no such system
210 may be sold, leased or used in the state until it has been
211 submitted for examination and approval and adopted for use
212 pursuant to section 101.5605.

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213 (d) Any person against whom a civil penalty was imposed
214 under this section may not enter into a contract for sale or
215 lease of a voting system in the state until the civil penalties
216 have been paid and the department provides written confirmation
217 to the supervisors of elections of the payment.

218 (9) The Secretary of State's authority under this section
219 is in addition to, and not exclusive of, any other authority
220 provided by law.

221 (10) All proceedings under this section are exempt from
222 chapter 120.

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T I T L E A M E N D M E N T

Remove line 11 and insert:

voting; amending s. 101.5605, F.S., relating to examination and
approval of equipment; creating s. 101.56065, F.S., relating to
disclosure of voting systems defects; providing penalties;
providing an effective date.