

1                   A bill to be entitled  
 2           An act relating to elections; amending s. 97.021,  
 3           F.S.; providing a definition; amending s. 101.5614,  
 4           F.S.; providing that automatic tabulating equipment be  
 5           used by the voting system under specified  
 6           circumstances; amending s. 102.141, F.S.; providing  
 7           that certain ballots during a recount do not have to  
 8           be put through the automatic tabulating equipment;  
 9           amending s. 102.166, F.S.; providing requirements for  
 10          manual recounts; providing requirements for the  
 11          identification and sorting of overvotes and  
 12          undervotes; providing procedures for manual recounts;  
 13          providing an effective date.

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

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 17          Section 1. Subsections (5) through (45) of section 97.021,  
 18          Florida Statutes, are renumbered as subsections (6) through  
 19          (46), respectively, and a new subsection (5) is added to that  
 20          section to read:

21                97.021 Definitions.—For the purposes of this code, except  
 22          where the context clearly indicates otherwise, the term:

23                (5) "Automatic tabulating equipment" means an apparatus  
 24                that automatically examines, counts, and records votes.

25          Section 2. Paragraph (a) of subsection (5) and subsections

26 (7) and (8) of section 101.5614, Florida Statutes, are amended  
27 to read:

28 101.5614 Canvass of returns.—

29 (5)(a) If any vote-by-mail ballot is physically damaged so  
30 that it cannot properly be counted by the automatic tabulating  
31 equipment of the voting system, a true duplicate copy shall be  
32 made of the damaged ballot in the presence of witnesses and  
33 substituted for the damaged ballot. Likewise, a duplicate ballot  
34 shall be made of a vote-by-mail ballot containing an overvoted  
35 race or a marked vote-by-mail ballot in which every race is  
36 undervoted which shall include all valid votes as determined by  
37 the canvassing board based on rules adopted by the division  
38 pursuant to s. 102.166(4). All duplicate ballots shall be  
39 clearly labeled "duplicate," bear a serial number which shall be  
40 recorded on the defective ballot, and be counted in lieu of the  
41 defective ballot. After a ballot has been duplicated, the  
42 defective ballot shall be placed in an envelope provided for  
43 that purpose, and the duplicate ballot shall be tallied with the  
44 other ballots for that precinct.

45 (7) Vote-by-mail ballots may be counted by automatic  
46 tabulating equipment of the voting system if they have been  
47 marked in a manner which will enable them to be properly counted  
48 by such equipment.

49 (8) The return printed by the automatic tabulating  
50 equipment of the voting system, to which has been added the

51 return of write-in, vote-by-mail, and manually counted votes and  
52 votes from provisional ballots, shall constitute the official  
53 return of the election upon certification by the canvassing  
54 board. Upon completion of the count, the returns shall be open  
55 to the public. A copy of the returns may be posted at the  
56 central counting place or at the office of the supervisor of  
57 elections in lieu of the posting of returns at individual  
58 precincts.

59 Section 3. Paragraph (a) of subsection (7) of section  
60 102.141, Florida Statutes, is amended to read:

61 102.141 County canvassing board; duties.—

62 (7) If the unofficial returns reflect that a candidate for  
63 any office was defeated or eliminated by one-half of a percent  
64 or less of the votes cast for such office, that a candidate for  
65 retention to a judicial office was retained or not retained by  
66 one-half of a percent or less of the votes cast on the question  
67 of retention, or that a measure appearing on the ballot was  
68 approved or rejected by one-half of a percent or less of the  
69 votes cast on such measure, a recount shall be ordered of the  
70 votes cast with respect to such office or measure. The Secretary  
71 of State is responsible for ordering recounts in federal, state,  
72 and multicounty races. The county canvassing board or the local  
73 board responsible for certifying the election is responsible for  
74 ordering recounts in all other races. A recount need not be  
75 ordered with respect to the returns for any office, however, if

76 | the candidate or candidates defeated or eliminated from  
77 | contention for such office by one-half of a percent or less of  
78 | the votes cast for such office request in writing that a recount  
79 | not be made.

80 |       (a) Each canvassing board responsible for conducting a  
81 | recount shall put each marksense ballot through automatic  
82 | tabulating equipment and determine whether the returns correctly  
83 | reflect the votes cast. If any marksense ballot is physically  
84 | damaged so that it cannot be properly counted by the automatic  
85 | tabulating equipment during the recount, a true duplicate shall  
86 | be made of the damaged ballot pursuant to the procedures in s.  
87 | 101.5614(5). Immediately before the start of the recount, a test  
88 | of the tabulating equipment shall be conducted as provided in s.  
89 | 101.5612. If the test indicates no error, the recount tabulation  
90 | of the ballots cast shall be presumed correct and such votes  
91 | shall be canvassed accordingly. If an error is detected, the  
92 | cause therefor shall be ascertained and corrected and the  
93 | recount repeated, as necessary. The canvassing board shall  
94 | immediately report the error, along with the cause of the error  
95 | and the corrective measures being taken, to the Department of  
96 | State. No later than 11 days after the election, the canvassing  
97 | board shall file a separate incident report with the Department  
98 | of State, detailing the resolution of the matter and identifying  
99 | any measures that will avoid a future recurrence of the error.  
100 | However, if the automatic tabulating equipment used in the

101 recount is not part of the voting system and any ballots have  
102 already been processed through that automatic tabulating  
103 equipment, those ballots do not have to be put through the  
104 automatic tabulating equipment again.

105 Section 4. Subsection (1), paragraph (a) of subsection  
106 (2), and paragraph (d) of subsection (5) of section 102.166,  
107 Florida Statutes, are amended to read:

108 102.166 Manual recounts of overvotes and undervotes.—

109 (1) If the second set of unofficial returns pursuant to s.  
110 102.141 indicates that a candidate for any office was defeated  
111 or eliminated by one-quarter of a percent or less of the votes  
112 cast for such office, that a candidate for retention to a  
113 judicial office was retained or not retained by one-quarter of a  
114 percent or less of the votes cast on the question of retention,  
115 or that a measure appearing on the ballot was approved or  
116 rejected by one-quarter of a percent or less of the votes cast  
117 on such measure, a manual recount of the overvotes and  
118 undervotes cast in the entire geographic jurisdiction of such  
119 office or ballot measure shall be ordered unless:

120 (a) The candidate or candidates defeated or eliminated  
121 from contention by one-quarter of 1 percent or fewer of the  
122 votes cast for such office request in writing that a recount not  
123 be made; or

124 (b) The number of overvotes and undervotes is fewer than  
125 the number of votes needed to change the outcome of the

126 election.

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128 The Secretary of State is responsible for ordering a manual  
129 recount for federal, state, and multicounty races. The county  
130 canvassing board or local board responsible for certifying the  
131 election is responsible for ordering a manual recount for all  
132 other races. A manual recount must consist of a recount of paper  
133 ballots, or a recount of digital images of the ballots, by a  
134 person.

135 (2) (a) Any hardware or software used to identify and sort  
136 overvotes and undervotes for a given race or ballot measure must  
137 be certified by the Department of State ~~as part of the voting~~  
138 ~~system pursuant to s. 101.015.~~ Any such hardware or software  
139 must be capable of simultaneously counting votes. Overvotes and  
140 undervotes may be identified and sorted physically or digitally.

141 (5) Procedures for a manual recount are as follows:

142 (d) The Department of State shall adopt detailed rules  
143 prescribing additional recount procedures for each certified  
144 voting system which shall be uniform to the extent practicable.  
145 The rules shall address, at a minimum, the following areas:

- 146 1. Security of ballots during the recount process;
- 147 2. Time and place of recounts;
- 148 3. Public observance of recounts;
- 149 4. Objections to ballot determinations;
- 150 5. Record of recount proceedings; ~~and~~

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151           6. Procedures relating to candidate and petitioner  
152 representatives;

153           7. Procedures relating to the certification of automatic  
154 tabulating equipment that is not part of the voting system; and

155           8. Procedures for the use of automatic tabulating  
156 equipment that is not part of the voting system.

157           Section 5. This act shall take effect July 1, 2017.