
State Government Committee

HB 1158

Brief Description: Enhancing voting systems certification.

Sponsors: Representatives Miloscia, Shabro, Hunt, Haigh, McDermott, Tom and Kenney;
by request of Secretary of State.

Brief Summary of Bill

- Changes the process for certifying voting and vote tallying equipment.
- Prohibits punch card voting after January 1, 2006.
- Makes tampering with or impeding use of or access to an electronic voting, electronic vote recording, vote reporting, and elections results reporting system a gross misdemeanor.

Hearing Date: 1/28/03

Staff: Katie Blinn (786-7114).

Background:

Voting equipment and vote tallying equipment must be approved by the Secretary of State in order to be used by county auditors to conduct elections. The Secretary of State must inspect, evaluate, and publicly test all voting equipment, make a report following each examination, and provide a copy of the report to each county auditor. Any change that does not impair the equipment's accuracy, efficiency or capacity, or extend its function, may be made without another examination or approval.

Voting machines must:

- Maintain secrecy;
- Permit the voter to vote for any person, office, and measure for which he or she has the right to vote;
- Correctly register votes cast;
- Prevent a vote for more than one candidate by a single operation of the device, except for president and vice-president of the United States; and
- Be tested, certified, and used in at least one other state or election jurisdiction, except for

functions that are unique to Washington.

County auditors are responsible for the preparation, maintenance, and operation of equipment used in their counties. An agreement to purchase or lease a voting system is subject to the Secretary of State's approval that the equipment is actually the same as that certified, and that the equipment is still operating correctly after it is delivered to the county. At the polling place, voting machines containing ballots for one congressional, legislative or county council district must be grouped together and physically separated from machines containing ballots for other districts.

Vote tallying equipment must:

- Correctly count the votes on properly marked ballots;
- Ignore improperly marked portions of a ballot, but correctly count the properly marked portions of the ballot;
- Count the number of ballots tallied for each precinct, the number of votes for each candidate, and the number of votes for and against each issue;
- Accommodate name rotation;
- Produce precinct and cumulative totals in printed form; and
- Be tested, certified, and used in at least one other state or election jurisdiction, except for functions that are unique to Washington.

Before an election, the format of each ballot in each machine and the precinct for which the machine has been prepared must be recorded. At least three days prior to each primary and general election, the Secretary of State must test each vote tallying system. If an error is detected, the cause of the error must be determined and corrected before the election. The county auditor and party observers must certify that the test was conducted in accordance with law. Voting machines must correctly record the votes on a ballot, and the ballot must be available for audit purposes after the election.

Knowingly deceiving any voter in the recording of his or her vote by providing incorrect or misleading information, or by providing faulty election equipment or records constitutes a gross misdemeanor. Knowingly recording a vote in a manner other than as designated by the voter constitutes a gross misdemeanor.

Summary of Bill:

The secretary of state is no longer required to publicly test voting systems, but must hold a public demonstration. Once the secretary of state completes a certification report, it must be posted "to a publicly available electronic medium". All changes to voting systems must be submitted to the Secretary of State for review but, based on that review, only those that impair the system's accuracy, efficiency or capacity, or extend its function, must be submitted for another examination or approval.

County auditors must provide proof that voting systems and their component software, in the version used, are state certified. The test following a purchase or lease of a voting system to determine if the system is the same as that certified by the Secretary of State must be conducted by the purchaser or lessee. Approval of a voting device or vote tallying system no longer requires that the device or system be tested, certified and used in at least one other

state, but instead requires that it be tested and approved by an appropriate independent testing authority approved by the Federal Elections Commission. During the test conducted at least three days prior to the election, the county auditor must again provide proof that the voting system and software in use are state certified.

Polling places are no longer required to physically separate voting machines with ballots for one district from voting machines with ballots for another district. Rather, the ballot displayed to the voter must contain names for candidates for only one district. Votes cast must be correctly recorded on a "record" rather than a "ballot", and the "cast vote record" must still be available for audit purposes after the election. A "cast vote record" is the record or data element representing a voter's unique set of choices, and can be either an electronic record or a physical ballot. Punch card voting machines may not be used as of January 1, 2006.

A person is guilty of a gross misdemeanor if he or she knowingly tampers with or impedes the use of an electronic voting or vote recording system, or tampers with or impedes access to a vote tabulation system or an election results reporting system.

The statute requiring county auditors to instruct precinct election officers, counting center personnel, and political party observers is repealed.

Appropriation: None.

Fiscal Note: Requested on January 20, 2003.

Effective Date: Ninety days after adjournment of session in which bill is passed.