

# SENATE BILL REPORT

## ESHB 1158

---

---

As Reported By Senate Committee On:  
Government Operations & Elections, April 4, 2003

**Title:** An act relating to voting systems certification.

**Brief Description:** Enhancing voting systems certification.

**Sponsors:** House Committee on State Government (originally sponsored by Representatives Miloscia, Shabro, Hunt, Haigh, McDermott, Tom and Kenney; by request of Secretary of State).

**Brief History:**

**Committee Activity:** Government Operations & Elections: 4/4/03 [DPA].

---

### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

---

**Majority Report:** Do pass as amended.

Signed by Senators Roach, Chair; Stevens, Vice Chair; Kastama, McCaslin and Reardon.

**Staff:** Ronda Larson (786-7429)

**Background:** The Secretary of State must inspect, publicly test, and approve equipment for voting and vote tallying before county auditors can use it to conduct elections. A report of such inspection then goes to the county auditor.

The Secretary of State may not approve equipment for voting and vote tallying unless he or she tested it, the equipment is certified, and the equipment is used in at least one other state. Where a county auditor changes a voting system, it need not be re-examined or re-approved if the changes do not impair the equipment's accuracy or efficiency. No voting machine may be used unless it correctly records on a separate ballot the votes cast by each voter, and such ballots are available for audit purposes after the election.

In polling places, each voting device may contain ballots from only a single district. Voting devices must be physically separated according to district. At least three days prior to each primary and general election, the county auditor must test the vote tallying systems and software to be used in the election. The county auditor and party observers must certify that their county's test was conducted in accordance with law.

It is a gross misdemeanor to knowingly deceive any voter in the recording of his or her vote by providing incorrect or misleading information, or by providing faulty election equipment or records. It is also a gross misdemeanor to knowingly record a vote in a manner other than that designated by the voter.

**Summary of Amended Bill:** The Secretary of State must determine, as part of the equipment certification process, whether a voting system accommodates ranked voting. The

Secretary of State is no longer required to publicly test voting systems, but must hold a public demonstration. The Secretary of State must post his or her certification report "to a publicly available electronic medium." County auditors must submit all voting system changes to the Secretary of State for review. No re-examination or re-approval is necessary, however, if the review finds that a change does not impair the accuracy or efficiency of the system.

County auditors must provide proof that voting systems and their component software, in the version used, are state certified. 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. Instead, the equipment must be tested and approved by an appropriate independent testing authority approved by the Federal Elections Commission. The approval must use the federal voting systems standards as guidelines, including the federal standards regarding verification of results. During the test conducted at least three days prior to the election, the county auditor must again prove that the voting system and software are state certified. No voting machine may be used unless it correctly records on a separate ballot the votes cast by each voter, and such ballots are available for audit purposes after the election.

Polling places are no longer required to physically separate voting machines based on district. Rather, the ballot displayed to the voter must contain names for candidates for only one district. Punch card voting machines may not be used as of January 1, 2005.

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.

**Amended Bill Compared to Substitute Bill:** The amended bill requires that the state adopt federal standards for certification of voting machines and vote tallying systems with regard to the verification of election results. The original engrossed substitute bill adopted federal standards, but did not specifically address verification of results.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed, except for the elimination of punch-card voting equipment, which is contingent on federal funding by January 1, 2005.

**Testimony For:** Congress is currently debating legislation that will provide partial funding, rather than full funding, for the replacement of election equipment. Instant runoff voting and proportional voting should be accommodated in all new voting equipment. Counties should be provided funding for the phase out of punch-card voting machines. Electronic voting equipment will actually facilitate an audit trail. The bill does not preclude counties from buying machines that accommodate instant runoff voting and proportional voting. It does not make sense to bind those counties not interested in instant runoff voting to a requirement that

all machines must accommodate it. Vendors will charge a surcharge for providing hardware and software that accommodates ranked voting. There is currently only one vendor of software that is compatible with instant runoff voting.

**Testimony Against:** (With concerns) Voting equipment absolutely must provide a voter-verifiable paper trail. It should use verifiable software logic, not kept as a proprietary code. Without this, we will have vote casting and vote counting systems that cannot be verified by any means after the polls close. We will have trojan-horse code in software by manufacturers who know it cannot be inspected. Finally, we will have a loss of voter confidence in the system of elections.

**Testified:** Linda Franz, Marian Beddill, Whatcom Fair Voting (with concerns); Greg Kimsey, Washington Association of County Auditors (pro); Dean Logan, Secretary of State's Office (pro).