
ENGROSSED SUBSTITUTE SENATE BILL 5395

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Haugen, Roach, Rockefeller, Schmidt, Kohl-Welles, Spanel, Pridemore, Kline, McAuliffe and Franklin)

READ FIRST TIME 02/21/05.

1 AN ACT Relating to requiring electronic voting devices to produce
2 paper records; amending RCW 29A.12.080; adding new sections to chapter
3 29A.44 RCW; adding a new section to chapter 29A.60 RCW; adding a new
4 section to chapter 29A.84 RCW; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 29A.44 RCW
7 to read as follows:

8 Beginning on January 1, 2006, all electronic voting devices shall
9 produce an individual paper record, at the time of voting, that may be
10 reviewed by the voter before finalizing his or her vote. This record
11 may not be removed from the polling place and must be human readable
12 without an interface and machine readable for counting purposes. If
13 the device is programmed to display the ballot in multiple languages,
14 the paper record produced must be printed in the language used by each
15 voter.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 29A.44 RCW
17 to read as follows:

18 Paper records produced by poll-site based electronic voting devices

1 are subject to all of the requirements of this chapter and chapter
2 29A.60 RCW for ballot handling, preservation, reconciliation, transit
3 to the counting center, and storage. The paper records must be
4 preserved in the same manner and for the same period of time as
5 ballots.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 29A.44 RCW
7 to read as follows:

8 The electronic record produced and counted by poll-site electronic
9 voting devices is the official record of each vote for election
10 purposes. The paper record produced under section 1 of this act must
11 be stored and maintained for use only in the following circumstances:

- 12 (1) In the event of a mandatory manual recount of votes under RCW
13 29A.64.021;
- 14 (2) In the event of a requested recount under RCW 29A.64.011;
- 15 (3) By order of the county canvassing board;
- 16 (4) By order of a court of competent jurisdiction; or
- 17 (5) For use in the random audit of results described in section 6
18 of this act.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 29A.44 RCW
20 to read as follows:

21 A voter voting on a poll-site based electronic voting system may
22 not leave the device during the voting process, except to verify his or
23 her ballot or to request assistance from the precinct election
24 officers, until the voting process is completed.

25 **Sec. 5.** RCW 29A.12.080 and 2003 c 111 s 308 are each amended to
26 read as follows:

27 No voting device shall be approved by the secretary of state unless
28 it:

- 29 (1) Secures to the voter secrecy in the act of voting;
- 30 (2) Permits the voter to vote for any person for any office and
31 upon any measure that he or she has the right to vote for;
- 32 (3) Permits the voter to vote for all the candidates of one party
33 or in part for the candidates of one or more other parties;
- 34 (4) Correctly registers all votes cast for any and all persons and
35 for or against any and all measures;

1 (5) Provides that a vote for more than one candidate cannot be cast
2 by one single operation of the voting device or vote tally system
3 except when voting for president and vice president of the United
4 States; (~~and~~)

5 (6) Except for functions or capabilities unique to this state, has
6 been tested, certified, and used in at least one other state or
7 election jurisdiction; and

8 (7) Beginning on January 1, 2006, in the case of an electronic
9 voting system, produces a machine-countable paper record for each vote
10 that may be reviewed and accepted or rejected by the voter before
11 finalizing his or her vote, as a part of the voting process. Rejected
12 records must either be destroyed or marked in order to clearly identify
13 the record as rejected.

14 NEW SECTION. Sec. 6. A new section is added to chapter 29A.60 RCW
15 to read as follows:

16 Before the close of business on the day after election day, the
17 county auditor shall conduct an audit of results of votes cast on the
18 poll-site based electronic voting devices used in the county. This
19 audit must be conducted by randomly selecting by lot, up to four
20 percent of the poll-site based electronic voting devices or one
21 electronic voting device, whichever is greater, and comparing the
22 results recorded by each device with those recorded on the paper
23 records created by that device. Three races or issues, randomly
24 selected by lot, must be audited on each device. Tabulation of paper
25 ballots for purposes of the audit required in this section must be
26 conducted as follows: On one-fourth of the machines selected for
27 audit, the paper records must be tabulated manually; on the remaining
28 machines, the paper records may be tabulated by a mechanical device
29 determined by the secretary of state to be capable of accurately
30 reading the votes cast and printed thereon and qualified for use in the
31 state under applicable state and federal laws. This audit procedure
32 must be subject to observation by political party representatives if
33 representatives have been appointed and are present at the time of the
34 audit.

35 NEW SECTION. Sec. 7. A new section is added to chapter 29A.84 RCW
36 to read as follows:

1 Anyone who removes a paper record produced by a poll-site based
2 electronic voting system from a polling place without authorization is
3 guilty of a class C felony punishable under RCW 9A.20.021.

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