

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1856
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State Affairs
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Committee Report (Amended)

DIGEST AND PURPOSE

During the recent presidential election, Florida experienced problems with the use of butterfly design punchcard ballots, which confused voters, and caused a recount due to problems with punch-card ballot systems. Currently, punch-card ballot systems are used in 14 Texas counties. H.B. 1856 phases out the use of punch-card ballot systems, except for purposes of early voting by mail, establishes requirements regarding the handling of voted ballots and reporting of undervotes and overvotes, and establishes procedures for the use of direct recording electronic voting machines.

RULEMAKING AUTHORITY

Rulemaking authority is expressly grant to the secretary of state in SECTION 12 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 121.003, Election Code, by adding Subdivision (17) to define “direct recording electronic voting machine.”

SECTION 2. Amends Section 123.001, Election Code, by adding Subsection (d) to prohibit a voting system that uses a punch-card ballot or similar form of tabulating card from being adopted for use in elections, except for purposes of early voting by mail, on or after September 1, 2001.

SECTION 3. Amends Chapter 123B, Election Code, by adding Section 123.0331, as follows:

Sec. 123.0331. ACQUISITION OF PUNCH-CARD BALLOT EQUIPMENT GENERALLY PROHIBITED. Prohibits a contract to acquire the equipment necessary for operating a voting system that uses a punch-card ballot similar form of tabulating card from being executed or renewed, except for purposes of early voting by mail, on or after September 1, 2001. Provides that this subdivision does not prohibit the use of a punch card ballot system or similar form of tabulating card if such system was adopted prior to September 1, 2001.

SECTION 4. Amends Section 124.061, Election Code, to require the order of the candidates’ and propositions’ punch-hole spaces and corresponding numbers on the ballot label to be the same as the order in which the candidates’ names and the propositions are to appear on the ballot under Chapter 52. Makes a conforming change.

SECTION 5. Amends Section 125.061, Election Code, by adding Subsection (c) to require an election officer, before the polls open, to check each voting device and remove from the device any punch-card ballot chads that have accumulated.

SECTION 6. Amends Section 127.061, Election Code, as follows:

Sec. 127.061. New heading: SEALED BALLOT BOXES REQUIRED. Requires sealed ballot boxes to be used to deliver electronic system ballots from the polling place to the central counting station in accordance with this subchapter. Deletes text that authorizes the authority

adopting the voting system to provide by resolution, order, or other official action for the use of sealed ballot boxes in accordance with this subchapter.

SECTION 7. Amends Section 127.125(b), Election Code, to require the manager of the central counting station (manager) to have the ballots examined to detect any irregularly marked ballots and to determine whether the ballots to be counted automatically are ready for counting and can be properly counted. Requires the manager to have each irregularly marked ballot duplicated to indicate the intent of the voter if the voter's intent is clearly ascertainable, unless other law prohibits counting the vote. Requires the manager to approve the ballots for counting, after making the appropriate determinations and taking the appropriate actions.

SECTION 8. Amends Chapter 127E, Election Code, by adding Section 127.1301, as follows:

Sec. 127.1301. TALLYING, TABULATING, AND REPORTING PUNCH-CARD OR CENTRALLY COUNTED OPTICAL SCAN BALLOT UNDERVOTES AND OVERVOTES. Requires the undervotes and the overvotes of ballots, in an election using punch-card or centrally counted optical scan ballots, to be tallied, tabulated, and reported by race and by election precinct in the form and manner prescribed by the secretary of state.

SECTION 9. Amends Section 127.151, Election Code, to require an electronic voting system used under this subchapter to require voters to deposit the ballots directly into a unit of automatic tabulating equipment. Requires the equipment to be programmed to return an irregularly marked ballot to the voter.

SECTION 10. Amends Title 8, Election Code, by adding Chapter 129, as follows:

CHAPTER 129. DIRECT RECORDING ELECTRONIC VOTING MACHINES

Sec. 129.001. CERTAIN DIRECT RECORDING ELECTRONIC VOTING MACHINE PROCEDURES. Requires the general custodian of election records to include a specific test of each machine's logic and accuracy functions to ensure that the machine properly records, counts, and tabulates the votes, as part of the testing of the direct recording electronic voting machine equipment before its use in a particular election. Requires each direct recording electronic voting machine to provide the voter with a screen in summary format of the voter's choices for the voter to review before the vote is actually cast. Requires the early voting clerk, during the early voting period, to conduct a daily audit of the direct recording electronic voting machines used in the election to ensure proper correspondence among the numbers of ballots provided on the machines, names on the poll list, and ballots cast on the machines. Requires the general custodian of election records to conduct a recount sufficient to confirm the accuracy of the vote totals in an election in which direct recording electronic voting machines are used for the first time. Requires the secretary of state to prescribe any procedures necessary to implement this section and to ensure the orderly and proper administration of elections using direct recording electronic voting machines.

SECTION 11. Repealer: Chapter 127B and Section 127.062, Election Code.

SECTION 12. Requires the secretary of state to prescribe any necessary rules and take any appropriate action to implement this Act and to facilitate the orderly phasing out of the general use of punch-card ballot voting systems in this state.

SECTION 13. Effective date: September 1, 2001.