

BILL ANALYSIS

Senate Research Center
81R9009 JRH-D

H.B. 2524
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2524 relates to the accuracy, security, and reliability of certain electronic voting systems.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 66.058, Election Code, by adding Subsection (g), to require that electronic records created under Chapter 129 be preserved in a secure container.

SECTION 2. Amends Chapter 129, Election Code, as follows:

CHAPTER 129. DIRECT RECORDING ELECTRONIC VOTING MACHINES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 129.001. APPLICABILITY. (a) Provides that this chapter applies only to a voting system that uses direct recording electronic voting machines.

(b) Provides that to the extent possible, the procedures applicable to an electronic voting system under Chapter 127 (Processing Electronic Voting System Results) are applicable to a voting system under this chapter.

Sec. 129.002. New heading: GENERAL PROCEDURES. Creates this section from existing text. (a) Redesignates Subsection (b) as Subsection (a). Deletes existing text requiring the general custodian of election records, as part of the testing of the direct recording electronic voting machine equipment before its use in a particular election, 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.

(b) Redesignates Subsection (c) as Subsection (b).

(c) Redesignates Subsections (d) and (e) as Subsection (c). Requires the secretary of state to prescribe any procedures necessary to implement this chapter, rather than section, and to ensure the orderly and proper administration of elections using direct recording electronic voting machines.

[Reserves Sections 129.003-129.020 for expansion.]

SUBCHAPTER B. PRE-ELECTION ACCEPTANCE AND TESTING OF VOTING SYSTEM

Sec. 129.021. ACCEPTANCE TESTING. Requires the general custodian of election records, immediately after receiving a voting system from a vendor, to verify that the system delivered is certified by the secretary of state, perform a hardware diagnostic test on the system as provided by Section 129.022(b), perform a public test of logic and

accuracy on the system as provided by Section 129.023, and perform any additional test that the secretary of state may prescribe.

Sec. 129.022. **HARDWARE DIAGNOSTIC TEST.** (a) Requires the general custodian of election records to conduct a successful hardware diagnostic test before a voting system is used in an election.

(b) Requires that the hardware diagnostic test ensure that each part of the system functions properly as prescribed by the secretary of state.

Sec. 129.023. **PUBLIC TEST OF LOGIC AND ACCURACY.** (a) Requires the general custodian of election records to create a testing board consisting of at least two persons. Requires the general custodian of election records to make every reasonable effort to ensure that the testing board consists of at least one person from each political party that holds a primary election.

(b) Requires the general custodian of election records, not later than 48 hours before voting begins on a voting system, to conduct a logic and accuracy test. Requires that public notice of the test be published at least 48 hours before the test begins, and requires that the test be open to the public.

(c) Requires the general custodian of election records to adopt certain procedures for testing.

(d) Provides that a test is successful if the actual results are identical to the expected results.

(e) Requires the testing board and the general custodian of election records, to provide a full and accurate account of the condition of a given voting machine, to sign a written statement attesting to certain qualification and problems and provide any other documentation as necessary.

(f) Requires the testing board, on completing the testing, to witness and document all steps taken to reset, seal, and secure any equipment or test materials, as appropriate; and require the general custodian for election records to preserve a copy of the system's software at a secure location that is outside the administrator's and programming entity's control until at least 22 months after election day.

Sec. 129.024. **SECURITY OF TEST MATERIALS.** (a) Requires the general custodian of election records, on completing each test, to place the test materials in a container provided for that purpose and seal the container in a manner that prevents opening without breaking the seal. Requires the general custodian of election records and at least two members of the testing board to sign the seal.

(b) Requires that the test materials remain sealed for the period for preserving the precinct election records.

(c) Prohibits the container from being unsealed unless the contents are necessary to conduct a test under this subchapter or a criminal investigation, election contest, or other official proceeding under this code. Requires the authority in charge of the proceeding, if the container is unsealed, to reseal the contents when not in use.

[Reserves Sections 129.025-129.050 for expansion.]

SUBCHAPTER C. VOTING SYSTEM SECURITY

Sec. 129.051. **PRE-ELECTION SECURITY PROCEDURE.** (a) Requires the general custodian of election records to create and maintain an inventory of all electronic information storage media.

(b) Require the general custodian of election records to develop a procedure for tracking the custody of each electronic information storage medium from its storage location, through election coding and the election process, to its final post-election disposition and return to storage. Requires the chain of custody to require two or more individuals to perform a check and verification check whenever a transfer of custody occurs.

(c) Requires the general custodian of election records to establish a secured location for storing electronic information storage media when not in use, coding a medium for an election, transferring and installing the medium into voting system equipment, and storing voting system equipment after election parameters are loaded.

(d) Requires that an election information storage medium be kept in the presence of an election official or in a secured location once the medium has been coded for an election.

(e) Requires the general custodian of election records to create a procedure for tracking the custody of voting system equipment once election parameters are loaded.

(f) Requires the general custodian of election records to create a recovery plan to be followed if a breach in security procedures is indicated. Requires that the plan include immediately notifying the secretary of state.

(g) Requires the general custodian of election records to conduct a criminal background check for relevant election officials, staff, and temporary workers upon hiring.

Sec. 129.052. TRANSPORT OF VOTING SYSTEM EQUIPMENT. (a) Requires the general custodian of election records to adopt procedures for securely storing and transporting voting system equipment. Requires that the procedures include provisions for locations outside the direct control of the general custodian of election records, including overnight storage at a polling location. Requires that procedures relating to the chain of custody require two or more individuals to perform a check and verification check whenever a transfer of custody occurs.

(b) Requires the general custodian of election records to create a recovery plan to be followed if a breach in security procedures is indicated. Requires that this plan include immediately notifying the secretary of state.

(c) Requires the general custodian of election records to provide a training plan for relevant election officials, staff, and temporary workers that addresses the procedures authorized under this section.

Sec. 129.053. ACCESS TO VOTING SYSTEM EQUIPMENT. Requires the general custodian of election records to secure access control keys or passwords to voting system equipment. Requires that use of access control keys or passwords be witnessed by one or more individuals authorized to use that information and be documented and witnessed in a log dedicated for that purpose that is retained until the political subdivision disposes of the equipment.

Sec. 129.054. NETWORK CONNECTIONS AND WIRELESS TECHNOLOGY. (a) Prohibits a voting system from being connected to any external communications network, including the Internet.

(b) Prohibits a voting system from having the capability of permitting wireless communication unless the system uses line-of-sight infrared technology that shields the transmitter and receiver from external infrared transmissions and the system can only accept transmissions generated by the system.

Sec. 129.055. EQUIPMENT AND SOFTWARE. Provides that the sole purpose of voting system equipment is the conduct of an election, and only software certified by the secretary of state and necessary for an election is authorized to be loaded on the equipment.

Sec. 129.056. PLAN FOR MACHINE FAILURE. Requires the general custodian of election records to create a contingency plan for addressing direct recording electronic voting machine failure. Requires that this plan include the timely notification of the secretary of state.

Sec. USE OF MACHINE IN EARLY VOTING. Prohibits a direct recording electronic voting machine deployed for early voting from being deployed on election day.

SECTION 3. Effective date: September 1, 2009.