

SECOND REGULAR SESSION

HOUSE BILL NO. 1821

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BOWMAN (Sponsor) AND LOW (39) (Co-sponsor).

Read 1st time January 24, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4215L.01I

AN ACT

To repeal section 115.225, RSMo, and to enact in lieu thereof one new section relating to voting systems.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 115.225, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.225, to read as follows:

115.225. 1. **As used in this section, "voter-verifiable paper record" includes:**

(1) **A paper ballot prepared by the voter for the purpose of being read by an optical scanner;**

(2) **A paper ballot prepared by the voter to be mailed to the voter's election authority, whether mailed from a domestic or foreign location;**

(3) **A paper ballot created through the use of a ballot marking device.**

2. Before use by election authorities in this state, the secretary of state shall approve the marking devices and the automatic tabulating equipment used in electronic voting systems and [may] **shall** promulgate rules and regulations to implement the intent of sections 115.225 to 115.235 **and to provide for the review, certification, and decertification of voting systems.**

[2.] 3. No electronic voting system shall be approved unless it:

(1) Permits voting in absolute secrecy;

(2) Permits each voter to vote for as many candidates for each office as a voter is lawfully entitled to vote for;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (3) Permits each voter to vote for or against as many questions as a voter is lawfully
16 entitled to vote on, and no more;

17 (4) Provides facilities for each voter to cast as many write-in votes for each office as a
18 voter is lawfully entitled to cast;

19 (5) Permits each voter in a primary election to vote for the candidates of only one party
20 announced by the voter in advance;

21 (6) Permits each voter at a presidential election to vote by use of a single punch or mark
22 for the candidates of one party or group of petitioners for president, vice president and their
23 presidential electors;

24 (7) Accurately counts all proper votes cast for each candidate and for and against each
25 question;

26 (8) Is set to reject all votes, except write-in votes, for any office and on any question
27 when the number of votes exceeds the number a voter is lawfully entitled to cast;

28 (9) Permits each voter, while voting, to clearly see the ballot label;

29 (10) Has been tested and is certified by an independent authority that meets the voting
30 system standards developed by the Federal Election Commission or its successor agency. The
31 provisions of this subdivision shall not be required for any system purchased prior to August 28,
32 2002;

33 **(11) Protects the security of the voting process;**

34 **(12) Counts and records all votes accurately;**

35 **(13) Accommodates any ballot used under this chapter;**

36 **(14) Protects all other rights of voters and candidates;**

37 **(15) Is capable of creating a paper record of all votes cast so that an audit trail is**
38 **available in the event of any recount;**

39 **(16) Provides a voter-verifiable paper record;**

40 **(17) Has been examined by an independent testing laboratory that is approved by**
41 **the United States Election Assistance Commission;**

42 **(18) Has been shown by the testing laboratory to meet the performance and test**
43 **standards for electronic voting systems established by the Federal Election Commission or**
44 **the United States Election Assistance Commission;**

45 **(19) Ensures that the public interest will be served by the certification of the voting**
46 **system.**

47 [3.] 4. The secretary of state shall promulgate rules and regulations to allow the use of
48 a computerized voting system. The procedures shall provide for the use of a computerized
49 voting system with the ability to provide a paper audit trail. Notwithstanding any provisions of
50 this chapter to the contrary, such a system may allow for the storage of processed ballot materials
51 in an electronic form.

52 [4.] **5. A voter-verifiable paper record required under this section shall:**

53 (1) **Be an individual document that is physically separated from any other similar**
54 **document and is not part of a continuous roll;**

55 (2) **Be sufficiently durable to withstand repeated handling for the purposes of**
56 **mandatory random audits and recounts;**

57 (3) **Use ink that does not fade, smear, or otherwise degrade and obscure or**
58 **obliterate the paper record over time.**

59 **6. In determining whether a voting system meets the standards in this section, the**
60 **secretary of state shall consider:**

61 (1) **The commercial availability of the system and its replacement parts and**
62 **components;**

63 (2) **The availability of continuing service for the system;**

64 (3) **The cost of implementing the system;**

65 (4) **The efficiency of the system;**

66 (5) **The likelihood that the system will malfunction;**

67 (6) **The system's ease of understanding for the voter;**

68 (7) **The convenience of voting afforded by the system;**

69 (8) **The timeliness of the tabulation and reporting of election returns;**

70 (9) **The potential for an alternative means of verifying the tabulation;**

71 (10) **Accessibility for all voters with disabilities recognized by the Americans with**
72 **Disabilities Act, as amended;**

73 (11) **Any other factor the secretary of state considers relevant.**

74 **7. Any voting system selected, certified, and implemented under this section shall:**

75 (1) **Provide access to voters with disabilities that is equivalent to access afforded to**
76 **voters without disabilities without creating a segregated ballot for voters with disabilities;**

77 (2) **Ensure the independent and private casting, inspection, verification, and**
78 **correction of secret ballots by voters with disabilities in an accessible media by both visual**
79 **and nonvisual means, including synchronized audio output and enhanced visual display;**

80 (3) **Comply with the Americans with Disabilities Act, as amended, and the Help**
81 **America Vote Act of 2002, as amended, including accessibility standards adopted as part**
82 **of the voluntary voting system guidelines under the Help America Vote Act of 2002, as**
83 **amended.**

84 **8. Before selecting a voting system, the secretary of state shall:**

85 (1) **Ensure that an accessible voting system conforms to the access requirements of**
86 **the voluntary voting system guidelines developed in accordance with the Help America**
87 **Vote Act of 2002, as amended, in effect at the time the voting system is selected; and**

88 **(2) Conduct an accessibility and usability evaluation of the voting system to assess**
89 **its accessibility and usability by voters with disabilities, including:**

90 **(a) A public demonstration of the system; and**

91 **(b) An evaluation by individuals representing a cross-section of voters with**
92 **disabilities.**

93 **9. The secretary of state shall adopt rules relating to requirements for each voting**
94 **system selected and certified under this section. No certification of a voting system shall**
95 **be effective until the rules applicable to the voting system have been adopted. Such**
96 **regulation shall specify the procedures necessary to assure that the standards required in**
97 **this section are maintained, including:**

98 **(1) A description of the voting system;**

99 **(2) A public information program by each local election authority, at the time of**
100 **introduction of a new voting system, to be directed to all voters, candidates, campaign**
101 **groups, schools, and news media in each precinct;**

102 **(3) Each local election authority's responsibility for management of the system;**

103 **(4) The actions required to assure the security of the voting system;**

104 **(5) The supplies and equipment required;**

105 **(6) The storage, delivery, and return of the supplies and equipment necessary for**
106 **the operation of the voting system;**

107 **(7) Standards for training election authorities in the operation and use of the voting**
108 **system;**

109 **(8) Testing by local election authorities to ensure the accuracy of tallying,**
110 **tabulating, and reporting of the vote, and observing of that testing by representatives of**
111 **political parties and candidates who are not affiliated with political parties before each**
112 **election and for all ballot styles to be used;**

113 **(9) The number of voting stations or voting booths required in each polling place,**
114 **in relation to the number of registered voters assigned to each polling place;**

115 **(10) The practices and procedures in each polling place appropriate to the**
116 **operation of the voting system;**

117 **(11) Assuring ballot accountability in systems using a document ballot;**

118 **(12) The actions required to tabulate votes; and**

119 **(13) Postelection review and audit of the system's output.**

120 **10. (1) In consultation with the local election authorities, the secretary of state**
121 **shall:**

122 **(a) Develop a program of instruction for election judges; and**

123 **(b) Oversee the implementation of the program of instruction.**

124 **(2) The training materials used by the program may include:**

- 125 **(a) An instruction manual and other written directives;**
126 **(b) Curriculum for training sessions;**
127 **(c) Audiovisuals.**
128 **(3) The secretary of state shall develop a process for the evaluation of the training**
129 **program and the performance of the polling place staff in each precinct.**
130 **(4) To the extent appropriate, the training program shall be specific to each of the**
131 **voting systems used in this state.**
132 **11. (1) The secretary of state shall provide election judges with uniform statewide**
133 **training on the voting system, including:**
134 **(a) All features of the voting system that provide access to voters with disabilities;**
135 **and**
136 **(b) The rights of voters with disabilities, including those rights guaranteed by**
137 **federal and state law.**
138 **(2) Each local election authority shall conduct election judge training based on the**
139 **program developed by the secretary of state.**
140 **(3) Except for any election judge who is appointed under emergency circumstances,**
141 **each election judge shall participate in the training program provided for in this**
142 **subsection.**
143 **12.** Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
144 is created under the authority delegated in this section shall become effective only if it complies
145 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
146 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
147 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
148 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
149 grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be
150 invalid and void.
151 **13. The provisions of this section enacted in this act shall apply to all elections**
152 **occurring after January 1, 2010, unless sufficient funds are not appropriated for the fiscal**
153 **year beginning July 1, 2009, to the secretary of state to perform the functions set forth in**
154 **this section. If sufficient funds are not appropriated, the provisions of this section enacted**
155 **in this act shall expire, and the revisor of statutes shall designate the provisions of this**
156 **section enacted in this act in a revision bill for repeal.**

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