

1 C.

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3 (3)(a) All monies in the fund shall be used solely and exclusively for general
4 operating purposes and for the acquisition and maintenance of voting machine
5 technology, including hardware and software; voting equipment and supplies; voter
6 outreach; voter improvement; early voting; and information technology products to
7 produce, run, and support the election and voting system.

8 (b) Prior to the expenditure of any monies from the fund for the acquisition,
9 including lease, of any element or component of a voting system as defined in R.S.
10 18:1351, the secretary of state shall submit the details of any such expenditure,
11 including any related contract or proposed contract, to the Joint Legislative
12 Committee on the Budget for review and approval.

13 * * *

14 §563.1 Voting processes and procedures; approval required

15 Prior to the implementation of a voting or election process or procedure
16 which is not explicitly provided by this Title or by rule adopted in accordance with
17 the Administrative Procedure Act with notice as provided in R.S. 49:953(A), the
18 election official who intends to implement the process or procedure shall submit the
19 proposal to the House Committee on House and Governmental Affairs and the
20 Senate Committee on Senate and Governmental Affairs for review and approval.
21 Upon the receipt of the submission, the House Committee on House and
22 Governmental Affairs and the Senate Committee on Senate and Governmental
23 Affairs shall have sixty days to determine, either jointly or separately, whether the
24 proposed process or procedure shall be approved or disapproved. If one of the
25 committees or if both committees disapprove the process or procedure, such process
26 or procedure shall not be implemented or utilized for any purpose. If the time period
27 for action by the committees has lapsed without any action, the process or procedure
28 shall be deemed approved.

29 * * *

1 §1351. Definitions

2 As used in this Chapter, unless otherwise specified, the following terms shall
3 have the meanings herein ascribed to each:

4 (1) "Absentee by mail and early voting counting equipment" means a device
5 capable of counting and producing results of votes cast on paper absentee by mail
6 and early voting ballots.

7 ~~(4)~~(2) "Election" means and includes all elections held in Louisiana, whether
8 primary, general, or special.

9 ~~(5)~~ "Electronic voting machine" means a voting machine that displays a
10 full-face ballot, whereby votes are cast by pushing a vote indicator button on the face
11 of the machine or a voting machine that displays a paging ballot, whereby votes are
12 cast by selecting a vote indicator by touching the screen or using available tools on
13 the voting system.

14 ~~(7)~~(3) "Official ballot" means the list of candidates, offices, amendments,
15 questions, or propositions prominently displayed on the front of the voting machine.

16 ~~(8)~~(4) "Parish custodian" refers to the parish custodian of voting machines
17 and means the persons designated as such by R.S. 18:1354.

18 ~~(9)~~(5) "Protective counter" means a counter, tabulator, or protective device
19 that will register each time the machine is operated during the life of the machine.

20 ~~(10)~~(6) "Public counter" means a counter, tabulator, or other device on the
21 outside or on the face of the machine, which shall at all times indicate the number
22 of times votes have been cast on a machine at an election.

23 ~~(11)~~ (7) "Question" means an amendment, proposition, or like matter to be
24 voted on in an election.

25 ~~(12)~~ (8) "Vote indicator" means the device on a voting machine with which
26 votes upon a candidate or question are indicated.

27 ~~(13)~~ (9) "Voting machine" means the device used to record each vote cast by
28 a voter in an election and shall include the enclosure occupied by the voter when

1 voting, as formed by the ~~machine device~~, its screen and privacy shield, ~~which shall~~
2 ~~include electronic voting machines.~~

3 (14) (10) "Voting system" means the total combination of equipment,
4 including voting machines, used to define ballots, cast and count votes, report or
5 display election results, and maintain and produce any auditable data and the
6 software, firmware, hardware, and documentation required to program, control, and
7 support such equipment. "Voting system" also includes the vendor's practices and
8 documentation used to identify system components and versions of such
9 components, test the system during its development and maintenance, maintain
10 records of system errors and defects, determine specific system changes made after
11 initial certification, and make available any materials to the voter.

12 §1352. Use of voting machines throughout state; exception for failure of voting
13 equipment, absentee by mail and ~~early voting~~ provisional ballots

14 A. Voting machines shall be used throughout this state in all elections.

15 B. Notwithstanding the provisions of Subsection A of this Section, paper
16 ballots may be used when voting machines fail, for voting absentee by mail, and for
17 provisional ballots in the manner provided by this Title.

18 C. ~~Nothing in this Chapter shall prohibit absentee by mail and early voting~~
19 ~~as otherwise provided in this Title.~~

20 §1353. Secretary of state; powers and duties; voting systems and system
21 components; voter registration

22 * * *

23 B.(1) The secretary of state ~~may prescribe~~ shall promulgate uniform rules
24 and regulations with respect to matters pertaining to the certification standards and
25 requirements, procurement, preparation, and use of voting systems in the conduct of
26 elections and the duties of each category of persons charged with responsibility for
27 any matter relating to the voting systems in accordance with the Administrative
28 Procedure Act. ~~The~~ Prior to final promulgation, the proposed rules and regulations
29 shall be ~~approved~~ reviewed by the attorney general ~~and thereafter~~ for uniformity and

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 compliance with the provisions of this Title. The final rules and regulations shall be
2 distributed by the secretary of state to the election officials having responsibilities
3 relating to elections. ~~The rules and regulations and~~ shall be applied uniformly
4 throughout the state.

5 (2) The rules and regulations for voting systems promulgated pursuant to
6 Paragraph (1) of this Subsection shall at minimum provide for all of the following:

7 (a) Standards and requirements for usability, accessibility, durability,
8 accuracy, efficiency, capacity, and auditability.

9 (b) Prohibitions on the voting machines having the capability of being
10 connected to the internet.

11 (c) Prohibitions on the equipment used to program the ballots on the voting
12 machines having the capability of being connected to the internet.

13 (d) Requirements that the equipment used to perform software updates on
14 the voting machines be different than the equipment used to program the ballot.

15 C. In addition to any other duties and functions ~~now or hereafter~~ provided
16 by law, the secretary of state shall:

17 * * *

18 (2) ~~Be responsible~~ Coordinate with the office of state procurement in the
19 division of administration for all procurement, sales, and transfers of voting systems
20 and system components and for all matters in connection with ~~issuing~~ the issuance
21 of competitive bids or requests for proposals ~~or the advertising for and opening of~~
22 ~~bids for or in connection therewith~~ in accordance with all applicable law.

23 * * *

24 D. The secretary of state ~~may~~ shall appoint or employ mechanics, experts,
25 and other assistants when necessary in order to assume the maintenance, upkeep, and
26 proper functioning and operation of the machines, or when necessary in order to
27 explain and demonstrate to the election officials or to the public the proper method
28 of operation of the machines.

29 * * *

- 1 (2) Prior to the expenditure of any monies from the fund for the acquisition,
 2 including lease, of any element or component of a voting system as defined in R.S.
 3 18:1351, the secretary of state shall submit the details of any such expenditure,
 4 including any related contract or proposed contract, to the Joint Legislative
 5 Committee on the Budget for review and approval.
 6 Section 2. R.S. 18:1365 is hereby repealed in its entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 653 Original

2021 Regular Session

Ivey

Abstract: Revises the election code relative to voting and voting processes and procedures, including provisions relative to the standards, requirement, and acquisition of voting machines and systems.

Present law (La. Election Code) provides processes and requirements for voter registration and voting, including the time and manner of voting.

Proposed law retains present law but specifies that prior to the implementation of a voting or election process or procedure which is not explicitly provided by the La. Election Code or by rule adopted in accordance with the Administrative Procedure Act with notice as provided as required by present law (R.S. 49:953(A)—notice for regular rulemaking process), the election official who intends to implement the process or procedure shall submit the proposal to the Committee on House and Governmental Affairs and the Committee on Senate and Governmental Affairs for review and approval. Provides that upon the receipt, the committees have 60 days to determine, either jointly or separately, whether the proposed process or procedure shall be approved. Provides that if one or both committees disapprove the process or procedure, it shall not be implemented or utilized for any purpose. Provides that if the time period for action by the committees has lapsed without any action, the process or procedure shall be deemed approved.

Present law relative to voting systems, provides definitions for the following terms: "absentee by mail and early voting counting equipment", "election", "electronic voting machine", "official ballot", "parish custodian", "protective counter", "public counter", "question", "vote indicator", "voting machine", and "voting system".

Present law defines "electronic voting machine" as a voting machine that displays a full-face ballot, whereby votes are cast by pushing a vote indicator button on the face of the machine or a voting machine that displays a paging ballot, whereby votes are cast by selecting a vote indicator by touching the screen or using available tools on the voting system. Proposed law removes this definition.

Present law defines "voting machine" as the enclosure occupied by the voter when voting as formed by the machines, its screen and privacy shield, which shall include electronic voting machines. Proposed law instead defines "voting machine" as the device used to record each vote cast by a voter in an election, and includes the enclosure occupied by the voter when voting, as formed by the device, its screen, and privacy shield.

Present law provides that voting machines shall be used throughout the state in all elections, but allows paper ballots to be used when voting machines fail, for voting absentee by mail and early voting.

Proposed law provides instead that voting machines shall be used throughout the state in all elections, but allows paper ballots to be used when voting machines fail, for voting absentee by mail and for provisional ballots.

Present law authorizes the secretary of state to prescribe uniform rules and regulations with respect to matters pertaining to the procurement, preparation, and use of voting systems in the conduct of elections and the duties of each category of persons charged with responsibility for any matter relating to the voting systems. Requires the rules to be approved by the attorney general and distributed by the secretary of state to election officials.

Proposed law instead requires the secretary to promulgate rules and regulations through the Administrative Procedure Act and specifies that the rules and regulation shall also contain certification standards and requirements for voting systems. Further provides that instead of approval, the attorney shall review the proposed rules and regulations for uniformity and compliance with the La. Election Code. Proposed law specifies that the rules and regulations for voting systems are required to include standards and requirements for usability, accessibility, durability, accuracy, efficiency, capacity, and auditability; prohibitions on the voting machines having a modem or the capability of being connected to the internet; prohibitions on the equipment used to program the ballots on the voting machines having the capability of being connected to the internet; and requirements that the equipment used to perform software updates on the voting machines be different than the equipment used to program the ballot and otherwise retains present law.

Present law provides that the secretary of state shall be responsible for all procurement, sales, and transfers of voting systems and system components and for all matters in connection therewith. Further authorizes the secretary of state to employ or appoint mechanics, experts, etc., as necessary relative thereto.

Proposed law provides instead that the secretary of state shall coordinate with the office of state procurement in the division of administration for all procurement, sales, and transfers of voting systems and system components and for all matters in connection with the issuance of competitive bids or requests for proposals in accordance with all applicable law.

Present law authorizes the secretary of state to examine any type or make of voting system or system component upon the request of a representative of the maker or supplier thereof and if the secretary of state determines that the voting system or system component complies with the requirements of present law he shall approve that voting system or system component for use in this state and issue his certificate of approval thereof.

Proposed law instead requires the secretary of state to examine any type or make of voting system or system component upon request and further requires such a system to comply with the requirements of present law and the standards promulgated pursuant to proposed law.

Present law authorizes the secretary of state to employ experts to assist him in making the examination and provides that the expenses of the services of such experts shall not exceed a total of \$500 to be paid prior to the examination by the person requesting examination of the voting system or system component. Requires those to sign the certificate of approval made by the secretary of state. Prohibits any voting system or system component from being used at any election which has not been so approved by the secretary of state.

Proposed law instead requires the secretary of state to employ such experts as necessary to assist him and increases the amount of such services from \$500 to \$2000 and otherwise retains present law.

Present law provides that all voting systems or system components used in this state shall be procured by the secretary of state, out of state funds appropriated for that purpose, on the basis of a competitive request for proposals process or public bids submitted to the secretary in accordance with specifications prepared by him. Provides that the specifications may require tests and examinations of the operation of the voting systems or system components, and the secretary, for that purpose, may employ experts to report thereon and charge the expense thereof to the responders or bidders. Specifies that advertisement and letting of contracts for the procurement of voting systems or system components shall be in accordance with the Louisiana Procurement Code. However, present law provides an exception to authorize the secretary of state to procure directly from the supplier, through the Dept. of State, voting systems or system components, parts, supplies, and other election paraphernalia and to contract with the manufacturer through the department for the maintenance of the voting systems or system components. Present law specifies that title to all voting machines purchased by the secretary of state shall vest in the state.

Proposed law provides instead that voting systems or system components used in this state shall be procured by the secretary of state in accordance with present law (La. Procurement Code). Proposed law further provides that if the system or components require testing or examination, the secretary shall appoint or employ experts to report thereon. Proposed law removes the exception allowing procurement of voting systems or system components, parts, supplies, and other election paraphernalia and maintenance of voting systems and system components directly from the supplier or manufacturer. Proposed law otherwise retains present law.

Present law authorizes the secretary of state to utilize any procedure necessary to accommodate the use of paging direct record electronic voting machines for voting where possible, requires any such procedure to be approved by the attorney general. Requires the secretary of state to immediately notify, in writing, the presiding officers of the legislature and the standing committees of each house which have oversight over elections regarding the procedure to be utilized and the circumstances which caused the need for such procedure.

Proposed law repeals present law.

Present law establishes the Voting Technology Fund as a special fund in the state treasury. Provides that the source of monies for the fund shall be the monies derived from fees imposed for maps of precincts and election jurisdictions, for elections conducted for third parties, and any other monies appropriated to the fund. Authorizes monies in the fund be used for general operating purposes and for the acquisition and maintenance of voting machine technology, including hardware and software; voting equipment and supplies; voter outreach; voter improvement; early voting; and information technology products to produce, run, and support the election and voting system. Present law establishes the Help Louisiana Vote Fund. Sources of money deposited into the fund shall be any federal monies received by the state pursuant to the Help America Vote Act and any monies appropriated to the fund. Establishes five accounts in the fund and specifies the uses of the monies in each account, some of which include the acquisition of equipment and voting system technologies and related matters.

Proposed law retains present law relative to such funds but specifies that prior to the expenditure of any monies from the fund for the acquisition of any element or component of a voting system, the secretary of state shall submit the details of any such expenditure, including any related contract or proposed contract, to the Jt. Legislative Committee on the Budget for review and approval.

(Amends R.S. 18:21(C)(3), 1351, 1352, 1353(B), (C)(intro. paragraph) and (2), and (D), 1361, 1362(A), and 1400.21(C); Adds R.S. 18:563.1; Repeals R.S. 18:1365)