
DIGEST

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HB 653 Reengrossed

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.

Present law requires the secretary of state to prescribe uniform rules, regulations, forms, and instructions as to the use of electronic voting machines in the conduct of early voting. Proposed law removes the word "electronic" in reference to the voting machines and otherwise retains present law.

Proposed law retains present law but specifies that prior to the implementation of a voting or election process or procedure that affects the manner in which a voter casts a vote or the manner in which votes are tabulated 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".

Proposed law changes the definitions for "official ballot", "protective counter", "public counter", "voting machine", and "voting system". Proposed law removes the definition for "electronic voting machine". Proposed law adds definitions for "vote-capture device" and "voter-verified paper record". Proposed law otherwise retains present law.

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 and 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, for early voting, 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; requirements that voting machines not have the capability of being connected to the internet; requirements that the equipment used to program the ballots on the voting machines not have 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; requirement that software or firmware updates be loaded using a non-network connection; requirement that access to ports on a voting machine be restricted and sealed during an election, except those used to activate the machine for voting or for repairs in the manner provided by present law (R.S. 18:533(C), (1313(D), or 1313.1); requirement for a voter-verified paper record produced by the voting machine; requirement that all seals used on a voting machine be tamper-proofed and serialized; 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 experts 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 \$5000 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 limits the exception allowing procurement directly from the supplier or manufacturer by removing the ability to directly procure voting systems or system components and allows such procurement only for 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.

Proposed law provides that the standards and requirements relative to voting machines and voting systems enacted by proposed law shall apply to the acquisition of new voting machines and voting systems occurring after the effective date of proposed law.

(Amends R.S. 18:18(A)(7), 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)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Limit the requirement of approval by the legislative governmental affairs committees prior to the implementation of a voting or election process or procedure that is not explicitly provided in the election code or promulgated rule, to those processes and procedures that affect the manner in which a voter casts a vote or the manner in which votes are tabulated.
2. Change definitions for "official ballot", "protective counter", "public counter", "voting machine", and "voting system" and add definitions for "vote-capture device" and "voter-verified paper record".
3. Provide additional certification requirements for voting systems relative to updates and access to ports on voting machines.
4. Restore ability for the secretary of state to procure parts, supplies, and maintenance

directly from the manufacturer.

5. Increase the proposed amount authorized for expenses related to experts to assist the secretary of state in examining voting systems from not to exceed a total of \$2000 to not to exceed \$5000.

The House Floor Amendments to the engrossed bill:

1. Change definitions for "voting machine" and "voting system".
2. Add exception to the restriction on access to ports on voting machines to provide for repairs.
3. Add requirements for voting systems to include a voter-verified paper record produced by the voting machine and that all seals on voting machines be tamper-proofed and serialized.
4. Add provision that apply new standards and requirements to the acquisition of new voting machines and systems after the effective date of the Act.