

HOUSE SUMMARY OF SENATE AMENDMENTS**HB 856****2024 Regular Session****Mike Johnson**

VOTING/MACHINES: Provides relative to the procurement of new voting systems

Synopsis of Senate Amendments

1. Provide for the definition of "voting system".
2. Provide for the duties of the secretary of state as they relate to the procurement of new voting systems.
3. Remove present law requirements for the secretary of state to fulfill certain duties through the promulgation of rules.
4. Repeal the annual reporting requirement of the Voting System Commission.
5. Authorize the secretary of state to report to, rather than consult with, the Voting System Commission regarding the placement and sufficiency of voting machines.
6. Require the Voting System Proposal Evaluation Committee to conduct public demonstrations and examinations of operation of the voting systems, rather than require the secretary of state to include tests and examinations in requests for proposals.
7. Provide for the membership of the Voting System Proposal Evaluation Committee.
8. Authorize the secretary of state to procure voting system equipment equipped with functionalities beyond those deemed essential by the secretary of state as long as such functionalities are not enabled.
9. Require that documentation regarding a voting system vendor be provided immediately upon request by the secretary of state and any time there is a change to information previously disclosed to the secretary of state.
10. Provide that the use of secure hand-marked paper ballots is subject to legislative appropriation.

Digest of Bill as Finally Passed by Senate**Definitions**

Present law (R.S. 18:1351) provides that "voting system" includes the total combination of equipment, hardware, firmware, software, materials, and documentation used to cast and count votes or to perform any of the support functions to enable the casting or counting of votes.

Proposed law excludes from the definition of "voting system" electronic poll books, electronic ballot delivery systems, election night reporting systems and voter registration portals, and databases.

Procurement Duties of the Secretary of State

Present law (R.S. 18:1353) requires the secretary of state to promulgate rules with respect

to matters pertaining to the certification standards and requirements, the procurement, the 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. Provides that such rules are subject to the oversight of the House Committee on House and Governmental Affairs and Senate Committee on Senate and Governmental Affairs (the House and Senate committees) and requires approval by the attorney general for uniformity and compliance with the Election Code.

Proposed law instead requires the secretary of state to publish policies and guidance with respect to the same, rather than promulgate rules, and requires the secretary of state to notify the attorney general and the chairs of the House and Senate governmental affairs committees of the policies and guidance at least 14 days prior to publication.

Present law requires the secretary of state to appoint or employ mechanics, experts, and other assistants when necessary to assume the maintenance of voting machines. Proposed law retains present law and further provides for the secretary of state to contract with such persons.

Present law (R.S. 18:1361) requires the secretary of state to examine any type or make of voting system or voting system component upon the request of the maker or supplier thereof prior to soliciting bids for any new voting system.

Proposed law retains present law requirement that the secretary of state examine a new voting system, but removes the requirement that the examination occur prior to soliciting bids for a new voting system.

Proposed law authorizes, rather than requires, the secretary of state to examine a voting system component upon the request of a maker or supplier.

Present law requires the secretary of state to contract with no fewer than three but no more than five qualified independent experts to assist him in performing the examination.

Proposed law authorizes, rather than requires, the secretary of state to enter into such contracts and removes the minimum requirement of three experts.

Present law authorizes the secretary of state to contract with the manufacturer for the maintenance of voting systems or system components. Proposed law retains present law and further authorizes the secretary of state to procure directly from the supplier voting system components, parts, supplies, and other election paraphernalia.

Voting System Commission

Present law (R.S. 18:1362.1) establishes the Voting System Commission (the commission) to evaluate and recommend the type of voting system that shall be procured to replace the voting system in use. Requires the commission to conduct a preliminary analysis of available voting systems and determine the type of voting system to recommend to the secretary of state to submit for competitive solicitation in accordance with the La. Procurement Code.

Present law requires the commission to report its finding and conclusions to the governor, president of the Senate, speaker of the House of Representatives, the House and Senate governmental affairs committees, the secretary of state, and the division of administration no later than Jan. 31, 2022, and annually thereafter.

Proposed law repeals the requirement for subsequent reports after 2022.

Present law requires the secretary of state to develop a request for proposals taking into consideration the commission's recommendations and requires the secretary of state to promulgate certification standards for the type of system to be procured.

Proposed law requires the secretary of state to issue, rather than promulgate, such certification standards.

Present law (R.S. 18:1364) requires the secretary of state to consult with the commission at least once annually to determine the sufficiency of the voting machines and absentee by mail and early voting counting equipment necessary to conduct absentee by mail and early voting in an election, taking into consideration the technological capabilities of the voting system.

Proposed law requires the secretary of state to annually report to the commission, rather than consult with the commission, regarding the same.

Voting System Proposal Evaluation Committee

Present law (R.S. 18:1362.2) establishes the Voting System Proposal Evaluation Committee (the committee) for the purpose of independently reviewing any proposals received by the secretary of state as a result of the commission's recommendations. Provides that the membership of the committee includes a faculty member of a La. postsecondary education institution with engineering or computer science expertise and an individual with at least five years of experience with training or education in electronic voting systems and procedures and election security.

Proposed law removes the faculty member from the committee membership and adds a second individual with at least five years of experience with training or education in electronic voting systems and procedures and election security.

Present law (R.S. 18:1361) requires that in procuring voting systems or system components, requests for proposals include tests and examinations of the operation of the voting systems or system components and requires the secretary of state to employ experts to conduct examinations and report the results to the Voting System Commission. Requires that related expenses be paid by the vendor.

Proposed law repeals present law and instead provides that public demonstrations and examinations of operation of the voting systems be conducted by the Voting System Proposal Evaluation Committee.

Procurement Requirements

Present law (R.S. 18:1362) requires the secretary of state to procure all voting systems or system components used in the state. Provides requirements for parts and supplies and for contracting for the maintenance of voting machines.

Present law requires that all voting system equipment shall have only essential functionality.

Proposed law instead requires that all voting system equipment shall have enabled only the functionality deemed by the secretary of state to be essential.

Present law provides that the secretary of state is responsible for all ballot programming of any new voting system. Limits the use of third-party vendors to support services only.

Proposed law retains present law and further requires that the secretary of state is responsible for the maintenance and repair of new voting systems.

Present law requires the voting system vendor to provide documentation to the secretary of state regarding financial disclosure, equity holdings, and management structure and must disclose any percentage of ownership by a foreign entity either in whole or in part, including any subsidiary or affiliate.

Proposed law retains present law and further requires that documentation be provided immediately upon request by the secretary of state and any time there is a change to

information previously disclosed to the secretary of state.

Present law (R.S. 18:1352) provides that, after the procurement of a new voting system, secure hand-marked paper ballots may be used for in-person early voting and election day voting.

Proposed law retains present law and provides that the use of secure hand-marked paper ballots is subject to legislative appropriation.

(Amends R.S. 18:1351(14), 1352(C), 1353(B)(1) and (2)(introductory paragraph), and (D), 1361(A) and (C), 1362(A), 1362.1(J) and (K), 1362.2(A), (B), and (C), 1364(A), and 1366(2), (4), and (6))