WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1988

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ENNROLLED

HOUSE BILL No. 4150

(By Delegate Humphreys)

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Passed February 11, 1988

In Effect from Passage
AN ACT to amend and reenact sections two and nine, article four-a, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the electronic voting systems; amending the definitions and terminology to allow for tabulating program instructions on modern and advanced technology program media; and providing for an additional measure to secure the new program media from tampering by unauthorized persons.

Be it enacted by the Legislature of West Virginia:

That sections two and nine, article four-a, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-2. Definitions.

1 As used in this article, unless otherwise specified:
2 (a) “Automatic tabulating equipment” means all apparatus necessary to electronically count votes recorded on ballot cards and tabulate the results;
3 (b) “Ballot card” means a tabulating card or paper on which votes may be recorded by means of perforating or marking in electronic sensitized ink or pencil;
4 (c) “Ballot labels” means the cards, papers, booklet,
§3-4A-9. Minimum requirements of electronic voting systems.

An electronic voting system of particular make and design shall not be approved by the state election commission or be purchased, leased or used, by any county commission unless it shall fulfill the following requirements:

(1) It shall secure or ensure the voter absolute secrecy in the act of voting, or, at the voter’s election, shall
provide for open voting;

(2) It shall be so constructed that no person except in instances of open voting, as herein provided for, can see or know for whom any voter has voted or is voting;

(3) It shall permit each voter to vote at any election for all persons and offices for whom and which he is lawfully entitled to vote, whether or not the name of any such person appears on a ballot label as a candidate; and it shall permit each voter to vote for as many persons for an office as he is lawfully entitled to vote for; and to vote for or against any question upon which he is lawfully entitled to vote. The automatic tabulating equipment used in such electronic voting systems shall reject choices recorded on any ballot card or paper ballot if the number of such choices exceeds the number to which a voter is entitled;

(4) It shall permit each voter to deposit, write in, or affix upon devices to be provided for that purpose, ballots containing the names of persons for whom he desires to vote whose names do not appear upon the ballot labels;

(5) It shall permit each voter to change his vote for any candidate and upon any question appearing upon the ballot labels up to the time when his ballot or ballot card is deposited in the ballot box;

(6) It shall contain a program deck consisting of cards that are sequentially numbered, or consisting of a computer program disk, diskette, tape or other programming media containing sequentially numbered program instructions and coded or otherwise protected from tampering or substitution of the media or program instructions by unauthorized persons, and capable of tabulating all votes cast in each election;

(7) It shall contain two standard validation test decks approved as to form and testing capabilities by the state election commission;

(8) It shall correctly record and count accurately all votes cast for each candidate and for and against each question appearing upon the ballots or ballot labels;
(9) It shall permit each voter at any election other than primary elections, by one mark or punch to vote a straight party ticket, and by one mark or punch to vote for all candidates of one party for presidential electors; and to vote a mixed ticket selected from the candidates of any and all parties and from independent candidates; and it shall permit the proper counting, to the fullest extent possible, of all votes cast for all candidates:

Provided, That in the event of cross-over voting from a straight party ticket, the system shall not discard any vote on the straight ticket, unless (i) a candidate in a single selection contest opposite the discarded vote on the straight ticket has been clearly chosen by the voter, or (ii) the voter, by mark or punch has clearly indicated which choices on each ticket, not in excess of the total number permitted, the voter has made, or (iii) the choices made by the voter are so contradictory that the voter's choice is indiscernible, in which event, all votes for the candidates for such office shall be discarded;

(10) It shall permit each voter in primary elections to vote only for the candidates of the party with which he has declared his affiliation, and preclude him from voting for any candidate seeking nomination by any other political party, permit him to vote for the candidates, if any, for nonpartisan nomination or election, and permit him to vote on public questions;

(11) It shall be provided with means for sealing the vote recording device to prevent its use and to prevent tampering with ballot labels, both before the polls are open or before the operation of the vote recording device for an election is begun and immediately after the polls are closed or after the operation of the vote recording device for an election is completed;

(12) It shall have the capacity to contain the names of candidates constituting the tickets of at least nine political parties, and to accommodate the wording of at least fifteen questions;

(13) It shall be durably constructed of material of good quality and in a workmanlike manner and in a form which shall make it safely transportable;
(14) It shall be so constructed with frames for the placing of ballot labels and with suitable means for the protection of such labels, that the labels on which are printed the names of candidates and their respective parties, titles of offices, and wording of questions shall be so reasonably protected from mutilation, disfigurement or disarrangement;

(15) It shall bear a number that will identify it or distinguish it from any other machine;

(16) It shall be so constructed that a voter may easily learn the method of operating it and may expeditiously cast his vote for all candidates of his choice, and upon any public question; and

(17) It shall be accompanied by a mechanically operated instruction model which shall show the arrangement of ballot labels, party columns or rows, and questions.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ................. this the .......... 21st ................. day of ................., 1988.

[Signature]

Governor