
A BILL FOR AN ACT

RELATING TO ELECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 16-41, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§16-41 Definitions. Whenever used in this title, unless
4 the context otherwise requires:

5 "Counting center" means the computer facilities and
6 surrounding premises designated by the chief election officer or
7 the clerk in county elections where electronic voting system
8 ballots are counted.

9 "Defective ballot" means any ballot delivered to the
10 counting center in accordance with section 11-152 that cannot be
11 read by the ballot reading device.

12 "Direct recording electronic voting system" means a system
13 that generates a voter verifiable paper audit trail and utilizes
14 electronic components, which are logically and physically
15 integrated into a single unit, for the functions of ballot
16 presentation, vote capture, vote recording, and tabulation.



1 "Electronic voting system" means the method of recording
2 votes which are counted by automatic tabulating equipment. The
3 term includes, but is not limited to, the mechanical tabulation
4 system, including a marksense ballot voting system, that
5 involves the tabulation of paper ballots, and the direct
6 recording electronic voting system that generates a voter
7 verifiable paper audit trail.

8 "Marksense ballot voting system" means a mechanical
9 tabulation system using paper ballots and optical scanning,
10 digital scanning, or similar technology equipment, for which:

11 (1) The voter manually records votes by marking the
12 appropriate voting position on the ballot, with a
13 prescribed marking device, in the manner instructed by
14 the chief election officer; and

15 (2) The marks on the ballots are subsequently read by the
16 optical scan, digital scan, or similar technology
17 device, in conformance with the specifications of the
18 voting system selected by the chief election officer.

19 "Mechanical tabulation system" means an automatic
20 tabulation system, including a marksense ballot voting system,



1 that tabulates paper ballots. The term does not include a
2 direct recording electronic voting system.

3 "Voter verifiable paper audit trail" means the paper record
4 that constitutes a complete record of ballot selections that is
5 verified by the voter. The record may also be used to assess
6 the accuracy of the voting machine's electronic record and to
7 verify the election results."

8 SECTION 2. Section 16-42, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§16-42 Electronic voting requirements.** (a) When used at
11 primary or special primary elections, the automatic tabulating
12 equipment of the electronic voting system shall count only votes
13 for the candidates of one party, or nonpartisans. In all
14 elections, the equipment shall reject all votes for an office
15 when the number of votes therefor exceeds the number that the
16 voter is entitled to cast.

17 No electronic voting system shall be used in any election
18 unless it [~~generates~~] involves a paper ballot or voter
19 verifiable paper audit trail [~~that may be inspected and~~
20 ~~corrected by the voter before the vote is cast, and unless every~~
21 ~~paper ballot or voter verifiable paper audit trail is retained~~



1 ~~as the definitive record of the vote cast].~~ The chief election
2 officer shall prescribe the method of marking the ballot and
3 associated instructions for voting associated with the
4 electronic voting system.

5 (b) The chief election officer [~~may rely on electronic~~
6 ~~tallies created directly by electronic voting systems, in lieu~~
7 ~~of counting the paper ballots by hand or with a mechanical~~
8 ~~tabulation system if:]~~, in using an electronic voting system,
9 shall ensure that:

- 10 (1) The electronic voting system is subject to inspection,
11 audit, and experimental testing, by qualified
12 observers, before and after the election, pursuant to
13 administrative rules adopted by the chief election
14 officer under chapter 91;
- 15 (2) No upgrades, patches, fixes, or alterations shall be
16 applied to the system through thirty days after the
17 election;
- 18 (3) The chief election officer conducts a post-election,
19 pre-certification audit of [~~a random sample of]~~ not
20 less than ten per cent of the precincts [~~employing the~~
21 ~~electronic voting system]~~, to verify that the



1 ~~[electronic tallies generated by]~~ results from the
2 system ~~[in these precincts]~~ with respect to a selected
3 contest or ballot question equal [hand tallies] a
4 tally of the [paper] ballots [generated by the system
5 ~~in these precincts; and]~~ or voter verifiable paper
6 audit trails;

7 (4) The audit may be conducted with scanned images of the
8 ballots or voter verifiable paper audit trails and
9 involve a contest or ballot question. To the extent
10 technology permits other forms of duplication or
11 reproduction, the technology likewise may be used in
12 lieu of the physical paper ballots or voter verifiable
13 paper audit trails;

14 (5) Any counting of ballots or voter verifiable paper
15 audit trails for purposes of the audit shall be
16 conducted in accordance with any marking and vote
17 disposition rules relating to the electronic voting
18 system that the ballots or voter verifiable paper
19 audit trails were associated with;



1 (6) A discrepancy or difference in results shall not be
2 considered to reflect misreporting if the discrepancy
3 is not related to misreporting a proper mark;

4 ~~[(4)]~~ (7) If [discrepancies appear] misreporting appears in
5 the pre-certification audits [in paragraph (3)], the
6 chief election officer, pursuant to administrative
7 rules, shall immediately conduct an expanded audit to
8 determine the extent of misreporting in the system[-];

9 (8) Any counting of ballots to correct misreporting for
10 isolated devices shall involve the specific type of
11 mechanical tabulation system, such as the marksense
12 ballot voting system, that was originally associated
13 with the ballot after appropriate steps are taken to
14 use devices that did not experience misreporting, or
15 the misreporting devices have been repaired to the
16 satisfaction of the chief election officer. All
17 contests and ballot questions on the impacted ballots
18 shall be counted by the voting system and those
19 results shall replace the prior contests and ballot
20 question results; and



H.B. NO. 132

Report Title:

Office of Elections Package; Electronic Voting System;
Definitions; Electronic Voting Requirements

Description:

Defines "direct recording electronic voting system", "marksense ballot voting system", and "mechanical tabulation system". Amends the definition of "electronic voting system" to include the mechanical tabulation system and marksense ballot voting system. Specifies additional requirements and procedures with which the Chief Election Officer must comply when using an electronic voting system, including procedures for conducting the post-election, pre-certification audit.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

