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] that are counted by automatic tabulating

3 equipment. "Electronic voting system" includes but is not

4 limited to the mechanical tabulation system and direct recording

5 electronic voting system.

6   "Marksense ballot voting system" means a mechanical

7 tabulation system using paper ballots and optical scanning,

8 digital scanning, or similar technology equipment, for which:

9   (1) The voter manually records votes by marking the

10   appropriate voting position on the ballot, with a

11   prescribed marking device, in the manner instructed by

12   the chief election officer; and

13   (2) The marks on the ballots are subsequently read by the

14   optical scan, digital scan, or similar technology

15   device, in conformance with the specifications of the

16   voting system selected by the chief election officer.

17   "Mechanical tabulation system" means an automatic

18 tabulation system, including a marksense ballot voting system,

19 that tabulates paper ballots. "Mechanical tabulation system"

20 does not include a direct recording electronic voting system.

1   "Voter verifiable paper audit trail" means the paper record

2   that constitutes a complete record of ballot selections that is

3   verified by the voter. The record may also be used to assess

4   the accuracy of the voting machine's electronic record and to

5   verify the election results."

6   SECTION 2. Section 16-42, Hawaii Revised Statutes, is

7   amended to read as follows:

8   "§16-42 **Electronic voting requirements.** (a) When used at

9   primary or special primary elections, the automatic tabulating

10   equipment of the electronic voting system shall count only votes

11   for the candidates of one party, or nonpartisans. In all

12   elections, the equipment shall reject all votes for an office

13   when the number of votes therefor exceeds the number that the

14   voter is entitled to cast.

15   No electronic voting system shall be used in any election

16   unless it [~~generates~~] involves a paper ballot or voter

17   verifiable paper audit trail [~~that may be inspected and~~

18   ~~corrected by the voter before the vote is cast, and unless every~~

19   ~~paper ballot or voter verifiable paper audit trail is retained~~

20   ~~as the definitive record of the vote cast~~]. The chief election

21   officer shall prescribe the method of marking the ballot and

1 associated instructions for voting with the electronic voting

2 system.

3 (b) The chief election officer [may rely on electronic

4 tallies created directly by electronic voting systems, in lieu

5 of counting the paper ballots by hand or with a mechanical

6 tabulation system if:], in using an electronic voting system,

7 shall ensure that:

8 (1) The electronic voting system is subject to inspection,

9 audit, and experimental testing, by qualified

10 observers, before and after the election, pursuant to

11 administrative rules adopted by the chief election

12 officer under chapter 91;

13 (2) No upgrades, patches, fixes, or alterations [shall be]

14 are applied to the system through thirty days after

15 the election;

16 (3) [The chief election officer conducts a] A post-

17 election, pre-certification audit is conducted of a

18 random sample of [not] no less than ten per cent of

19 the precincts [employing the electronic voting

20 system,] to verify that the [electronic tallies

21 generated by] results from the system [in those

1   ~~precincts~~] with respect to a selected contest or

2   ballot question equal [~~hand tallies~~] a tally of the

3   [~~paper~~] ballots [~~generated by the system in those~~

4   ~~precincts; and~~] or voter verifiable paper audit

5   trails. The audit may be conducted with scanned

6   images of the ballots or voter verifiable paper audit

7   trails and involve a contest or ballot question. To

8   the extent technology permits other forms of

9   duplication or reproduction, the technology likewise

10   may be used in lieu of the physical paper ballots or

11   voter verifiable paper audit trails. Any counting of

12   ballots or voter verifiable paper audit trails for

13   purposes of the audit shall be conducted in accordance

14   with any marking and vote disposition rules relating

15   to the electronic voting system that the ballots or

16   voter verifiable paper audit trails were associated

17   with;

18   (4) A discrepancy or difference in results is not

19   considered to reflect misreporting if the discrepancy

20   is not related to misreporting a proper mark;

1   [(4)] (5)   If [discrepancies appear] misreporting appears in

2   the pre-certification audits [in paragraph (3)], [the

3   chief election officer, pursuant to administrative

4   rules, shall immediately conduct] an expanded audit is

5   immediately conducted pursuant to administrative rules

6   to determine the extent of misreporting in the

7   system[.];

8   (6)   Any counting of ballots to correct misreporting for

9   isolated devices involves the specific type of

10   mechanical tabulation system, such as the marksense

11   ballot voting system, that was originally associated

12   with the ballot after appropriate steps are taken to

13   use devices that did not experience misreporting, or

14   the misreporting devices have been repaired to the

15   satisfaction of the chief election officer. All

16   contests and ballot questions on the impacted ballots

17   shall be counted by the voting system and those

18   results shall replace the prior contests and ballot

19   question results; and

20   (7)   To the extent that misreporting occurs with a direct

21   recording electronic voting system, the voter

1   <u>verifiable paper audit trails or reproductions</u>

2   <u>associated with the isolated misreporting devices are</u>

3   <u>counted in their entirety and those results replace</u>

4   <u>the prior misreported results.</u>

5   <u>(c) In the event of a county only election not held in</u>

6 <u>conjunction with a regularly scheduled federal or state</u>

7 <u>election, all references to the chief election officer shall be</u>

8 <u>understood to refer to the clerk.</u>"

9   SECTION 3. This Act does not affect rights and duties that

10 matured, penalties that were incurred, and proceedings that were

11 begun before its effective date.

12   SECTION 4. Statutory material to be repealed is bracketed

13 and stricken. New statutory material is underscored.

14   SECTION 5. This Act shall take effect upon its approval.

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Report Title:
Office of Elections Package; Electronic Voting System; Definitions; Audits

Description:
Establishes definitions for purposes of electronic voting. 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. (HD1)

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