



**House
Legislative
Analysis
Section**

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ELECTRONIC VOTING SYSTEMS

House Bill 5386

Sponsor: Rep. Joseph Palamara

Committee: Elections

Complete to 12-10-91

A SUMMARY OF HOUSE BILL 5386 AS INTRODUCED 12-10-91

The bill would amend the Michigan Election Law to make several amendments to the regulation of electronic voting systems.

* Electronic tabulating equipment that is able to detect and inform a voter that the choices recorded on his or her ballot exceed the number the voter is entitled to vote for would have to offer the voter an opportunity to correct the error before rejecting the choices recorded. The same opportunity for correction would have to be offered in a primary election if the equipment is able to detect and inform a voter that he or she has voted for candidates of more than one party.

* An electronic voting system cannot be used in an election unless approved by the board of state canvassers. Once a system is approved, an improvement or change must be submitted to the board for approval. The bill would say that the approval requirement does not apply to the technical capability of a general purpose computer, reader, or printer to electronically record and count votes.

* Election inspectors are required to prepare polling places for voting by determining that the correct ballot has been provided to the precinct and by completing required tests of the electronic voting system. The bill would require that they certify in writing that the equipment is operating properly. The certification would have to be on a form prescribed by the secretary of state and include pertinent information regarding seal numbers, counters, and the operation and use of the particular equipment.

* In cases where electronic tabulating equipment deposits the voted ballot into the ballot box, the law requires that election inspectors return the ballot to the voter to deposit into the equipment. (In other cases, an inspector deposits the voted ballot.) The bill would specify that the electronic tabulating equipment must be arranged so that the secrecy of the ballot is not violated. If required for the proper operation of the equipment, two election inspectors could periodically open the equipment to rearrange voted ballots and transfer voted ballots to another approved ballot container.

* The bill would distinguish between kinds of ballots for purposes of determining how the ballot of a challenged voter is to be processed. When a ballot has the names of candidates and questions printed directly on the voted ballot, the ballot of a challenged voter would be processed in the manner for challenging a vote cast by paper ballot. A challenge to a voter voting on an electronic voting system that does not use an individual

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hard copy ballot would be processed in the manner prescribed for challenging a vote cast on a voting machine.

* The election law requires that the board of election commissioners before beginning the count of ballots test the electronic tabulating equipment to determine if it will accurately count the votes cast. The law currently requires that equipment pass the same test at the conclusion of the count before the election returns are approved as official. The bill would say that this post-count test applies to electronic tabulating equipment "that can be used for a purpose other than examining and counting votes."

* The bill would require that if equipment tested and certified by the board of election commissioners is to be used to count votes at the precinct, a memory device containing the tested programs, if any, must be sealed into the electronic tabulating equipment. Upon completion and certification of the count of votes, the memory device containing the program and the vote totals would remain sealed in the electronic tabulating equipment, or if removed from the equipment, would remain sealed in a container approved by the secretary of state, delivered to the clerk, and retained in the manner provided for other voted ballots.

* The bill would also provide that unless a petition for recount had been filed and the recount not completed, ballots, ballot labels, programs, test results, and other sealed materials could be released from their original seal after seven days following the final determination of the board of canvassers with respect to the election at which the ballots were voted. The released materials, however, would have to be secured and preserved for the time period required by the election law and by rules promulgated by the secretary of state.

* The Secretary of State would be required to instruct local election officials regarding the operation and use of approved electronic voting systems in order to carry out the purposes of the sections of the election law dealing with such systems and of the rules promulgated pursuant to those sections.

MCL 168.794 et al.