SENATE BILL NO. 948

June 26, 2024, Introduced by Senators LINDSEY, BELLINO, RUNESTAD and DALEY and referred to the Committee on Elections and Ethics.

A bill to amend 1954 PA 116, entitled

"Michigan election law,"

by amending sections 795, 795a, and 797c (MCL 168.795, 168.795a, and 168.797c), section 795 as amended by 2018 PA 127, section 795a as amended by 1998 PA 215, and section 797c as amended by 1990 PA 109.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   Sec. 795. (1) ~~An~~ **Subject to subsection (2), an** electronic

2   voting system acquired or used under sections 794 to 799a must meet

1 all of the following requirements:

2   (a) Provide for voting in secrecy, except in the case of

3 voters who receive assistance as provided by this act.

4   (b) Utilize a paper ballot for tabulating purposes.

5   (c) Permit each elector to vote at an election for all ~~persons~~

6 **individuals** and offices for whom and for which the elector is

7 lawfully entitled to vote; to vote for as many ~~persons~~ **individuals**

8 for an office as the elector is entitled to vote for; and to vote

9 for or against any question ~~upon~~ **on** which the elector is entitled

10 to vote. Except as otherwise provided in this subdivision, the

11 electronic tabulating equipment must reject all choices recorded on

12 the elector's ballot for an office or a question if the number of

13 choices exceeds the number that the elector is entitled to vote for

14 on that office or question. Electronic tabulating equipment that

15 can detect that the choices recorded on an elector's ballot for an

16 office or a question exceeds the number that the elector is

17 entitled to vote for on that office or question must be located at

18 each polling place and programmed to reject a ballot containing

19 that type of an error. If a choice on a ballot is rejected as

20 provided in this subdivision, an elector must be given the

21 opportunity to have that ballot considered a spoiled ballot and to

22 vote another ballot.

23   (d) Permit an elector, at a presidential election, by a single

24 selection to vote for the candidates of a party for ~~president,~~

25 ~~vice-president,~~ **President, Vice President**, and presidential

26 electors.

27   (e) Permit an elector in a primary election to vote for the

28 candidates in the party primary of the elector's choice. Except as

29 otherwise provided in this subdivision, the electronic tabulating

1 equipment must reject each ballot on which votes are cast for

2 candidates of more than 1 political party. Electronic tabulating

3 equipment that can detect that the elector has voted for candidates

4 of more than 1 political party must be located at each polling

5 place and programmed to reject a ballot containing that type of an

6 error. If a choice on a ballot is rejected as provided in this

7 subdivision, an elector must be given the opportunity to have that

8 ballot considered a spoiled ballot and to vote another ballot.

9   (f) Prevent an elector from voting for the same ~~person~~

10 **individual** more than once for the same office.

11   (g) Reject a ballot on which no valid vote is cast. Electronic

12 tabulating equipment must be programmed to reject a ballot on which

13 no valid vote is cast.

14   (h) Be suitably designed for the purpose used; be durably

15 constructed; and be designed to provide for safety, accuracy, and

16 efficiency.

17   (i) Be designed to accommodate the needs of an elderly voter

18 or ~~a person~~ **an individual** with 1 or more disabilities.

19   (j) Record correctly and count accurately each vote properly

20 cast.

21   (k) Provide an audit trail.

22   (*l*) Provide an acceptable method for an elector to vote for ~~a~~

23 ~~person~~ **an individual** whose name does not appear on the ballot.

24   (m) Allow for accumulation of vote totals from the precincts

25 in the jurisdiction. The accumulation software must meet

26 specifications prescribed by the secretary of state and must be

27 certified by the secretary of state as meeting these

28 specifications.

29   (n) Be compatible with or include at least 1 voting device

1 that is accessible for an individual with disabilities to vote in a

2 manner that provides the same opportunity for access and

3 participation, including secrecy and independence, as provided for

4 other voters. The voting device must include nonvisual

5 accessibility for the blind and visually impaired.

6 **(o) Except as otherwise provided in this subdivision, meet or**

7 **exceed the Voluntary Voting System Guidelines Version 2.0 adopted**

8 **by the United States Election Assistance Commission regarding**

9 **cybersecurity. This subdivision does not apply if the Voluntary**

10 **Voting System Guidelines Version 2.0 are no longer used by the**

11 **United States Election Assistance Commission.**

12 **(2) All parts of an electronic voting system acquired on or**

13 **after the effective date of the amendatory act that added**

14 **subsection (1)(o) must be manufactured in the United States.**

15 **(3)** (2) Electronic tabulating equipment that counts votes at

16 the precinct before the close of the polls must provide a method

17 for rendering the equipment inoperable if vote totals are revealed

18 before the close of the polls. Electronic tabulating equipment that

19 tabulates ballots, including absentee ballots, at a central

20 location must be programmed to reject a ballot if the choices

21 recorded on an elector's ballot for an office or a question exceed

22 the number that the elector is entitled to vote for on that office

23 or question, if no valid choices are recorded on an elector's

24 ballot, or if, in a primary election, votes are recorded for

25 candidates of more than 1 political party.

26 **(4)** (3) Each jurisdiction in this state conducting an election

27 shall equip each polling place with at least 1 accessible voting

28 device as required under subsection (1)(n).

29 Sec. 795a. (1) An **Subject to subsection (10), an** electronic

1 voting system ~~shall~~ **must** not be used in an election unless it is

2 approved by the board of state canvassers as meeting the

3 requirements of sections 794 and 795 and instructions regarding

4 recounts of ballots cast on that electronic voting system that have

5 been issued by the secretary of state, unless section 797c has been

6 complied with, and unless it meets 1 of the following conditions:

7 (a) Is certified by an independent testing authority

8 accredited by the ~~national association~~ **National Association** of

9 ~~state election directors~~ **State Election Directors** and by the board

10 of state canvassers.

11 (b) In the absence of an accredited independent testing

12 authority, is certified by the manufacturer of the voting system as

13 meeting or exceeding the performance and test standards referenced

14 in subdivision (a) in a manner prescribed by the board of state

15 canvassers.

16 (2) The vendor or representative seeking approval of an

17 electronic voting system ~~shall~~ **must** do all of the following:

18 (a) Deposit with the secretary of state a nonrefundable

19 application fee of $1,500.00 for a new **electronic** voting system and

20 a fee of $500.00 for an upgrade to any existing **electronic voting**

21 system.

22 (b) File with the secretary of state a list of all states in

23 which the **electronic** voting system has been approved for use. This

24 list ~~shall~~ **must** state how long the **electronic voting** system has

25 been used in the state and ~~shall~~ **must** disclose any reports compiled

26 by any state or local government concerning the performance of the

27 **electronic voting** system. The vendor ~~shall remain~~ **remains**

28 responsible for filing this information on an ongoing basis.

29 (c) File with the secretary of state copies of all standard

1 contracts and maintenance agreements used in connection with the

2 sale of the **electronic** voting system. All changes to standard

3 contracts and maintenance agreements ~~shall~~ **must** be filed with the

4 secretary of state.

5 (d) Pay the cost for any field test required by the board of

6 state canvassers.

7 (e) State the number of voters each component of the

8 **electronic** voting system can process per hour under each of the

9 following circumstances:

10 (*i*) An election in which there are 10 or fewer items to be

11 voted on the ballot by each voter.

12 (*ii*) An election in which the ballot consists of the number of

13 items typically voted on at a presidential general election in this

14 state.

15 (3) The board of state canvassers shall conduct a field test

16 of all new **electronic** voting systems as part of the certification

17 process. The field test ~~shall~~ **must** involve ~~Michigan~~ electors **of**

18 **this state** and election officials in simulated election day

19 conditions. The test ~~shall~~ **must** be designed to gauge voter reaction

20 to the **electronic voting** system, problems that voters have with the

21 **electronic voting** system, and the number of voting stations

22 required for the efficient operation of an election based ~~upon~~ **on**

23 the vendor's statement provided under subsection (2)(e).

24 (4) ~~The~~ **Subject to subsection (10), the** board of state

25 canvassers shall approve an electronic voting system for use in

26 this state only if it meets the conditions of subsection (1) except

27 that in an emergency situation that threatens the ability of a

28 county, city, or township to conduct a scheduled election, the

29 board of state canvassers may approve a correction of software or

1 firmware after testing the software or firmware performance.

2   (5) If an electronic voting system is approved for use before

3 January 1, 1997 by the board of state canvassers, it may be used in

4 an election. However, if the electronic voting system has its

5 software or firmware improved or changed, the **electronic voting**

6 system ~~shall~~ **must** comply with the requirements of subsection (1).

7   (6) After an electronic voting system is approved, an

8 improvement or change in the electronic voting system ~~shall~~ **must** be

9 submitted to the board of state canvassers for approval ~~pursuant to~~

10 **under** this section. This subsection does not apply to the technical

11 capability of a general purpose computer, reader, or printer to

12 electronically record and count votes.

13   (7) A county, city, township, village, or school district

14 shall file ~~"an~~ **an** "intent to purchase statement" with the secretary

15 of state 30 days before any purchase agreement is made to purchase

16 a new **electronic** voting system. The secretary of state shall

17 provide all information concerning the operation of the **electronic**

18 voting system in ~~Michigan~~ **this state** or any other state to the

19 local unit of government within 25 days after receiving the "intent

20 to purchase statement".

21   (8) The secretary of state shall instruct local election

22 officials regarding the operation and use of an approved electronic

23 voting system in order to carry out the purposes of sections 794 to

24 799a and the rules promulgated ~~pursuant to~~ **under** sections 794 to

25 799a.

26   (9) If the board of state canvassers determines that an

27 electronic voting system that was approved under subsection (1) no

28 longer meets the requirements described in that subsection, the

29 board of state canvassers may disapprove that **electronic** voting

1 system. ~~An~~ **Subject to subsection (10), an** electronic voting system

2 that has been disapproved by the board of state canvassers under

3 this subsection ~~shall~~ **must** not be used in an election, unless it is

4 reapproved by the board of state canvassers under subsection (1).

5   **(10) For an electronic voting system acquired on or after the**

6 **effective date of the amendatory act that added this subsection,**

7 **the board of state canvassers shall not approve that electronic**

8 **voting system if any of the parts of the electronic voting system**

9 **were manufactured outside of the United States.**

10   Sec. 797c. **(1)** ~~A~~ **Until the effective date of the amendatory**

11 **act that added subsection (4), a** person or company providing a

12 computer program that examines, counts, tabulates, and prints

13 results of the votes cast by a voter on an electronic voting system

14 shall place in an escrow account a copy of the source code of the

15 program and any subsequent revisions or modifications of the source

16 code. ~~The secretary of state or an authorized agent of the~~

17 ~~secretary of state shall agree to use the information contained in~~

18 ~~the source code solely for the purpose of analyzing and testing the~~

19 ~~software and shall not disclose proprietary information to any~~

20 ~~other person or agency without the prior written consent of the~~

21 ~~vendor.~~

22   **(2) Beginning on the effective date of the amendatory act that**

23 **added subsection (4), a person or company providing a computer**

24 **program that examines, counts, tabulates, and prints results of the**

25 **votes cast by a voter on an electronic voting system shall submit a**

26 **copy of the source code of the program and any subsequent revisions**

27 **or modifications of the source code to the county clerk of the**

28 **county in which the electronic voting system programmed with that**

29 **source code will be used. The county clerk shall maintain that**

1 source code and comply with the requirements in this section.

2   (3) On request by a state senator, a state representative, or

3 a city or township clerk, a county clerk shall release to the

4 requesting party the source code for the electronic voting system

5 for the purpose of verifying that the electronic voting system is

6 operating properly and is in compliance with any contract

7 requirements.

8   (4) In any court action in which the tabulation of votes is at

9 issue, the court may appoint a special master to review the source

10 code for any electronic voting system, and the county clerk shall

11 provide the source code for that electronic voting system. The

12 special master appointed under this subsection shall examine the

13 electronic voting system and source code, and shall do both of the

14 following:

15   (a) Issue a report to the court regarding the tabulation of

16 votes.

17   (b) Submit the report issued under subdivision (a) to the

18 secretary of state and the board of state canvassers for the

19 purpose of reviewing the approval of the electronic voting system

20 for use in this state.