



State of Tennessee
PUBLIC CHAPTER NO. 301

HOUSE BILL NO. 386

By Representatives Dunn, Hurley, Campbell, Evans, Cobb, White, Rich

Substituted for: Senate Bill No. 1203

By Senator Yager

AN ACT to amend Tennessee Code Annotated, Title 2, Chapter 1108 of the Public Acts of 2008 and Chapter 612 of the Public Acts of 2010, relative to the Tennessee Voter Confidence Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 2-20-101, is amended by deleting the section in its entirety and by substituting instead the following:

2-20-101.

(a) A county election commission may utilize precinct-based optical scanners.

(b) As used in this chapter, unless the context otherwise requires:

(1) "Precinct-based optical scanner" means an optical ballot scanner that is located in the precinct and into which optical scan voter-verified paper ballots, marked either by hand by the voter or with the assistance of a device, are inserted to count the voter verified paper ballot;

(2) "Top race" means the presidential race, if the presidential race is on the ballot, or the governor's race, if the governor's race is on the ballot; and

(3) "Voter-verified paper ballot" means a permanent, individual paper ballot that is marked either manually by the voter or with the assistance of a device and verified by the voter as correctly reflecting the voter's intent, before the voter's vote is counted by the precinct-based optical scanner.

(c) It is the intent of the general assembly that any county election commission utilizing a precinct-based optical scanner pursuant to this chapter shall comply in all respects with the provisions of this chapter and federal law.

SECTION 2. Tennessee Code Annotated, Section 2-20-103(a)(1), is amended by deleting the language "Following each November general election the county election commission shall" and by substituting instead the language "Following each November general election any county election commission utilizing a precinct-based optical scanner shall".

SECTION 3. Tennessee Code Annotated, Section 2-20-104, is amended by deleting the section in its entirety and by substituting instead the following:

2-20-104.

(a)

(1) All new precinct-based optical scanners purchased or leased pursuant to this chapter:

(A) Shall be certified pursuant to § 2-9-110 and shall have been certified by the election assistance commission as having met the applicable voluntary voting systems guidelines. In addition, the precinct-based optical scanners shall be tested to ensure the scanners operate in accordance with the guidelines; and

(B) Shall, with all relevant documentation, be made available by their vendors, at the request of the state election commission or the secretary of state for review by an independent expert, selected by the state election commission or the secretary of state, to ensure the functionality and security of its systems.

(2) The state coordinator of elections shall enact necessary rules and regulations to require that all required tests are properly conducted on the precinct-based optical scanners as well as requiring a sufficient review be conducted of the precinct-based optical scanners and the relevant documentation to ensure compliance with this subsection (a).

(b) Prior to each election, all precinct-based optical scanners purchased, leased or used by any county election commission pursuant to this chapter shall be subject to acceptance testing by the commission in accordance with rules and regulations promulgated by the state coordinator of elections.

(c) With respect to precinct-based optical scanners purchased or leased pursuant to this chapter, vendors shall provide access to all information required by law, rule or regulation, which shall be placed in escrow with an agent designated by the secretary of state.

(d) No precinct-based optical scanners used in an election in this state shall have any capability, enabled or disabled, for wireless communication of any sort.

SECTION 4. Tennessee Code Annotated, Section 2-20-105, is amended by deleting the section in its entirety and by substituting instead the following:

2-20-105.

(a) At the request of a county election commission, the state coordinator of elections shall provide to the commission necessary assistance and guidance in the selection of a precinct-based optical scanner pursuant to the requirements of this chapter. To the extent federal funding through the Help America Vote Act (HAVA) remains available for the cost of purchasing or leasing any new precinct-based optical scanners, the coordinator shall provide financial assistance for purchasing or leasing such machines.

(b)

(1) The coordinator of elections shall provide a list of authorized printers for any county election commission to utilize for the printing of ballots required pursuant to this chapter.

(2) The coordinator of elections is authorized to explore the feasibility of utilizing ballot-on-demand technology.

SECTION 5. Tennessee Code Annotated, Section 2-1-104(a), is amended by deleting subdivisions (19), (31), (32) and (33).

SECTION 6. Section 6 of Chapter 1108 of the Public Acts of 2008, as amended by Chapter 612 of the Public Acts of 2010, is amended by deleting such section in its entirety.

SECTION 7. Nothing in this act shall be construed as restricting or otherwise prohibiting the utilization of precinct-based optical scanners approved for use pursuant to title 2, chapter 9, and in use by a county election commission on the effective date of this act or the replacement

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of such voting machines through lease or purchase with the approval of the state coordinator of elections.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

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PASSED: May 12, 2011



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 27 day of May 2011



BILL HASLAM, GOVERNOR