

HOUSE BILL No. 5877

May 20, 1998, Introduced by Rep. Law and referred to the Committee on Local Government.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 795a and 797a (MCL 168.795a and 168.797a),
as amended by 1996 PA 583.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 795a. (1) An electronic voting system shall not be
2 used in an election unless it is approved by the board of state
3 canvassers as meeting the requirements of sections 794 and 795
4 and instructions regarding recounts of ballots cast on that elec-
5 tronic voting system that have been issued by the secretary of
6 state, unless section 797c has been complied with, and unless it
7 meets 1 of the following conditions:
8 (a) Is certified by an independent testing authority
9 accredited by the national association of state election
10 directors and by the board of state canvassers.

1 (b) In the absence of an accredited independent testing
2 authority, is certified by the manufacturer of the voting system
3 as meeting or exceeding the performance and test standards refer-
4 enced in subdivision (a) in a manner prescribed by the board of
5 state canvassers.

6 (2) The vendor or representative seeking approval of an
7 electronic voting system shall do all of the following:

8 (a) Deposit with the secretary of state a nonrefundable
9 application fee of \$1,500.00 for a new voting system and a fee of
10 \$500.00 for an upgrade to any existing system.

11 (b) File with the secretary of state a list of all states in
12 which the voting system has been approved for use. This list
13 shall state how long the system has been used in the state and
14 shall disclose any reports compiled by any state or local govern-
15 ment concerning the performance of the system. The vendor shall
16 remain responsible for filing this information on an ongoing
17 basis.

18 (c) File with the secretary of state copies of all standard
19 contracts and maintenance agreements used in connection with the
20 sale of the voting system. All changes to standard contracts and
21 maintenance agreements shall be filed with the secretary of
22 state.

23 (d) Pay the cost for any field test required by the board of
24 state canvassers.

25 (3) The board of state canvassers shall conduct a field test
26 of all new voting systems as part of the certification process.

1 ~~The~~ WHEN CONDUCTING A field test, THE BOARD OF STATE CANVASSERS
2 shall ~~involve~~ DO ALL OF THE FOLLOWING:

3 (A) INVOLVE Michigan electors and election officials in sim-
4 ulated election day conditions. ~~The test shall be designed to~~
5 ~~gauge voter~~

6 (B) DESIGN THE TEST TO DETERMINE ALL OF THE FOLLOWING:

7 (i) VOTER reaction to the system. ~~,~~

8 (ii) ANY problems that voters have with the system. ~~, and~~
9 ~~the~~

10 (iii) THE number of voting stations required for the effi-
11 cient operation of an election.

12 (iv) THE ADEQUACY OF INSTRUCTIONAL MATERIALS PROVIDED BY THE
13 VENDOR TO ENSURE THAT VOTERS ARE PROPERLY PREPARED TO VOTE ON THE
14 NEW VOTING SYSTEM.

15 (4) The board of state canvassers shall approve an elec-
16 tronic voting system for use in this state only if it meets the
17 conditions of subsection (1) except that in an emergency situa-
18 tion that threatens the ability of a county, city, or township to
19 conduct a scheduled election, the board of state canvassers may
20 approve a correction of software or firmware after testing the
21 software or firmware performance.

22 (5) If an electronic voting system is approved for use
23 before January 1, 1997 by the board of state canvassers, it may
24 be used in an election. However, if the electronic voting system
25 has its software or firmware improved or changed, the system
26 shall comply with the requirements of subsection (1).

1 (6) After an electronic voting system is approved, an
2 improvement or change in the electronic voting system shall be
3 submitted to the board of state canvassers for approval pursuant
4 to this section. This subsection does not apply to the technical
5 capability of a general purpose computer, reader, or printer to
6 electronically record and count votes.

7 (7) A county, city, township, village, or school district
8 shall file "an intent to purchase statement" with the secretary
9 of state 30 days before any purchase agreement is made to pur-
10 chase a new voting system. The secretary of state shall provide
11 all information concerning the operation of the voting system in
12 Michigan or any other state to the local unit of government
13 within 25 days after receiving the "intent to purchase
14 statement".

15 (8) The secretary of state shall instruct local election
16 officials regarding the operation and use of an approved elec-
17 tronic voting system in order to carry out the purposes of sec-
18 tions 794 to 799a and the rules promulgated pursuant to sections
19 794 to 799a.

20 (9) If the board of state canvassers determines that an
21 electronic voting system that was approved under subsection (1)
22 no longer meets the requirements described in that subsection,
23 the board of state canvassers may disapprove that voting system.
24 An electronic voting system that has been disapproved by the
25 board of state canvassers under this subsection shall not be used
26 in an election, unless it is reapproved by the board of state
27 canvassers under subsection (1).

1 Sec. 797a. (1) Before ~~entering the voting station, each~~
2 ~~elector shall be offered~~ THE POLLS OPEN ON ELECTION DAY, THE
3 BOARD OF ELECTION INSPECTORS SHALL DESIGNATE 1 ELECTION INSPECTOR
4 TO BE THE INSPECTOR IN CHARGE OF OFFERING instruction in the
5 proper method of voting on the electronic voting system. THE
6 BOARD OF ELECTION INSPECTORS SHALL PLACE THE NAME OF THE DESIG-
7 NATED INSPECTOR OF INSTRUCTION IN THE POLL BOOK. THE DESIGNATED
8 INSPECTOR OF INSTRUCTION SHALL OFFER TO EACH ELECTOR BEFORE HE OR
9 SHE ENTERS THE VOTING STATION THE OPPORTUNITY FOR INSTRUCTION IN
10 VOTING ON THE SYSTEM. THE DESIGNATED INSPECTOR OF INSTRUCTION
11 SHALL ALSO INFORM EACH ELECTOR ABOUT THE PROCESS FOR REQUESTING
12 ASSISTANCE ONCE HE OR SHE ENTERS THE VOTING STATION. If the elec-
13 tor needs additional instruction after entering the voting sta-
14 tion, 2 election inspectors from different political parties may,
15 if necessary, enter the voting station and provide the additional
16 instructions. AN ELECTION OFFICIAL SHALL PROVIDE THAT APPROPRI-
17 ATE MATERIALS BE AVAILABLE IN EACH PRECINCT FOR THE INSTRUCTION
18 REQUIRED UNDER THIS SUBSECTION. AFTER THE POLLS CLOSE, THE DES-
19 IGNATED INSPECTOR OF INSTRUCTION SHALL SIGN A CERTIFICATE IN THE
20 POLL BOOK STATING THAT HE OR SHE OFFERED INSTRUCTION ON THE OPER-
21 ATION OF THE VOTING SYSTEM TO EACH ELECTOR AND, UPON REQUEST OF
22 AN ELECTOR, PROVIDED THAT INSTRUCTION.

23 (2) If the electronic voting system provides for the use of
24 a ballot that is processed through electronic tabulating equip-
25 ment after the elector votes, the elector shall transport the
26 ballot to the ballot box, or other approved ballot container,
27 without exposing any votes. An election inspector shall

1 ascertain, by comparing the number appearing on the ballot stub
2 with the number recorded on the poll list, that the ballot deliv-
3 ered by the voter is the same ballot that was issued to the
4 elector. If the numbers do not agree, the ballot shall be marked
5 as "rejected", and the elector shall not be allowed to vote. If
6 the numbers agree, an election inspector shall remove and discard
7 the stub. Except as otherwise provided in this subsection, the
8 election inspector shall deposit the ballot in the ballot box or
9 other approved ballot container. If electronic tabulating equip-
10 ment that deposits the voted ballot into the ballot box or other
11 approved ballot container is used at the precinct, the election
12 inspector shall return the ballot to the elector, and the elector
13 shall then deposit the ballot into the electronic tabulating
14 equipment. The electronic tabulating equipment shall be arranged
15 so that the secrecy of the ballot is not violated. If required
16 for the proper operation of the electronic tabulating equipment,
17 2 election inspectors from different political parties may peri-
18 odically open the equipment to rearrange voted ballots and may
19 transfer voted ballots to another approved ballot container.

20 (3) A ballot from which the stub is detached shall not be
21 accepted by the election inspector in charge of the ballot box or
22 other approved ballot container. An elector who spoils his or
23 her ballot may return it and secure another ballot. The word
24 "spoiled" shall be written across the face of the ballot, and the
25 ballot shall be marked and secured for later return.

26 (4) A ballot of a challenged voter that has the names of
27 candidates and questions printed directly on the voted ballot

1 shall be processed in the manner prescribed for challenging a
2 vote cast by paper ballot. A challenge to a voter voting on an
3 electronic voting system that does not use an individual hard
4 copy ballot shall be processed in the manner prescribed for chal-
5 lenging a vote cast on a voting machine.

6 (5) Except as otherwise provided in this act, an election
7 inspector shall not allow any portion of a ballot, including a
8 ballot stub, to be removed by any person other than an election
9 inspector from the polling place.