

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 53

Session of
2007

INTRODUCED BY FRANKEL, BARRAR, BIANCUCCI, BUXTON, CALTAGIRONE, CARROLL, COHEN, CURRY, DALEY, DeLUCA, DePASQUALE, FREEMAN, GEORGE, GOODMAN, GRUCELA, HALUSKA, HUTCHINSON, JAMES, KILLION, KING, KOTIK, LEVDANSKY, MACKERETH, MANN, MUNDY, MUSTIO, NICKOL, PETRONE, READSHAW, REICHLEY, SAMUELSON, SANTONI, M. SMITH, R. STEVENSON, SURRA, SWANGER, TANGRETTI, WALKO, WHEATLEY, WOJNAROSKI, YOUNGBLOOD, MELIO, CASORIO, SOLOBAY, DERMODY, LEACH, ROEBUCK, STURLA, CONKLIN, RAMALEY, KULA, RAPP, DALLY, GIBBONS, WANSACZ, RUBLEY, COSTA, SAINATO AND ROSS, JANUARY 30, 2007

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 30, 2007

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
2 "An act concerning elections, including general, municipal,
3 special and primary elections, the nomination of candidates,
4 primary and election expenses and election contests; creating
5 and defining membership of county boards of elections;
6 imposing duties upon the Secretary of the Commonwealth,
7 courts, county boards of elections, county commissioners;
8 imposing penalties for violation of the act, and codifying,
9 revising and consolidating the laws relating thereto; and
10 repealing certain acts and parts of acts relating to
11 elections," further providing for election day procedures and
12 the process of voting; and requiring a voter-verified
13 permanent paper record.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 1112-A(a) of the act of June 3, 1937
17 (P.L.1333, No.320), known as the Pennsylvania Election Code, is
18 amended by adding a paragraph to read:

19 Section 1112-A. Election Day Procedures and the Process of

1 Voting.--(a) In an election district which uses an electronic
2 voting system in which votes are registered electronically, the
3 following procedures will be applicable for the conduct of the
4 election at the election district:

5 * * *

6 (4.1) The voting system, pursuant to section 1112.1-A, shall
7 produce or require the use of an individual voter-verified paper
8 record of the voter's vote that shall be made available for
9 inspection and verification by the voter before the voter's vote
10 is cast.

11 * * *

12 Section 2. The act is amended by adding a section to read:

13 Section 1112.1-A. Voter-verified Record.--(a) Voting
14 systems required to produce an individual voter-verified paper
15 record under section 1112-A(a)(4.1) shall do so pursuant to this
16 section.

17 (b) A voter-verified paper record may include any of the
18 following:

19 (1) A paper ballot prepared by the voter for the purpose of
20 being read by an optical scanner.

21 (2) A paper ballot prepared by the voter to be mailed to an
22 election official, whether from a domestic or overseas location.

23 (3) A paper ballot created through the use of a ballot
24 marking device.

25 (4) A paper printout of the voter's vote produced by a touch
26 screen or other electronic voting machine if, in each case, the
27 record permits the voter to verify the record in accordance with
28 this section.

29 (c) The voting system shall do all of the following:

30 (1) Provide the voter with an opportunity to correct any

error made by the system in the voter-verified paper record before the permanent voter-verified paper record is preserved in accordance with this section.

(2) Not preserve the voter-verifiable paper records in any manner that makes it possible to associate a voter with the record of the voter's vote.

(d) The permanent voter-verified paper record produced in accordance with this section shall be preserved as follows:

(1) In the case of votes cast at the polling place on the date of the election, within the polling place in the manner or method in which all other paper ballots are preserved within such polling place.

(2) In the case of votes cast at the polling place prior to the date of the election or cast by mail, in a manner which is consistent with the manner employed by the jurisdiction for preserving such ballots in general.

(3) In the absence of either manner or method listed in clauses (1) and (2), in a manner which is consistent with the manner employed by the jurisdiction for preserving paper ballots in general.

(e) Each permanent paper record produced shall be suitable for a mandatory manual audit pursuant to subsection (f). In the event of any inconsistencies or irregularities between any electronic records and the individual permanent paper records, the individual permanent paper records shall be the true and correct record of the votes cast.

(f) (1) Each county shall conduct mandatory hand counts of the voter-verified paper records in at least five (5) per centum of the precincts.

(2) (i) As soon as practical following the closing of the

polls, the county board of elections shall do all of the following:

(A) Complete the initial vote count for every precinct participating in the election in that county and publicly announce the results of each initial vote count as soon as the results are available.

(B) Publicly conduct a random drawing as specified in clause (3) to determine which of the precincts in the county will be selected for the mandatory hand counts of the voter-verified paper records as specified in clause (1). A drawing shall not occur until such time as all initial vote counts have been completed and the results publicly announced, but no later than forty-eight hours after that time.

(C) Publicly announce the date, time and location of the public random drawing at least twenty-four hours before the drawing is conducted.

(D) Publicly announce the date, time and location of the public mandatory hand counts at least twenty-four hours before the hand counts are initiated.

(E) Initiate mandatory hand counts of the voter-verified paper records in the precincts selected as specified in paragraph (B) no later than forty-eight hours after the selection of precincts is made.

(F) Complete hand counts no later than twenty-four hours after the hand counts are initiated and publicly announce the results of each mandatory hand count as soon as the results are available.

(ii) With respect to votes cast at the precinct or equivalent location on or before the date of the election, other than provisional ballots, the county board of elections shall

1 require to be counted by hand the voter-verified paper records
2 and compare those records with the initial count of the votes as
3 announced by the precinct.

4 (iii) With respect to votes cast other than at the precinct
5 on the date of the election or votes cast by provisional ballot
6 on the date of the election which are certified and counted by
7 the county on or after the date of the election, including votes
8 cast by absent uniformed services voters and overseas voters,
9 the county board of elections shall count by hand the applicable
10 voter-verified paper records and compare its count with the
11 machine tally of those votes.

12 (3) The selection of the precincts in a county in which the
13 county board of elections shall conduct hand counts of the
14 voter-verified paper records as specified in this subsection
15 shall be made publicly by the county board of elections on an
16 entirely random basis using a uniform distribution in which all
17 precincts in a county have an equal chance of being selected.
18 The timing of when the random selection is made shall be
19 specified in clause (2)(i).

20 (4) If the county board of elections finds that any of the
21 hand counts conducted under this subsection show a discrepancy
22 between the hand count and the initial vote count in a
23 jurisdiction within the county, the county board of elections
24 shall conduct hand counts under this subsection at such
25 additional precincts within the county as the county board of
26 elections considers appropriate to resolve any concerns and
27 ensure the accuracy of the results.

28 (5) (i) As soon as practicable after the completion of an
29 audit conducted under this subsection, the county board of
30 elections shall announce and publish the results of the audit

1 and shall include in the announcement a comparison of the
2 results of the election in the precinct as determined by the
3 county board of elections under the audit and the initial vote
4 count in the precinct as announced by the county board of
5 elections as specified in clause (2)(i)(A), broken down by the
6 categories of votes described in clause (2)(ii) and (iii). Any
7 discrepancies between the corresponding audit results and
8 initial vote counts shall be duly noted, along with a
9 description of the actions taken by the county board of
10 elections for resolution of the discrepancies.

11 (ii) No county may certify the results of any election which
12 is subject to an audit under this subsection prior to the
13 completion of the audit and the announcement and publication of
14 the results of the audit under subclause (i).

15 Section 3. The addition of sections 1112-A(a)(4.1) and
16 1112.1-A shall apply to elections occurring one year or more
17 after the effective date of this section.

18 Section 4. This act shall take effect in 60 days.