



2005 SENATE BILL 296

August 24, 2005 - Introduced by Senators PLALE, CARPENTER, ERPENBACH, GROTHMAN, HANSEN, A. LASEE, OLSEN, REYNOLDS and RISSER, cosponsored by Representatives POCAN, FREESE, AINSWORTH, BERCEAU, BLACK, GRIGSBY, GUNDERSON, KESSLER, LEHMAN, LOTHIAN, MOLEPSKE, MUSSER, NELSON, PARISI, POPE-ROBERTS, RICHARDS, SEIDEL, SHERIDAN, SHERMAN, SHILLING, SINICKI, TOWNSEND, TRAVIS and WOOD. Referred to Committee on Labor and Election Process Reform.

1 **AN ACT** *to amend* 5.84 (title) and 5.91 (18); and *to create* 5.84 (3) and 5.91 (19)
2 of the statutes; **relating to:** electronic voting system standards.

Analysis by the Legislative Reference Bureau

Currently, with limited exceptions, every municipality with a population of 7,500 or more must use voting machines or an electronic voting system at all primaries and other elections held in the municipality. Either mechanical or electronic voting machines may be used. No electronic voting system, including an electronic voting machine, may be used unless the system meets statutory standards and is approved by the State Elections Board for use at elections held in this state. The system must enable an elector to privately verify the votes selected by the elector before casting his or her ballot. All electronic voting systems must be tested publicly before each election to determine if they are functioning properly. If voting machines are used, ballots need not be printed and distributed to electors, but if electronic voting machines are used, the machines must maintain a cumulative tally of votes cast that is retrievable in the event of a power outage, evacuation, or malfunction so that the record of the votes cast prior to the time that the problem occurs is preserved, and the machines must produce a permanent paper of record of the vote cast by each elector at the time that it is cast that enables a manual count or recount of the elector's vote. Currently, there is no requirement pertaining to accessibility or independent verification of software that is used to operate a system or to record and tally the votes cast.

This bill provides that if a municipality uses an electronic voting system that consists of a voting machine, the machine must generate a complete paper ballot

SENATE BILL 296

showing all votes cast by each elector that is visually verifiable by the elector before the elector leaves the machine and that enables a manual count or recount of each vote cast by the elector.

The bill also provides that the coding for the software that is used to operate the system on election day and to tally the votes cast must be publicly accessible and must be able to be used to independently verify the accuracy and reliability of the operating and tallying procedures to be employed at an election. In addition, the bill provides that each municipal clerk or board of election commissioners of a municipality that uses an electronic voting system for voting at an election shall provide to any person, upon request, at municipal expense, the coding for the software that the municipality uses to operate the system and to record and tally the votes cast.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 5.84 (title) of the statutes is amended to read:

2 **5.84 (title) Testing of equipment; custody of requirements for programs**
3 **and ballots.**

4 **SECTION 2.** 5.84 (3) of the statutes is created to read:

5 5.84 (3) If a municipality uses an electronic voting system for voting at any
6 election, the municipal clerk shall provide to any person, upon request, at the
7 expense of the municipality, the coding for the software that the municipality uses
8 to operate the system and to tally the votes cast.

9 **SECTION 3.** 5.91 (18) of the statutes, as created by 2003 Wisconsin Act 265, is
10 amended to read:

11 5.91 (18) ~~It produces a permanent paper record of the vote~~ If the device consists
12 of an electronic voting machine, it generates a complete paper ballot showing all
13 votes cast by each elector at the time that it is cast that is visually verifiable by the

SENATE BILL 296

1 elector before the elector leaves the machine and that enables a manual count or
2 recount of ~~the elector's~~ each vote cast by the elector.

3 **SECTION 4.** 5.91 (19) of the statutes is created to read:

4 5.91 (19) The coding for the software that is used to operate the system on
5 election day and to tally the votes cast is publicly accessible and may be used to
6 independently verify the accuracy and reliability of the operating and tallying
7 procedures to be employed at any election.

8 **SECTION 5. Initial applicability.**

9 (1) This act first applies with respect to elections held on the effective date of
10 this subsection.

11 **SECTION 6. Effective date.**

12 (1) This act takes effect on January 1, 2006, or the day after publication,
13 whichever is later.

14 (END)