

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 334, Page 1, Section A, Line 2, by
2 inserting after all of said section and line the following:

3
4 "115.225. 1. Before use by election authorities in this state, the secretary of state shall
5 approve the marking devices and the automatic tabulating equipment used in electronic voting
6 systems and may promulgate rules and regulations to implement the intent of sections 115.225 to
7 115.235.

8 2. No electronic voting system shall be approved unless it:

9 (1) Permits voting in absolute secrecy;

10 (2) Permits each voter to vote for as many candidates for each office as a voter is lawfully
11 entitled to vote for;

12 (3) Permits each voter to vote for or against as many questions as a voter is lawfully entitled
13 to vote on, and no more;

14 (4) Provides facilities for each voter to cast as many write-in votes for each office as a voter
15 is lawfully entitled to cast;

16 (5) Permits each voter in a primary election to vote for the candidates of only one party
17 announced by the voter in advance;

18 (6) Permits each voter at a presidential election to vote by use of a single mark for the
19 candidates of one party or group of petitioners for president, vice president and their presidential
20 electors;

21 (7) Accurately counts all proper votes cast for each candidate and for and against each
22 question;

23 (8) Is set to reject all votes, except write-in votes, for any office and on any question when
24 the number of votes exceeds the number a voter is lawfully entitled to cast;

25 (9) Permits each voter, while voting, to clearly see the ballot label;

26 (10) Has been tested and is certified by an independent authority that meets the voting

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1 system standards developed by the Federal Election Commission or its successor agency. The
2 provisions of this subdivision shall not be required for any system purchased prior to August 28,
3 2002;

4 (11) Permits each voter at a general election to vote for all candidates of one party by one
5 punch or mark or to vote a split ticket, as a voter desires.

6 3. The secretary of state shall promulgate rules and regulations to allow the use of a
7 computerized voting system. The procedures shall provide for the use of a computerized voting
8 system with the ability to provide a paper audit trail. Notwithstanding any provisions of this chapter
9 to the contrary, such a system may allow for the storage of processed ballot materials in an
10 electronic form.

11 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
12 under the authority delegated in this section shall become effective only if it complies with and is
13 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
14 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to
15 chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently
16 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
17 August 28, 2002, shall be invalid and void.

18 115.237. 1. Each ballot printed or designed for use with an electronic voting system for any
19 election pursuant to this chapter shall contain all questions and the names of all offices and
20 candidates certified or filed pursuant to this chapter and no other. As far as practicable, all questions
21 and the names of all offices and candidates for which each voter is entitled to vote shall be printed
22 on one page except for the ballot for political party committee persons in polling places not utilizing
23 an electronic voting system which may be printed separately and in conformity with the
24 requirements contained in this section. As far as practicable, ballots containing only questions and
25 the names of nonpartisan offices and candidates shall be printed in accordance with the provisions
26 of this section, except that the ballot information may be listed in vertical or horizontal rows. The
27 names of candidates for each office shall be listed in the order in which they are filed.

28 2. In polling places using electronic voting systems, the ballot information may be arranged
29 in vertical or horizontal rows or on a number of separate pages or screens. In any event, the name of
30 each candidate, the candidate's party, the office for which he or she is a candidate, and each question
31 shall be indicated clearly on the ballot.

32 3. Nothing in this subchapter shall be construed as prohibiting the use of a separate paper
33 ballot for questions or for the presidential preference primary in any polling place using an
34 electronic voting system.

35 4. Where electronic voting systems are used and when write-in votes are authorized by law,
36 a write-in ballot, which may be in the form of a separate paper ballot, card, or envelope, may be
37 provided by the election authority to permit each voter to write in the names of persons whose
38 names do not appear on the ballot.

1 5. ~~[No ballot printed or designed for use with an electronic voting system for any partisan~~
 2 ~~election held under this chapter shall allow a person to vote a straight political party ticket. For~~
 3 ~~purposes of this subsection, a "straight political party ticket" means voting for all of the candidates~~
 4 ~~for elective office who are on the ballot representing a single political party by a single selection on~~
 5 ~~the ballot.~~

6 ~~6.]~~ The secretary of state shall promulgate rules that specify uniform standards for ballot
 7 layout for each electronic or computerized ballot counting system approved under the provisions of
 8 section 115.225 so that the ballot used with any counting system is, where possible, consistent with
 9 the intent of this section. Nothing in this section shall be construed to require the format specified in
 10 this section if it does not meet the requirements of the ballot counting system used by the election
 11 authority.

12 ~~[7.]~~ 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is
 13 created under the authority delegated in this section shall become effective only if it complies with
 14 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
 15 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
 16 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are
 17 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
 18 adopted after August 28, 2002, shall be invalid and void.

19 115.249. No voting machine shall be used unless it:

20 (1) Permits voting in absolute secrecy;

21 (2) Permits each voter to vote for as many candidates for each office as he is lawfully
 22 entitled to vote for, and no other;

23 (3) Permits each voter to vote for or against as many questions as he is lawfully entitled to
 24 vote on, and no more;

25 (4) Provides facilities for each voter to cast as many write-in votes for each office as he is
 26 lawfully entitled to cast;

27 (5) Permits each voter in a primary election to vote for the candidates of only one party
 28 announced by the voter in advance;

29 (6) Correctly registers or records and accurately counts all votes cast for each candidate and
 30 for and against each question;

31 (7) Is provided with a lock or locks which prevent any movement of the voting or
 32 registering mechanism and any tampering with the mechanism;

33 (8) Is provided with a protective counter or other device whereby any operation of the
 34 machine before or after an election will be detected;

35 (9) Is provided with a counter which shows at all times during the election how many
 36 people have voted on the machine;

1 (10) Is provided with a proper light which enables each voter, while voting, to clearly see
2 the ballot labels;

3 (11) Permits each voter at a general election to vote for all candidates of one party by use of
4 a single lever or to vote a split ticket, as the voter desires."; and

5
6 Further amend said bill, Page 7, Section 115.427, Line 204, by inserting after all of said section and
7 line the following:

8
9 "115.439. 1. ~~[If paper ballots are used, the voter shall, immediately upon receiving~~
10 ~~his ballot, go alone to a voting booth and vote his ballot in the following manner:~~

11 ~~———— (1) When a voter desires to vote for a candidate, the voter shall place a~~
12 ~~distinguishing mark immediately beside the name of the candidate for which the voter intends to~~
13 ~~vote;~~

14 ~~———— (2) If a write-in line appears on the ballot, the voter may write the name of the person for~~
15 ~~whom he or she wishes to vote on the line and place a distinguishing mark immediately beside the~~
16 ~~name;]~~ If a voter desires to vote a straight party ticket, the voter may place a cross (X) mark in the
17 circle directly below the party name at the head of the column, or may place cross (X) marks in the
18 squares directly to the left of the names of candidates on one party ticket;

19 (2) If the voter desires to vote a split party ticket, the voter may place a cross (X) mark in
20 the circle directly below one party name at the head of the column and cross (X) marks in the
21 squares directly to the left of the names of candidates on other party tickets, or may place cross (X)
22 marks in the squares directly to the left of the names of candidates on different party tickets.

23 (3) If the ballot is one which contains no candidates, the voter shall place a distinguishing
24 mark directly to the left of each "YES" or "NO" he desires to vote.

25 No voter shall vote for the same person more than once for the same office at the same
26 election.

27 2. If the voter accidentally spoils his ballot or ballot card or makes an error, he may
28 return it to an election judge and receive another. The election judge shall mark "SPOILED" across
29 the ballot or ballot card and place it in an envelope marked "SPOILED BALLOTS". After another
30 ballot has been prepared in the manner provided in section 115.433, the ballot shall be given to the
31 voter for voting.

32 3. Any rule or portion of a rule, as that term is defined in section 536.010, that is
33 created under the authority delegated in this section shall become effective only if it complies with
34 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
35 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
36 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are

1 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
2 adopted after August 28, 2002, shall be invalid and void.

3 115.449. 1. As soon as the polls close in each polling place using paper ballots, the
4 election judges shall begin to count the votes. If earlier counting is begun pursuant to section
5 115.451, the election judges shall complete the count in the manner provided by this section. Once
6 begun, no count shall be adjourned or postponed until all proper votes have been counted.

7 2. One counting judge, closely observed by the other counting judge, shall take the
8 ballots out of the ballot box one at a time and, holding each ballot in such a way that the other
9 counting judge may read it, shall read the name of each candidate properly voted for and the office
10 sought by each. As each vote is called out, the recording judges shall each record the vote on a tally
11 sheet. The votes for and against all questions shall likewise be read and recorded. If more than one
12 political subdivision or special district is holding an election on the same day at the same polling
13 place and using separate ballots, the counting judges may separate the ballots of each political
14 subdivision and special district and first read one set, then the next and so on until all proper votes
15 have been counted. In a general election, the counting judges may separate the straight party ballots
16 from the split party ballots and first read one and then the other.

17 3. After the recording of all proper votes, the recording judges shall compare their
18 tallies. When the recording judges agree on the count, they shall sign both of the tally sheets, and
19 one of the recording judges shall announce in a loud voice the total number of votes for each
20 candidate and for and against each question.

21 4. After the announcement of the vote, the election judges shall record the vote totals
22 in the appropriate places on each statement of returns. If any tally sheet or statement of returns
23 contains no heading for any question, the election judges shall write the necessary headings on the
24 tally sheet or statement of returns.

25 115.453. Election judges shall count votes for all candidates in the following manner:

26 ~~[(1) No candidate shall be counted as voted for, except a candidate before whose~~
27 ~~name a distinguishing mark appears preceding the name and a distinguishing mark does not appear~~
28 ~~in the square preceding the name of any candidate for the same office in another column. Except as~~
29 ~~provided in this subdivision and subdivision (2) of this section, each candidate with a distinguishing~~
30 ~~mark preceding his or her name shall be counted as voted for;~~

31 ~~————(2) If distinguishing marks appear next to the names of more candidates for an office~~
32 ~~than are entitled to fill the office, no candidate for the office shall be counted as voted for. If more~~
33 ~~than one candidate is to be nominated or elected to an office, and any voter has voted for the same~~
34 ~~candidate more than once for the same office at the same election, no votes cast by the voter for the~~
35 ~~candidate shall be counted;]~~

36 (1) If a cross (X) mark appears in the circle immediately below a party name at the head of a
37 column, each candidate of the party shall be counted as voted for. If a cross (X) mark appears in the

1 circle immediately below more than one party name, no candidate shall be counted as voted for,
2 except a candidate before whose name a cross (X) mark appears in the square preceding the name
3 and a cross (X) mark does not appear in the square preceding the name of any candidate for the
4 same office in another column. If a cross (X) mark appears in the circle immediately below a party
5 name at the head of a column, and a cross (X) mark appears in the square next to the name of any
6 candidate in another column, each candidate of the party whose circle is marked shall be counted as
7 voted for, except where a cross (X) mark appears in the square preceding the name of any candidate
8 in another column. Except as provided in this subdivision and subdivision (2) of this section, each
9 candidate with a cross (X) mark in the square preceding his or her name shall be counted as voted
10 for;

11 (2) If no cross (X) mark appears in the circle immediately below any party name, but a cross
12 (X) mark does appear in the square next to any candidate's name, the name of each candidate next to
13 which a cross (X) mark appears shall be counted as voted for, and no other name shall be counted as
14 voted for. If cross (X) marks appear next to the names of more candidates for an office than are
15 entitled to fill the office, no candidate for the office shall be counted as voted for. If more than one
16 candidate is to be nominated or elected to an office, and any voter has voted for the same candidate
17 more than once for the same office at the same election, no votes cast by the voter for the candidate
18 shall be counted;

19 (3) No vote shall be counted for any candidate that is not marked substantially in
20 accordance with the provisions of this section. The judges shall count votes marked substantially in
21 accordance with this section and section 115.456 when the intent of the voter seems clear.
22 Regulations promulgated by the secretary of state shall be used by the judges to determine voter
23 intent. No ballot containing any proper votes shall be rejected for containing fewer marks than are
24 authorized by law;

25 (4) Write-in votes shall be counted only for candidates for election to office who have filed
26 a declaration of intent to be a write-in candidate for election to office with the proper election
27 authority, who shall then notify the proper filing officer of the write-in candidate prior to 5:00 p.m.
28 on the second Friday immediately preceding the election day; except that, write-in votes shall be
29 counted only for candidates for election to state or federal office who have filed a declaration of
30 intent to be a write-in candidate for election to state or federal office with the secretary of state
31 pursuant to section 115.353 prior to 5:00 p.m. on the second Friday immediately preceding the
32 election day. No person who filed as a party or independent candidate for nomination or election to
33 an office may, without withdrawing as provided by law, file as a write-in candidate for election to
34 the same office for the same term. No candidate who files for nomination to an office and is not
35 nominated at a primary election may file a declaration of intent to be a write-in candidate for the
36 same office at the general election. When declarations are properly filed with the secretary of state,
37 the secretary of state shall promptly transmit copies of all such declarations to the proper election
38 authorities for further action pursuant to this section. The election authority shall furnish a list to the
39 election judges and counting teams prior to election day of all write-in candidates who have filed
40 such declaration. This subdivision shall not apply to elections wherein candidates are being elected

1 to an office for which no candidate has filed. No person shall file a declaration of intent to be a
2 write-in candidate for election to any municipal office unless such person is qualified to be certified
3 as a candidate under section 115.306;

4 (5) Write-in votes shall be cast and counted for a candidate without party designation.
5 Write-in votes for a person cast with a party designation shall not be counted. Except for candidates
6 for political party committees, no candidate shall be elected as a write-in candidate unless such
7 candidate receives a separate plurality of the votes without party designation regardless of whether
8 or not the total write-in votes for such candidate under all party and without party designations totals
9 a majority of the votes cast;

10 (6) When submitted to the election authority, each declaration of intent to be a write-in
11 candidate for the office of United States president shall include the name of a candidate for vice
12 president and the name of nominees for presidential elector equal to the number to which the state is
13 entitled. At least one qualified resident of each congressional district shall be nominated as
14 presidential elector. Each such declaration of intent to be a write-in candidate shall be accompanied
15 by a declaration of candidacy for each presidential elector in substantially the form set forth in
16 subsection 3 of section 115.399. Each declaration of candidacy for the office of presidential elector
17 shall be subscribed and sworn to by the candidate before the election official receiving the
18 declaration of intent to be a write-in, notary public or other officer authorized by law to administer
19 oaths."; and

20
21 Further amend said bill by amending the title, enacting clause, and intersectional references
22 accordingly.