SENATE BILL NO. 816

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CARTER.

AN ACT

To repeal section 115.225, RSMo, and to enact in lieu thereof one new section relating to electronic voting systems, with an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 115.225, RSMo, is repealed and one new
2   section enacted in lieu thereof, to be known as section 115.225,
3   to read as follows:

115.225. 1. Before use by election authorities in
2   this state, the secretary of state shall approve the marking
3   devices and the automatic tabulating equipment used in
4   electronic voting systems and may promulgate rules and
5   regulations to implement the intent of sections 115.225 to
6   115.235.
7   2. No electronic voting system shall be approved
8   unless it:
9   (1) Permits voting in absolute secrecy;
10   (2) Permits each voter to vote for as many candidates
11   for each office as a voter is lawfully entitled to vote for;
12   (3) Permits each voter to vote for or against as many
13   questions as a voter is lawfully entitled to vote on, and no
14   more;
15   (4) Provides facilities for each voter to cast as many
16   write-in votes for each office as a voter is lawfully
17   entitled to cast;

18   (5)   Permits each voter in a primary election to vote

19 for the candidates of only one party announced by the voter

20 in advance;

21   (6)   Permits each voter at a presidential election to

22 vote by use of a single mark for the candidates of one party

23 or group of petitioners for president, vice president and

24 their presidential electors;

25   (7)   Accurately counts all proper votes cast for each

26 candidate and for and against each question;

27   (8)   Is set to reject all votes, except write-in votes,

28 for any office and on any question when the number of votes

29 exceeds the number a voter is lawfully entitled to cast;

30   (9)   Permits each voter, while voting, to clearly see

31 the ballot label;

32   (10) Has been tested and is certified by an

33 independent authority that meets the voting system standards

34 developed by the Federal Election Commission or its

35 successor agency. The provisions of this subdivision shall

36 not be required for any system purchased prior to August 28,

37 2002;

38   **(11) Is developed, owned, and maintained by a business**

39 **entity registered in the United States and owned by United**

40 **States citizens. If the business entity is publicly held,**

41 **the board of directors and the majority stockholders shall**

42 **be United States citizens. The business entity shall not be**

43 **a subsidiary of any multinational firm and shall have its**

44 **principal place of business located within the United States;**

45   **(12) Meets the requirements of subsection 10 of this**

46 **section.**

47   3. The secretary of state shall promulgate rules and

48 regulations to allow the use of a computerized voting

49 system. The procedures shall provide for the use of a

50 computerized voting system with the ability to provide a

51 paper audit trail. Notwithstanding any provisions of this

52 chapter to the contrary, such a system may allow for the

53 storage of processed ballot materials in an electronic form.

54   4. Any rule or portion of a rule, as that term is

55 defined in section 536.010, that is created under the

56 authority delegated in this section shall become effective

57 only if it complies with and is subject to all of the

58 provisions of chapter 536 and, if applicable, section

59 536.028. This section and chapter 536 are nonseverable and

60 if any of the powers vested with the general assembly

61 pursuant to chapter 536 to review, to delay the effective

62 date or to disapprove and annul a rule are subsequently held

63 unconstitutional, then the grant of rulemaking authority and

64 any rule proposed or adopted after August 28, 2002, shall be

65 invalid and void.

66   5. If any election authority uses any touchscreen

67 direct-recording electronic vote-counting machine, the

68 election authority may continue to use such machine. Upon

69 the removal of such voting machine from the election

70 authority's inventory because of mechanical malfunction,

71 wear and tear, or any other reason, the machine shall not be

72 replaced and no additional direct-recording electronic vote-

73 counting machine shall be added to the election authority's

74 inventory. Such machines shall not be used beginning

75 January 1, 2024. Equipment that is designed for

76 accessibility shall provide a paper ballot audit trail.

77   6. (1) Each election authority that controls its own

78 information technology department shall, once every two

79 years, allow a cyber security review of their office by the

80 secretary of state or alternatively by an entity that

81 specializes in cyber security reviews. Each political

82 subdivision that controls the information technology

83 department for an election authority shall, once every two

84 years, allow a cyber security review of the information

85 technology department by the secretary of state or

86 alternatively by an entity that specializes in cyber

87 security reviews. The secretary of state shall, once every

88 two years, allow a cyber security review of its office by an

89 entity that specializes in cyber security reviews. For

90 purposes of this section, an entity specializes in cyber

91 security review if it employs one or more individuals who:

92   (a) Have at least five years management experience in

93 information security or five years' experience as an

94 information security analyst;

95   (b) Have worked in at least two of the domains listed

96 in paragraph (c) of this subdivision that are covered in the

97 exam required by such paragraph; and

98   (c) Have attained an information security

99 certification by passing an exam that covers at least three

100 of the following topics:

101   a. Information technology risk management,

102 identification, mitigation, and compliance;

103   b. Information security incident management;

104   c. Information security program development and

105 management;

106   d. Risk and control monitoring and reporting;

107   e. Access control systems and methodology;

108   f. Business continuity planning and disaster recovery

109 planning;

110   g. Physical security of election authority property;

111   h. Networking security; or

112   i. Security architecture application and systems

113 development.

114   (2) If an election authority or political subdivision

115   fails to have a cyber security review as required by this

116   subsection, the secretary of state may publish a notice of

117   noncompliance in a newspaper within the jurisdiction of the

118   election authority or in electronic format. The secretary

119   of state is also authorized to withhold funds from an

120   election authority in violation of this section unless such

121   funding is a federal mandate or part of a federal and state

122   agreement.

123   7. The secretary of state shall have authority to

124   require cyber security testing, including penetration

125   testing, of vendor machines, programs, and systems. Failure

126   to participate in such testing shall result in a revocation

127   of vendor certification. Upon notice from another

128   jurisdiction of cyber security failures or certification

129   withholds or revocation, the secretary of state shall have

130   authority to revoke or withhold certification for vendors.

131   The requirements of this section shall be subject to

132   appropriation for the purpose of cyber security testing.

133   8. The secretary of state may designate an

134   organization of which each election authority shall be a

135   member, provided there is no membership fee and the

136   organization provides information to increase cyber security

137   and election integrity efforts.

138   9. All audits required by subsection 6 of this section

139   that are conducted by the secretary of state shall be solely

140   paid for by state and federal funding.

141   **10. (1) As used in this subsection, the following**

142   **terms mean:**

143   **(a) "Corresponding source", for an electronic voting**

144   **system in object code form, all the source code needed to**

145   **generate, install, and, for an executable electronic voting**

146   **system, run the object code and to modify the electronic**

147   **voting system, including scripts to control those**

148   **activities. "Corresponding source" does not include the**

149   **electronic voting system's system libraries, general-purpose**

150   **tools, or generally available free programs that are used**

151   **unmodified in performing those activities but are not part**

152   **of the work. "Corresponding source" includes interface**

153   **definition files associated with source files for the**

154   **electronic voting system, the source code for shared**

155   **libraries, and dynamically linked subprograms that the**

156   **electronic voting system is specifically designed to**

157   **require, such as by intimate data communication or control**

158   **flow between those subprograms and other parts of the**

159   **electronic voting system;**

160   **(b) "Object code", any non-source form of an**

161   **electronic voting system;**

162   **(c) "Source code", the preferred form of the**

163   **electronic voting system for making modifications to it;**

164   **(d) "Standard interface", an interface that either is**

165   **an official standard defined by a recognized standards body,**

166   **or, in the case of interfaces specified for a particular**

167   **programming language, one that is widely used among**

168   **developers working in that language;**

169   **(e) "System libraries", a catalog of an executable**

170   **electronic voting system, including anything, other than the**

171   **electronic voting system as a whole, that is included in the**

172   **normal form of packaging a major component but is not part**

173   **of that major component and serves only to enable use of the**

174   **electronic voting system with that major component or to**

175   **implement a standard interface for which an implementation**

176   **is available to the public in source code form. As used in**

177   **this paragraph, a "major component" is a major essential**

178   **component including, but not limited to, a kernel or window**

179   **system of the specific operating system on which the**

180   **executable electronic voting system runs, a compiler used to**

181   **produce the electronic voting system, or an object code**

182   **interpreter used to run it.**

183   **(2) Any software, or hardware containing software or**

184   **firmware, used in an electronic voting system in this state**

185   **shall have the full corresponding source code of the**

186   **software or firmware made publicly available by the**

187   **secretary of state at no cost, upon request of any resident**

188   **or citizen of this state. The full corresponding source**

189   **code provided shall exactly match the code necessary to**

190   **recreate any object code currently being used or deployed by**

191   **the state or any of its political subdivisions for election**

192   **tabulation purposes. Additionally, the full corresponding**

193   **source code for any software or firmware used for election**

194   **tabulation purposes in prior elections shall be retained by**

195   **the secretary of state and made available upon request for a**

196   **period of ten years after the certification of the results**

197   **of the relevant election.**

198   **(3) The corresponding source shall not be required to**

199   **include anything that users can regenerate automatically**

200   **from other parts of the corresponding source.**

201   **(4) The corresponding source for an electronic voting**

202   **system in source code form is that same electronic voting**

203   **system.**

         Section B. The repeal and reenactment of section

  2   115.225 of this act shall become effective January 1, 2025.

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