

2011 -- H 5454

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO ELECTIONS -- CONDUCT OF ELECTIONS

Introduced By: Representatives Newberry, and Marcello

Date Introduced: February 16, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 17-19-3, 17-19-9 and 17-19-10 of the General Laws in Chapter 17-
2 19 entitled "Conduct of Election and Voting Equipment, and Supplies" are hereby amended to
3 read as follows:

4 **17-19-3. Voting equipment and services -- Specifications.** -- (a) The office of secretary
5 of state and the state board of elections shall submit specifications to the department of
6 administration, which the department of administration shall consult in developing a request for a
7 proposal, as set forth in section 17-19-2.1. These specifications must be submitted to the
8 department of administration within thirty (30) days of the passage of this bill. These
9 specifications and the request for a proposal for the options of purchasing, leasing to own or
10 renting an optical scan precinct count voting system, and for a full service contract for an optical
11 scan precinct count voting system, shall propose an optical scan precinct count system that shall
12 be constructed and shall operate in a manner that meets the following minimum requirements:

13 (1) It shall enable the voter to:

14 (i) Mark his or her ballot and cast his or her vote in secrecy;

15 (ii) Vote for all candidates of political parties or organizations, and for or against
16 questions as submitted;

17 ~~(iii) Vote for all the candidates of one party or in part for the candidates of one or more~~
18 ~~other parties;~~

19 ~~(iv)~~(iii) Vote for as many persons for an office as the voter is lawfully entitled to vote

1 for, but no more; and

2 ~~(v)~~(iv) Vote on any question the voter may have the right to vote on;

3 (2) It shall prevent the voter from voting for the same person more than once for the
4 same office;

5 (3) The voting equipment shall allow the voter to cast one vote, thereby allowing the
6 voter to vote for all the presidential electors of a party by marking one mark on the ballot, and a
7 ballot containing only the words "presidential electors for" preceded by the name of that party
8 and followed by the names of the candidates of that party for the offices of president and vice-
9 president; provided, that means shall be furnished by which the voter can cast a vote in part for
10 the candidates for presidential electors of one party, and in part for those of one or more other
11 parties or in part or in whole for persons not nominated by any party;

12 (4) The optical scan precinct counting system shall meet the following specifications:

13 (i) Vote counting, including absentee ballots, shall be performed through the use of
14 automated electronic equipment;

15 (ii) All vote counting shall be performed on equipment supplied as part of the bid. The
16 system shall not require the use of non-supplied equipment to count ballots or tabulate results;

17 (iii) There shall be privacy enclosures in which a voter may mark his or her ballot or
18 otherwise cast his or her vote in secret;

19 (iv) There shall be a device located in each polling place that can record the vote count
20 and tally the vote count in that polling place and which can produce a printed tally of all races
21 contained on said ballot in human readable form. The device shall automatically print a "zero
22 report" at the beginning of the day when the device is activated. The device that receives ballots
23 for counting shall have an external counter indicating the number of ballots received. The actual
24 vote tally shall be capable of being performed only by election officials and shall not be visible
25 during the actual voting process. Each recording device shall rest on a ballot box which must
26 have compartments with doors that lock for security of voted ballots and ease of access;

27 (v) As part of the voting process, there shall be created a physical ballot showing the
28 votes cast by an individual voter which is capable of being hand counted so that electronic
29 recorded device totals can be checked for accuracy. The device must be able to accept a one, two
30 (2) or three (3) column ballot which can be printed on one or both sides;

31 (vi) There shall be a device at each polling place to receive the physical audit trail of
32 ballots cast and which shall securely store the ballots and have the capability of restricting access
33 to the ballots only to authorize officials;

34 (vii) In the event of loss of electrical power, the polling place vote count shall be stored

1 on an ongoing basis in media which will retain the count of the votes cast to that point in time for
2 a period of no less than five (5) years;

3 (viii) The polling place vote counts shall be stored on a stable media which may be
4 easily transported and which may be accessed and counted by an electronic device so that state,
5 city and/or town vote totals can be electronically calculated by combining individual polling
6 place totals. It shall not be necessary to enter individual polling place totals by and into a central
7 computer or device for the purpose of producing the state, city and/or town totals, but rather the
8 electronic media on which the polling place totals are stored shall be directly readable and
9 accessible by a regional or central device;

10 (ix) There shall be a device which has the capability to electronically read the storage
11 device upon which the individual polling place totals are stored and which shall produce a
12 combined total for all races, which total can be printed in easily readable and legible form in a
13 format prescribed by the state board of elections;

14 (x) The system provided shall allow the secretary of state to have the capability to design
15 the ballot format;

16 (xi) The system shall provide a capability for the state, without the use of outside
17 services, to set up and prepare the counting devices to total an election; and

18 (xii) The system must be capable of receiving voted ballots without counting when
19 without power, and must provide for securely storing uncounted ballots;

20 (5) The following minimum equipment shall be required for the state:

21 (i) There shall be six hundred (600) units to permit counting to be conducted in each
22 polling place within the state with a reserve of equipment on hand;

23 (ii) There shall be sufficient voting booths to allow one voting booth for approximately
24 every one hundred seventy-five (175) voters as determined in this title;

25 (iii) The number of polling place units and voting booths must be sufficient to permit the
26 election to run smoothly without excessive waiting of voters;

27 (iv) If there is an increase in the number of polling places statewide during the term of
28 the contract, the vendor will supply additional polling place units and voting booths at a cost
29 proportional to the cost of the initial units pro rated for the balance of the agreement years;

30 (v) (A) There shall be high speed absentee vote tabulating equipment. These tabulators
31 as a whole must be capable of counting a minimum of four hundred (400) absentee ballots per
32 minute. The tabulators shall utilize the same ballots used in the polling place;

33 (B) This system shall have the following capabilities in connection with the counting of
34 ballots and producing results:

1 (I) This system shall be able to read the media from the polling place units on which
2 polling place results are stored and shall be able to compile polling place results producing a
3 ballot total for each race; and

4 (II) This system shall be capable of producing and printing out ballot totals on a polling
5 place by polling place basis for each race, and shall be capable of producing a final total and
6 subtotals of all races from all races and polling places in the state. All totals must be able to be
7 produced at any time based upon the number of polling places counted up to that point in time,
8 and these printout results shall state the number of precincts counted and the percentage of
9 precincts reporting;

10 (vi) There shall be all equipment necessary to program the system and erase the memory
11 devices;

12 (vii) Regional tabulating equipment shall be located in each of the thirty-nine (39) local
13 boards of canvassers and the central tabulation equipment shall be located at the state board of
14 elections. The state board of elections, thirty (30) days prior to an election, shall determine which
15 regional and/or central tabulation sites are to be utilized for the election. The tabulation system
16 shall have the following capabilities in connection with the counting of ballots and producing
17 results:

18 (A) This system shall be able to read the media from the polling place units on which
19 polling place results are stored and shall be able to compile polling place results producing a
20 ballot total for each race;

21 (B) This system shall be capable of producing and printing out ballot totals on a polling
22 place by polling place basis for each race and shall be capable of producing a final total and
23 subtotal of all races from all races and polling places in the state;

24 (C) All totals must be able to be produced at any time based upon the number of polling
25 places counted up to that point in time, and the printout results shall state the number of precincts
26 counted and the percentage of precincts reporting; and

27 (D) This system shall be capable of transferring information gathered at each regional
28 site to the central site, and shall also be capable of transferring information gathered at the central
29 site to a specific regional site;

30 (6) All necessary programming and accumulation software shall be provided to run the
31 election system in accordance with the required specifications as well as all necessary and
32 required modules. Any software updates during the term of the agreement shall not be charged to
33 the state;

34 (7) The vendor of the optical scan precinct count system shall provide written proof of

1 compliance with Federal Election Commission standards from an independent testing company
2 and this written proof must be on file with the office of the secretary of state and the state board
3 of elections;

4 (8) The vendor shall also provide the following information to be included in the
5 vendor's bid proposal:

6 (i) (A) An audited financial statement covering the previous five (5) years, and if the
7 vendor is not the manufacturer of the equipment, both the agent and manufacturer must submit an
8 audited financial statement covering the previous five (5) years with the bid;

9 (B) In the event that either the vendor, agent, or manufacturer has been in existence for
10 less than five (5) years, that entity must submit an audited financial statement for each and every
11 full year that they have been in existence;

12 (ii) Proof of experience in the field of elections including, but not limited to, years of
13 experience in this field, and experience with a jurisdiction having the same needs as the state of
14 Rhode Island; and

15 (iii) Names and addresses of the support organizations that will provide support of all
16 equipment.

17 (b) The full service plan shall include the following services, but, at the discretion of the
18 department of administration, shall not be limited to the following services:

19 (1) Computer coding and layout of all ballots to be used in each election under contract
20 in conjunction with the office of the secretary of state, including the printing of the ballot and the
21 preparation of the device to ensure that the ballots are compatible with the device. Subsequent
22 thereto, the state board of elections shall be responsible for the following:

23 (2) Testing of each unit for logic and accuracy;

24 (3) Testing of each programmed memory cartridge;

25 (4) Set up of each optical scan precinct count unit at each polling place;

26 (5) Maintenance of all optical precinct count units;

27 (6) Training of poll workers;

28 (7) On-site election night staff at the central tabulation location and any other locations
29 as may be determined by the state board to receive and transmit election results;

30 (8) On-site election day field technicians to respond to repair calls;

31 (9) Providing the following equipment and supplies:

32 (i) Secrecy covers for voted ballots;

33 (ii) Demonstration ballots;

34 (iii) Precision cut shell program ballots ready for printing with timing marks;

- 1 (iv) Marking pens;
- 2 (v) Ballot transfer cases;
- 3 (vi) Envelopes for mailing and receiving absentee ballots; and
- 4 (vii) Printer ribbons, paper tape rolls and seals.

5 (c) Any bid specifications for an optical scan precinct count system and a full service
6 agreement for an optical scan precinct count system that do not conform in all respects to the
7 requirements of subdivisions (a)(1) -- (b)(9)(vii) of this section shall not be submitted to the
8 office of the department of administration; provided, that the director of administration may
9 waive any one of the requirements with respect to the full service agreement portion of the bid,
10 after consultation with the chairperson of the state board of elections and the secretary of state, in
11 order to preserve an otherwise acceptable bid.

12 (d) Upon expiration of the initial full service agreement as set forth in the provisions of
13 section 17-19-2.1, the state board shall conduct a review of the election system, provide a report
14 to the general assembly and shall subsequently assume responsibility for establishing minimum
15 requirements and specifications for the procurement of voting equipment and services.

16 **17-19-9. Party emblems.** -- ~~In the preparation of all ballots, sample ballots, mail ballots,~~
17 ~~and war ballots to be used at any election other than a primary election, the secretary of state shall~~
18 ~~cause to be printed next to the name of each "political party", as defined in this title, listed in the~~
19 ~~straight party vote section of the computer ballot, the emblem of the political party.~~ The emblem
20 of the democratic party shall be the representation of a star. The emblem of the republican party
21 shall be the representation of an eagle. The emblem of any political organization qualifying as a
22 "political party", as defined in this title, shall be selected by the state chairperson of the party;
23 provided, that the emblem shall be entirely different for each political party, and may be any
24 appropriate symbol, but neither the coat of arms or seal of any state or of the United States, the
25 national or state flag, any religious emblem or symbol, the seal of any society, the portrait or
26 likeness of any person, or the representation of a coin or of the currency of the United States,
27 shall be chosen as an emblem. Whenever any emblem has been selected and used upon official
28 ballots for any political party, it shall not thereafter be used for any other political party.

29 **17-19-10. Sample ballots -- Contents -- Distribution.** -- The secretary of state shall
30 prepare a sample ballot, which shall be a copy of the computer ballot to be used. The sample
31 ballot shall clearly and briefly explain and illustrate the manner of casting a vote, ~~of voting a~~
32 ~~straight party ticket,~~ of voting for candidates individually, and of voting upon questions. The
33 secretary of state shall furnish a reasonable supply of sample ballots to the state board of
34 elections, for public distribution upon request; and no fewer than three (3) of the sample ballots

1 shall be furnished for each voting place.

2 SECTION 2. Section 17-19-15 of the General Laws in Chapter 17-19 entitled "Conduct
3 of Election and Voting Equipment, and Supplies" is hereby repealed.

4 ~~**17-19-15. Party levers.** -- In the preparation of the voting equipment for use in any
5 election, excluding a primary election, the board of elections shall confirm that the voting
6 equipment is programmed to permit any voter to vote for all candidates of one of the respective
7 parties by means of a single mark on the computer ballot. The voting equipment shall also permit
8 the voter casting a straight party vote to individually vote for candidates, and in doing so, the
9 straight party vote will not be counted for that office, and the individual vote, or votes in the case
10 where more than one candidate will be elected for an office, will override the straight party vote
11 for that office.~~

12 SECTION 3. Section 17-20-23 of the General Laws in Chapter 17-20 entitled "Mail
13 Ballots" is hereby amended to read as follows:

14 ~~**17-20-23. Marking and certification of ballot.** -- (a) A voter desiring to vote for all
15 candidates of one political party for national and state, or city or town, offices, shall fill in the
16 appropriate space next to the designation of that party upon the appropriate ballot. A voter casting
17 a straight party vote may also individually vote for candidates and, in doing so, the straight party
18 vote will not be counted for that office and the individual vote, or votes in the case where more
19 than one candidate will be elected for an office, will override the straight party vote for that
20 office.~~

21 ~~(b)~~(a) A voter ~~may omit to mark as provided in subsection (a) of this section and~~ may
22 vote for the candidates of the voter's choice by making a mark in the space provided opposite
23 their respective names.

24 ~~(e)~~(b) In case a voter desires to vote upon a question submitted to the vote of the electors
25 of the state, the voter shall mark in the appropriate space associated with the answer that the voter
26 desires to give.

27 ~~(d)~~(c) The voter shall mark the ballot in the presence of two (2) witnesses or some
28 officer authorized by the law of the place where marked to administer oaths; provided, that
29 electors casting their ballot pursuant to section 17-20-2(3) or (7) do not need to have their ballot
30 witnessed or notarized. Except as otherwise provided for by this chapter, the voter shall not allow
31 the official or witnesses to see how he or she marks the ballot and the official or witnesses shall
32 hold no communication with the voter, nor the voter with the official or witnesses, as to how the
33 voter is to vote. Thereafter, the voter shall enclose and seal the ballot in the envelope provided for
34 it. The voter shall then execute before the official or witnesses the certification on the envelope.

1 The voter shall then enclose and seal the certified envelope with the ballot in the envelope
2 addressed to the state board and cause the envelope to be delivered to the state board on or before
3 election day.

4 ~~(e)~~(d) These ballots shall be counted only if received within the time limited by this
5 chapter.

6 ~~(f)~~(e) There shall be a space provided on the general election ballot to allow the voter to
7 write in the names of persons not in nomination by any party as provided for in sections 17-19-31
8 and 17-20-24.

9 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO ELECTIONS -- CONDUCT OF ELECTIONS

1 This act would delete the option of straight party voting by means of a single mark in
2 non-primary elections.

3 This act would take effect upon passage.

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