

ASSEMBLY, No. 3458

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED NOVEMBER 13, 2008

Sponsored by:

Assemblywoman JOAN M. QUIGLEY

District 32 (Bergen and Hudson)

Assemblyman GARY S. SCHAER

District 36 (Bergen, Essex and Passaic)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Creates voter-verified paper record pilot program; removes requirement that voting machines produce voter-verified paper record by January 1, 2009.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/9/2008)

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1 AN ACT concerning voter-verified paper records of votes cast,
2 amending R.S.19:48-1 and P.L.1973, c.82, and repealing section
3 3 of P.L.2005, c.137.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. R.S.19:48-1 is amended to read as follows:

9 19:48-1. Any thoroughly tested and reliable voting machines
10 may be adopted, rented, purchased or used, which shall be so
11 constructed as to fulfill the following requirements:

12 (a) It shall secure to the voter secrecy in the act of voting;

13 (b) It shall provide facilities for such number of office columns,
14 not less than 40 and not exceeding 60, as the purchasing authorities
15 may specify and of as many political parties or organizations, not
16 exceeding nine, as may make nominations, and for or against as
17 many questions, not exceeding 30, as submitted;

18 (c) It shall, except at primary elections, permit the voter to vote
19 for all the candidates of one party or in part for the candidates of
20 one party or one or more parties;

21 (d) It shall permit the voter to vote for as many persons for an
22 office as he is lawfully entitled to vote for, but no more;

23 (e) It shall prevent the voter from voting for the same person
24 more than once for the same office;

25 (f) It shall permit the voter to vote for or against any question
26 he may have the right to vote on, but no other;

27 (g) It shall for use in primary elections be so equipped that the
28 election officials can stop a voter from voting for all candidates
29 except those of the voter's party;

30 (h) It shall correctly register or record and accurately count all
31 votes cast for any and all persons, and for or against any and all
32 questions;

33 (i) It shall be provided with a "protective counter" or
34 "protective device" whereby any operation of the machine before or
35 after the election will be detected;

36 (j) It shall be so equipped with such protective devices as shall
37 prevent the operation of the machine after the polls are closed;

38 (k) It shall be provided with a counter which shall show at all
39 times during an election how many persons have voted;

40 (l) It shall be provided with a model, illustrating the manner of
41 voting on the machine, suitable for the instruction of voters;

42 (m) It must permit a voter to vote for any person for any office,
43 except delegates and alternates to national party conventions,
44 whether or not nominated as a candidate by any party or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 organization by providing an opportunity to indicate such names or
2 name;

3 (n) It shall be equipped with a permanently affixed box or
4 container of sufficient strength, size and security to hold all
5 emergency ballots and pre-punched single-hole envelopes and with
6 a clipboard and a table-top privacy screen;

7 (o) It shall not use mechanical lever machines or punch cards to
8 record votes.

9 All voting machines used in any election shall be provided with a
10 screen, hood or curtain, which shall be so made and adjusted as to
11 conceal the voter and his action while voting.

12 It shall also be provided with one device for each party for
13 voting for all the presidential electors of that party by one
14 operation, and a ballot therefor containing only the words
15 "presidential electors for," preceded by the name of that party and
16 followed by the names of the candidates thereof for the offices of
17 President and Vice-President and a registering device therefor
18 which shall register the vote cast for such electors when thus voted
19 collectively.

20 **【By January 1, 2009, each voting machine shall produce an**
21 **individual permanent paper record for each vote cast, which shall be**
22 **made available for inspection and verification by the voter at the**
23 **time the vote is cast, and preserved for later use in any manual**
24 **audit. In the event of a recount of the results of an election, the**
25 **voter-verified paper record shall be the official tally in that election.**
26 **A waiver of the provisions of this paragraph shall be granted by the**
27 **Secretary of State if the technology to produce a permanent voter-**
28 **verified paper record for each vote cast is not commercially**
29 **available.】**

30 (cf: P.L.2008, c.18, s.1)

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32 2. Section 3 of P.L.1973, c.82 (C.19:53A-3) is amended to read
33 as follows:

34 3. Every electronic voting system, consisting of a voting device
35 in combination with automatic tabulating equipment, acquired or
36 used in accordance with this act, shall:

37 a. Provide for voting in secrecy, except in the case of voters
38 who have received assistance as provided by law;

39 b. Permit each voter to vote at any election for all persons and
40 offices for whom and for which he is lawfully entitled to vote; to
41 vote for or against any question upon which he is entitled to vote;
42 and the automatic tabulating equipment shall reject choices
43 recorded on his ballot if the number of choices exceeds the number
44 which he is entitled to vote for the office or on the measure;

45 c. Permit each voter, at presidential elections, by one mark to
46 vote for the candidates of that party for president, vice president,
47 and their presidential electors;

- 1 d. Permit each voter, at other than primary elections, to vote for
2 the nominees of one or more parties and for independent candidates;
3 and personal choice or write-in candidates;
- 4 e. Permit each voter in primary elections to vote for candidates
5 in the party primary in which he is qualified to vote, and the
6 automatic tabulating equipment shall reject any votes cast for
7 candidates of another party;
- 8 f. Prevent the voter from voting for the same person more than
9 once for the same office;
- 10 g. Be suitably designed for the purpose used, of durable
11 construction, and may be used safely, efficiently, and accurately in
12 the conduct of elections and counting ballots;
- 13 h. When properly operated, record correctly and count
14 accurately every vote cast, including all overvotes or undervotes
15 and all affirmative votes or negative votes on all public questions or
16 referenda;
- 17 i. **【By January 1, 2009, each voting machine shall produce an**
18 **individual permanent paper record for each vote cast, which shall be**
19 **made available for inspection and verification by the voter at the**
20 **time the vote is cast, and preserved for later use in any manual**
21 **audit. In the event of a recount of the results of an election, the**
22 **voter-verified paper record shall be the official tally in that election.**
23 **A waiver of the provisions of this subsection shall be granted by the**
24 **Secretary of State if the technology to produce a permanent voter-**
25 **verified paper record for each vote cast is not commercially**
26 **available】** (Deleted by amendment, P.L. , c. (pending before the
27 Legislature as this bill).
28 (cf: P.L.2008, c.18, s.2)
29
- 30 3. a. There is established in the Department of State a limited
31 pilot program to study the feasibility of requiring each voting
32 machine in use in the State to produce an individual permanent
33 paper record for each vote cast, which paper record shall be made
34 available for inspection and verification by the voter at the time the
35 vote is cast, and preserved for later use in any manual audit to be
36 conducted. The pilot program shall be implemented and monitored
37 by the Secretary of State as the chief election official of this State,
38 as designated by section 1 of P.L.2007, c.254 (C.52:16A-98).
- 39 b. The pilot program shall be conducted at the primary election
40 to be held on June 2, 2009. It shall consist of retrofitted voting
41 machines in one municipality in each county that: 1) has no more
42 than ten election districts; and 2) will be using voting machines in
43 the election that the Secretary of State has certified can be adapted
44 to include a voter-verified paper record system.
- 45 Municipalities shall be chosen to participate in the pilot program
46 by the Secretary of State in consultation with the county board of
47 elections and superintendent of elections, where applicable, in each
48 county, and the chairs of the State and county political party

1 committees. A county political party chair shall participate only in
2 the selection of a municipality that is in the county where that
3 person is the county chair. The Secretary of State shall notify the
4 municipal clerk in each municipality that has been chosen to
5 participate in the pilot program.

6 c. No later than 90 days following the completion of the pilot
7 program, the Secretary of State shall issue a report containing
8 information on the implementation of the pilot program, an
9 evaluation of the pilot program, and the Secretary's
10 recommendations to the Governor, the President of the Senate, the
11 Minority Leader of the Senate, the Speaker of the General
12 Assembly, and the Minority Leader of the General Assembly. The
13 report shall include information from surveys of members of the
14 district boards of elections who worked, and voters who voted, at
15 polling places where the pilot program was implemented.

16 d. If, following the issuance of the report, the Secretary of State
17 determines that the State should retrofit all voting machines in use
18 in this State to produce an individual permanent paper record for
19 each vote cast, the Secretary shall produce an implementation
20 schedule for the retrofit of voting machines, with full
21 implementation to be finalized no later than the general election to
22 be held on November 2, 2010.

23 e. The State shall pay the costs directly related to the use of the
24 retrofitted voting machines during the pilot program, as determined
25 by the Secretary of State.

26 f. The Secretary of State shall promulgate such rules and
27 regulations as the Secretary deems necessary to implement the
28 provisions of this act.

29
30 4. Section 3 of P.L.2005, c.137 (C.19:53A-3.1) is repealed.

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32 5. This act shall take effect immediately.

33 34 35 STATEMENT

36
37 The purpose of this bill is to remove the current requirement that
38 voting machines produce a voter-verified paper record by January 1,
39 2009, and instead create a pilot program in the Department of State
40 to study the feasibility of retrofitting voting machines in use in this
41 State to produce such a paper record.

42 The pilot program would be implemented and monitored by the
43 Secretary of State, and would consist of retrofitted voting machines
44 in one municipality, which has no more than ten election districts,
45 in each county for the June 2, 2009 primary election.

46 Upon the completion of the pilot program, the Secretary of State
47 would issue a report containing information on the implementation
48 of the pilot program, an evaluation of the pilot program, and the

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1 Secretary's recommendations to the Governor, the President of the
2 Senate, the Minority Leader of the Senate, the Speaker of the
3 General Assembly, and the Minority Leader of the General
4 Assembly. The report would include information from surveys of
5 members of the district boards of elections who worked, and voters
6 who voted, at polling places where the pilot program was
7 implemented.

8 If, following the issuance of the report, the Secretary of State
9 determines that the State should retrofit all voting machines in this
10 State with a voter-verified paper record, the Secretary would
11 produce an implementation schedule for the retrofit of voting
12 machines, with full implementation to be finalized no later than the
13 general election to be held on November 2, 2010.

14 The bill also deletes sections of law requiring that all voting
15 machines produce a voter-verified paper record by January 1, 2009.