

SESSION OF 2005

**SUPPLEMENTAL NOTE ON SUBSTITUTE
FOR SENATE BILL NO. 143**

As Amended by House Committee on
Governmental Organization and Elections

Brief*

Substitute for SB 143 would update the laws dealing with direct recording electronic (DRE) voting systems and repeal laws that provided for lever machines and punch card ballots.

The bill would make a number of changes, including the following:

- Delete a provision authorizing a county's voters to petition and vote on whether to adopt a system using electronic or electromechanical voting systems in the county. Elimination of this provision would leave the decision to the board of county commissioners and county election officer.
- Clarify that the Secretary of State's examination of electronic voting systems is to include operating systems, firmware and software, and that the Secretary of State must certify such a system before it is used at any election. (Current law requires the Secretary of State to "approve" the system before it is used.)
- Remove the limit of seven political parties from the requirement addressing how many parties' candidates must be provided for in electronic or electromagnetic system voting facilities approved by the Secretary of State. The limit of seven parties is replaced with language requiring provision of facilities for candidates from all parties officially recognized pursuant to state law.
- Clarify the exception to the requirement that voting in absolute secrecy be provided in relation to such voting systems, to indicate

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

the exception applies to persons who request assistance due to temporary illness or disability or a lack of proficiency in reading the English language. (Current law states the exception applies to persons entitled to assistance.)

- Require that electronic or electromechanical voting systems approved by the Secretary of State comply with the federal Help America Vote Act of 2002 (HAVA) and other related federal law.
- Authorize the Secretary of State to acquire electronic voting systems only to assist counties in meeting the HAVA requirement that each polling place have at least one voting device accessible to individuals with disabilities.
- Update ballot information provisions, voting process provisions, and provisions related to the public testing of voting equipment to accommodate electronic voting systems.
- Update the definition of “electronic or electromechanical voting system fraud.”
- Repeal Chapter 25, Article 13, which provided for lever machines and punch card ballots.
- Prohibit the approval for use of any electronic or computerized voting machine unless the machine provides for a paper record of each ballot that can be reviewed and corrected by the voter at the time the vote is cast.
- Prohibit the use of any direct recording voting system purchased after May 1, 2006, unless the system has an accessible voter verified paper audit trail. The use of such systems would be permitted so long as the system was purchased prior to May 1, 2006.
- Prohibit the use of a voter verified paper audit trail to determine the outcome of any election.
- Prohibit the Secretary of State from expending funds for purchase or upgrade-related expenses of any direct recording voting system unless the system has a voter verified paper audit trail.

Background

Representatives of the Secretary of State, the Disability Rights Center of Kansas and Independence, Inc., and the Johnson County Election Commissioner provided testimony in favor of the original bill. Several conferees indicated the bill's purpose was, in part, to bring laws regarding DRE voting systems into compliance with HAVA. The official from the Secretary of State's Office also indicated that lever voting machines have not been used in Kansas since 1995 and, to his knowledge, punch card ballots have never been used in the state.

The Senate Committee on Elections and Local Government amended the bill to:

- ! Strike new language allowing voters to vote for primary candidates for whom the voter is qualified to vote, and restore language limiting a primary vote only for the candidates of the political party with which the voter is affiliated or, if not affiliated, according to the voter's declaration when applying to vote.
- ! Reinsert current law limiting to ten years electronic voting system contracts for payment by installments, leases, rental agreements and lease-purchase agreements.
- ! Clarify that the Secretary of State may obtain voting equipment only to assist counties in complying with HAVA. (The word "only" was added.)

The House Committee on Governmental Organization and Elections amended the bill to require provision of a paper record for each ballot cast electronically and a voter verified paper audit trail for all direct recording voting systems used in the state.

A fiscal note on the bill as introduced stated the revenues and expenditures relating to SB 143 are reflected in *The FY 2006 Governor's Budget Report*.