

February 16, 2005

H 238. PUBLIC CONFIDENCE IN ELECTIONS. AN ACT TO RESTORE PUBLIC CONFIDENCE IN THE ELECTION PROCESS BY REQUIRING THAT ALL VOTING SYSTEMS PERMIT ALL VOTERS TO VERIFY THEIR VOTES ON PAPER; BY PROVIDING STATUTORY GUIDANCE AS TO COUNTING; BY PROVIDING CHECKS ON ELECTRONIC VOTING SYSTEM VENDORS, INCLUDING MULTIPARTY REVIEW OF SOURCE CODE, BY AUTHORIZING THE STATE BOARD OF ELECTIONS TO PROMOTE UNIFORMITY IN VOTING SYSTEMS BY STANDARDIZING PURCHASING OF VOTING SYSTEMS IN NORTH CAROLINA, BY EMPOWERING THE STATE BOARD OF ELECTIONS TO CONTROL THE TESTING AND SUPPORT OF VOTING SYSTEMS; BY REQUIRING POSTELECTION TESTING OF VOTING SYSTEMS, INCLUDING A PAPER SAMPLE-COUNT; BY EXPANDING THE RIGHT TO A HAND-TO-EYE RECOUNT OF PAPER BALLOTS; BY APPROPRIATING STATE FUNDS FOR VOTING SYSTEM ACQUISITION TO PREVENT IMPOSING UNFUNDED MANDATES UPON COUNTIES; AND BY APPROPRIATING FUNDS TO THE STATE BOARD OF ELECTIONS TO IMPLEMENT ITS EXPANDED DUTIES WITH REGARD TO VOTING SYSTEMS. Makes the following comprehensive changes to laws regulating the types of voting systems used, the process for purchasing voting systems, and the manner in which voting systems are monitored.

Systems Authorized. Effective January 1, 2006, enacts new GS 163-165.9B to permit the following voting systems: paper ballots, optical scan, and direct record electronic (DRE) systems which generate a paper ballot; and to require that in its canvass a county using optical scan or DRE systems shall rely on the mechanical or electronic count of the vote instead of the full hand-to-eye recount of paper ballots, but that the hand-to-eye count shall control in the event of a discrepancy. Enacts new GS 163-182.1(b)(1) effective January 1, 2006, to require that State Board of Elections adopt standards requiring that optical scan and direct record voting systems, and other systems in which ballots are counted mechanically, provide a sample hand-to-eye count of the paper ballots. Enacts new GS 163-182.7A to further require that Board adopt rules that allow candidate to demand a hand-to-eye recount in a sample (3%) of precincts if the initial vote recount was not hand-to-eye, effective January 1, 2006.

Vendor Requirements. Enacts new GS 163-165.9A to provide that for all voting systems acquired or upgraded on or after July 1, 2005, vendors must (1) escrow all source codes and updates relating to the recording or counting of votes and that Board must make such codes accessible to certain representatives from each political party and state and county agencies; (2) notify Board of any change in the source code or foundation operating system, or of any defect found in voting system; and (3) maintain an office in NC with staff to service the contract. Makes willful and fraudulent violation of section and substitution of source code without required notification a Class I felony. Sets out blank provision for a civil penalty. Amends GS 163-165.7, effective for voting systems acquired or upgraded on or after July 1, 2005, to require that the Board establish a request for proposal (RFP) process to certify additional voting systems and that process require that vendor post a bond or letter of credit to cover damages resulting from voting defects, comply with federal requirements for voting systems, require that systems include votes cast by voters outside their precinct in precinct returns, permit review of source codes, and require that vendor uniformly price equipment statewide. Further provides that Board shall eventually require uniform features for each type of voting system. Enacts new GS 163-165.7(c) to require that Board monitor vendor's legal and contractual compliance, and that Board review all source codes escrowed by vendors and make findings available in accordance with NC public records laws. Enacts new GS 163-165.7(e) to require that Board, and not system vendors, provide training and support for all certified voting systems. Amends GS 163-165.8 to clarify that GS Ch. 143, Art. 8 (public contract requirements), is inapplicable to county purchases of voting systems.

Miscellaneous. Amends GS 163-132.5G to extend deadline for the reporting of voting data by precinct to 2008 (was, 2006), but requires that any new system acquired after July 1, 2005 shall provide such information. Sets out blank appropriations provision for funds from the General Fund to the State Board of Elections and states that an appropriate sum will be appropriated in 2005-06 and 2006-07 for reimbursement of counties for postelection verification or any other hand-eye counting or recounting. Requires that Board recommend model code of ethics for itself and county boards of elections and submit code to Jt. Select Committee on Electronic Voting Systems no later than 60 days after act becomes law. Makes technical and conforming changes.

Intro. by Insko, Preston.
Ref. to Election Law

GS 163, APPROP