
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2053 Session of
2024

INTRODUCED BY M. MACKENZIE, R. MACKENZIE, BERNSTINE, GLEIM,
GREINER, HAMM, KAUFFMAN, KRUPA, MOUL, ROWE, RYNCAVAGE,
SCHEUREN, WARNER, RADER AND GILLEN, FEBRUARY 22, 2024

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 22, 2024

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
2 "An act concerning elections, including general, municipal,
3 special and primary elections, the nomination of candidates,
4 primary and election expenses and election contests; creating
5 and defining membership of county boards of elections;
6 imposing duties upon the Secretary of the Commonwealth,
7 courts, county boards of elections, county commissioners;
8 imposing penalties for violation of the act, and codifying,
9 revising and consolidating the laws relating thereto; and
10 repealing certain acts and parts of acts relating to
11 elections," in voting machines, further providing for
12 examination and approval of voting machines by the Secretary
13 of the Commonwealth, for requirements of voting machines and
14 for preparation of voting machines by county election boards.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Sections 1106, 1107 and 1111 of the act of June
18 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election
19 Code, are amended by adding subsections to read:

20 Section 1106. Examination and Approval of Voting Machines by
21 the Secretary of the Commonwealth.--

22 * * *

23 (g) Examination shall include testing of all software

1 required for the voting machine's operation, the ballot reader,
2 the digital printer, the fail-safe operations, the counting
3 center environmental requirements and the equipment reliability
4 estimate.

5 (h) For the purposes of examining the voting machine, the
6 Secretary of the Commonwealth shall employ or contract for the
7 services of at least one individual who is an expert in one or
8 more fields of data processing, mechanical engineering and
9 public administration and shall require from the individual a
10 written report of the individual's examination.

11 (i) Within thirty days after completing the examination and
12 upon approval of any electronic or electromechanical voting
13 machine, the Secretary of the Commonwealth shall make and
14 maintain a report on the machine, together with a written or
15 printed description and drawings and photographs clearly
16 identifying the machine and the operation of the machine. As
17 soon as practicable after the filing, the Department of State
18 shall send a notice of certification and upon request a copy of
19 the report to county boards of elections in this Commonwealth.
20 The report under this subsection shall be a public record under
21 the act of February 14, 2008 (P.L.6, No.3), known as the "Right-
22 to-Know Law."

23 (j) After a voting machine has been approved by the
24 Secretary of the Commonwealth, any change or improvement in the
25 machine must be approved by the Secretary of the Commonwealth
26 prior to the adoption of the change or improvement by a county.
27 If the change or improvement does not comply with the
28 requirements of this act, the Secretary of the Commonwealth
29 shall suspend sales of the equipment or machine in this
30 Commonwealth until the equipment or machine complies with the

1 requirements of this act.

2 (k) The Secretary of the Commonwealth shall examine and
3 approve all electronic or electromechanical devices used in the
4 casting, processing or tabulation of ballots or in the recording
5 of electors, including ballot sorters, envelope extractors,
6 ballot scanners and electronic pollbooks.

7 (l) The examination and approval under subsection (k) shall
8 ensure that the device conforms with standards to provide
9 timeliness and accuracy in the casting and counting of ballots
10 or in the recording of electors.

11 Section 1107. Requirements of Voting Machines.--No voting
12 machine shall, upon any examination or reexamination, be
13 approved by the Secretary of the Commonwealth, or by any
14 examiner appointed by him, unless it shall, at the time, satisfy
15 the following requirements:

16 * * *

17 (u) It shall immediately reject a ballot where the number of
18 votes for an office or question exceeds the number which the
19 elector is entitled to cast or where the tabulating equipment
20 reads the ballot as a ballot with no votes cast.

21 (v) It shall be capable of providing records from which the
22 operation of the voting machine may be audited.

23 (w) It shall be capable of recording votes from ballots of
24 different political parties from the same precinct, for a
25 primary election.

26 (x) It shall be manufactured in the United States and sold
27 by a vendor with a primary place of business within the United
28 States.

29 (y) It shall utilize open-source software code.

30 (z) It shall fully comply with the Voluntary Voting System

1 Guidelines 2.0 adopted by the United States Election Assistance
2 Commission on February 10, 2021.

3 (z.1) The requirements of subsections (u), (v), (w), (x),
4 (y) and (z) shall apply only to voting machines newly examined
5 or approved by the Secretary of the Commonwealth after 2025. No
6 voting machines purchased by a county prior to 2025 shall be
7 decertified on the basis of noncompliance with subsection (u),
8 (v), (w), (x), (y) or (z).

9 Section 1111. Preparation of Voting Machines by County
10 Election Boards.--

11 * * *

12 (g) On any day not more than thirty-five days before the
13 commencement of voting, the county election board shall have the
14 automatic tabulating equipment publicly tested to ascertain that
15 the equipment will correctly count the votes cast for all
16 offices and on all measures. If the ballots to be used at the
17 polling place on election day are not available at the time of
18 the testing, the county election board may conduct an additional
19 test not more than ten days before election day. Public notice
20 of the time and place of the test shall be given at least forty-
21 eight hours prior to the test by publication on the county
22 election board's publicly accessible Internet website and once
23 in one or more newspapers of general circulation in the county
24 or, if there is no newspaper of general circulation in the
25 county, by posting the notice in at least four conspicuous
26 places in the county. The county election board shall provide
27 written notice to each candidate for election of the time and
28 location of the public preelection test. The test shall be open
29 to representatives of the political parties, the press and the
30 public and shall be video recorded and broadcast simultaneously

1 on a publicly accessible Internet website. Each political party
2 may designate one person with expertise in the computer field
3 who shall be allowed in the central counting room when tests are
4 being conducted and when the official votes are being counted.
5 The designee may not interfere with the normal operation of the
6 canvassing board.

7 (h) For electronic or electromechanical voting machines
8 configured to tabulate mail-in or absentee ballots at a central
9 or regional site, the public testing shall be conducted by
10 processing a preaudited group of ballots so produced as to
11 record a predetermined number of valid votes for each candidate
12 and on each measure and to include one or more ballots for each
13 office which have activated voting positions in excess of the
14 number allowed by law in order to test the ability of the
15 automatic tabulating equipment to reject the votes. If an error
16 is detected, the cause of the error shall be corrected and an
17 errorless count shall be made before the automatic tabulating
18 equipment is approved. The test shall be repeated and errorless
19 results must be achieved immediately before the start of the
20 official count of the ballots and again after the completion of
21 the official count. The programs and ballots used for testing
22 shall be sealed and retained under the custody of the county
23 election board.

24 (i) For electronic or electromechanical voting machines
25 configured to include electronic or electromechanical tabulation
26 devices which are distributed to the precincts, all or a sample
27 of the devices to be used in the election shall be publicly
28 tested. If a sample is to be tested, the sample shall consist of
29 a random selection of at least ten per cent of the devices. The
30 test shall be conducted by processing a group of ballots,

1 causing the device to output results for the ballots processed
2 and comparing the output of results to the results expected for
3 the ballots processed. The group of ballots shall be produced so
4 as to record a predetermined number of valid votes for each
5 candidate and on each measure and to include for each office one
6 or more ballots which have activated voting positions in excess
7 of the number allowed by law in order to test the ability of the
8 tabulating device to reject such votes.

9 (j) If a tested tabulating device is found to have an error
10 in tabulation, it shall be deemed unsatisfactory. For each
11 device deemed unsatisfactory, the county election board shall
12 take steps to determine the cause of the error, shall attempt to
13 identify and test other devices that could reasonably be
14 expected to have the same error and shall test a number of
15 additional devices sufficient to determine that each device is
16 satisfactory. Upon deeming a device unsatisfactory, the county
17 election board may require all devices to be tested or may
18 declare that all devices are unsatisfactory.

19 (k) If the operation or output of any tested tabulation
20 device, such as spelling or the order of candidates on a report,
21 is in error, the problem shall be reported to the county
22 election board, which shall determine if the reported problem
23 warrants the county election board deeming the device
24 unsatisfactory.

25 (l) At the completion of testing under this section, the
26 county election board, the representatives of the political
27 parties and the candidates or the candidate's representatives
28 who attended the test shall witness the resetting of each device
29 that passed to a preelection state of readiness and the sealing
30 of each device that passed in such a manner as to secure its

1 state of readiness until the opening of the polls.

2 (m) The county election board shall execute a written
3 statement providing the tabulation devices tested, the results
4 of the testing, the protective counter numbers, if applicable,
5 of each tabulation device, the number of the seal securing each
6 tabulation device at the conclusion of testing, any problems
7 reported to the county election board as a result of the testing
8 and whether each device tested is satisfactory or
9 unsatisfactory. The written statement under this subsection
10 shall be a public record under the act of February 14, 2008
11 (P.L.6, No.3), known as the "Right-to-Know Law."

12 (n) Any tabulating device deemed unsatisfactory shall be
13 recoded, repaired or replaced and shall be made available for
14 retesting. The device must be determined by the county election
15 board to be satisfactory before the device may be used in an
16 election. The county election board shall announce at the close
17 of the first testing the date, place and time that an
18 unsatisfactory device will be retested or may, at the option of
19 the county election board, notify by telephone each individual
20 who was present at the first testing as to the date, place and
21 time that the retesting will occur.

22 (o) Records shall be kept of all preelection testing of
23 electronic or electromechanical tabulation devices used in an
24 election. The records shall be present and available for
25 inspection and reference during public preelection testing by
26 any individual in attendance during the testing. The need of the
27 county election board for access to the records during the
28 testing shall take precedence over the need of other attendees
29 to access such records so that the work of the county election
30 board will not be delayed or hindered. Records of testing shall

1 include, for each device, the name of each person who tested the
2 device and the date, place, time and results of each test.
3 Records of testing shall be retained as part of the official
4 records of the election in which any device was used and shall
5 be public records under the "Right-to-Know Law."

6 (p) The county election board shall submit a copy of all
7 records required under this section to the Department of the
8 Auditor General.

9 Section 2. This act shall take effect in 60 days.