

BILL ANALYSIS

H.B. 56
By: Denny
Elections
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, penalties relating to election fraud use language referring to voters "placing ballots in" or "removing ballots from" "ballot boxes." Unlike other voting systems that use paper ballots, the election results on Direct Record Electronic (DRE), or touch screen, voting machines do not have a physical ballot box because the information is stored electronically. During the interim, the Elections Committee heard considerable testimony relating to fears about individuals tampering with DRE machines by hacking into the systems or planting hidden codes into the software. It is unclear that the offenses relating to tampering with ballot boxes would apply to such actions. In addition, although this type of tampering would require more forethought and effort than simply stuffing extra ballots into a box, the number of votes that could be affected at once is considerable. For these reasons, the penalty for tampering with a DRE should be stricter than the penalty for tampering with paper ballot voting systems. House Bill 56 creates a felony offense for specifically tampering with DRE voting machines to alter election results.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

House Bill 56 amends the Penal Code to provide that an individual commits a first degree felony if the individual accesses any of the computer components of a voting system that uses direct recording electronic (DRE) voting machines to affect the outcome of an election. The bill provides that such access is an offense if the individual's actions:

- prevent a voter from lawfully casting a vote,
- change a lawfully cast vote,
- prevent a lawful vote from being counted, or
- cause an unlawful vote to be counted.

The bill provides that access of the voting system for these actions constitutes an offense if the outcome of the election would be different if determined by the altered vote total, even if the affected votes are not used in the official determination of the election results.

H.B. 56 provides that an individual commits a third degree felony if the individual intends to access the voting system to affect the election outcome.

EFFECTIVE DATE

September 1, 2005.