BILL ANALYSIS

BACKGROUND AND PURPOSE

Recently, entities have begun using touch screen or direct record electronic voting machines (DREs) in their elections. With the implementation of the federal Help America Vote Act, more political subdivisions have begun acquiring these machines, and the federal act requires one DRE per polling place for use by disabled voters. The use of these machines has raised concerns over their security, and some voters have lost confidence in the integrity of elections because of these security concerns. Enhanced security testing and the addition of paper records of the electronic ballots are seen as ways to help improve voting security and thus, voter confidence. CSHB 166 requires the secretary of state to implement additional procedures for testing and security of DRE voting machines and to conduct a study on the use of voter verified paper audit trails in connection with DRE use.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution; however, the secretary of state is required to prescribe procedures in SECTION 1 (Sec. 129.001, Election Code) of this bill.

ANALYSIS

CSHB 166 amends the Election Code by requiring the secretary of state to prescribe procedures requiring:
- an electronic hash code test before and after the date of an election;
- parallel testing of programming and equipment during the period for early voting by personal appearance and on election day; and
- post-election verification counts from each redundant electronic source provided by the voting system

for voting systems that use direct recording electronic voting machines (DREs). The bill requires the secretary of state to prescribe specific requirements and deadlines for logic and accuracy testing, including the use of a format that tests each ballot position for each precinct and ballot style. The bill also requires the secretary of state to develop guidelines for the physical and virtual security of the ballot programming and tabulation software and equipment, including the use of secured facilities and appropriate password protection protocols.

CSHB 166 requires the secretary of state to conduct a study to evaluate the feasibility and advisability of requiring a voter verified paper audit trail for a DRE system. The bill requires the secretary of state, following the study, to file a written report containing findings with the speaker of the house and the lieutenant governor not later than December 1, 2006. The bill requires an advisory committee to assist, advise, and provide guidance to the secretary of state. The bill sets forth the membership of the advisory committee.

EFFECTIVE DATE

January 1, 2006; provisions relating to the secretary of state's study expire January 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original by adding provisions requiring the secretary of state to prescribe procedures, requirements and deadlines for additional testing and security of DREs and electronic voting systems, and also by adding provisions requiring the secretary of state to conduct a study of voter verified paper audit trails for DREs. The substitute removes provisions prohibiting DREs from being used unless the machines meet certain standards, including the ability to create an auditable paper record of each ballot.