

## **BILL ANALYSIS**

H.B. 1364  
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Elections  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Integrity in our elections is a vital part of maintaining faith and confidence in our election system. Recent elections and media stories have highlighted election system difficulties and shaken the faith of the average citizen that their vote will be counted. The purpose of H.B. 1364 is to increase confidence in our elections by increasing voting machine security.

### **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**

H.B. 1364 requires polling places to provide a means for disabled voters to cast provisional ballots.

The bill provides that, to the extent possible, procedures applicable to electronic voting systems under Chapter 127, Election Code, are applicable to a direct recording electronic ("DRE") voting system. H.B. 1364 provides General Procedures relating to DREs that are conformed to reflect new language.

The bill provides that provisional votes may be cast with a DRE voting system only if the certain requirements that are laid out in the language are met.

For its purposes, H.B. 1364 defines the term "electronic information storage medium".

The bill provides procedures, which are reserved for expansion, for the proper pre-election acceptance and testing of a voting system that is required to be performed by the general custodian of election records immediately after the receipt of a voting system from a vendor. The general custodian of election records is required to verify that the model number of name of the system is the same as ordered, that the system delivered is certified by the secretary of state, and that the appropriate software is installed on the system. H.B. 1364 also requires that general custodian of election records performs a hardware diagnostic test as provided by the Act, a logic and accuracy test as provided by the Act, and any additional test that the secretary of state is authorized to prescribe on the voting system. The measure requires the general custodian of election records to be responsible for the security of test materials and establishes a manner in which the test materials are to be secured upon completing each test.

For the purpose of pre-election security, H.B. 1364 requires the general custodian of election records to create and maintain an inventory of all electronic information storage media; to develop procedures for tracking the custody of each electronic information storage medium and custody of the voting system equipment once election parameters are loaded; and establish a secured location for the storage of the voting system equipment, establish a secured location for coding, transferring and installing the medium into voting system equipment, and establish a secured location for storing the voting system equipment after election parameters are loaded. The bill states where an election information storage medium is required to be located once it has been coded for an election. In case of a breach in security the general custodian of election records is required to establish a recovery plan, which must include the immediate notification of the secretary of state.

H.B. 1364 establishes requirements that are to be met by the general custodian of election records for securely storing and transporting voting system equipment, and for creating a

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recovery plan (which must include the immediate notification of the secretary of state) in case of a breach of security during the securing and transportation process, and also requires the general custodian of election records to provide a training program to those individuals who will be involved with the procedures set up by the custodian. The general custodian of election records is required to secure access control keys or passwords to voting systems equipment and states that use of an access control key or password must be witnessed by certain individuals and properly documented.

The bill prohibits DREs from being connected to any external communications network and prohibits the DREs from having the capability of permitting wireless communication. The bill provides that only software certified by the secretary of state and necessary for an election may be loaded on the voting system equipment.

The general custodian of election records is required create a contingency plan for addressing direct voting machine failure. The plan must include the timely notification of the secretary of state.

Finally, H.B. 1364 prohibits a voting machine that was used in early voting from being used on Election Day.

### **EFFECTIVE DATE**

SECTION 2 of this Act takes effect September 1, 2007. SECTION 1 of this Act takes effect January 1, 2008.