By: West, Garcia   S.B. No. 506

A BILL TO BE ENTITLED

1   AN ACT

2 relating to certain voting systems.

3   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4   SECTION 1. Sections 43.007(c) and (d), Election Code, are

5 amended to read as follows:

6   (c) In conducting the program, the secretary of state shall

7 provide for an audit of the voting system [direct recording

8 electronic voting] units used, including any type of voting system

9 unit described by Subsection (d)(4), before and after the election,

10 and during the election to the extent such an audit is practicable.

11   (d) The secretary of state shall select to participate in

12 the program each county that:

13   (1) has held a public hearing under Subsection (b);

14   (2) has submitted documentation listing the steps

15 taken to solicit input on participating in the program by

16 organizations or persons who represent the interests of voters;

17   (3) has implemented a computerized voter registration

18 list that allows an election officer at the polling place to verify

19 that a voter has not previously voted in the election;

20   (4) uses either direct recording electronic voting

21 machines or a voting system capable of printing all available

22 ballot styles of that polling place; and

23   (5) is determined by the secretary of state to have the

24 appropriate technological capabilities.

1   SECTION 2.   Section 121.003, Election Code, is amended by

2   adding Subdivisions (13) and (14) to read as follows:

3   (13) "Precinct ballot counter" means a voting system

4   under which paper ballots are deposited into a ballot scanner

5   attached to a secure ballot box.

6   (14) "Central accumulator" means a part of a voting

7   system that tabulates and consolidates the vote totals for multiple

8   precincts.

9   SECTION 3.   Section 122.001, Election Code, is amended by

10   adding Subsection (f) to read as follows:

11   (f) A voting system that uses a central accumulator may not

12   be used in an election unless the central accumulator creates in

13   real time an audit log including a date and time stamp of each

14   significant election event as determined by the secretary of state.

15   SECTION 4.   Chapter 125, Election Code, is amended by adding

16   Subchapter D to read as follows:

17   SUBCHAPTER D. VOTING SYSTEM USING PRECINCT BALLOT COUNTER

18   Sec. 125.101.   VOTING SYSTEM USING PRECINCT BALLOT COUNTER.

19   (a) A voting system that uses a precinct ballot counter must

20   comply with the requirements of this subchapter in addition to

21   other applicable procedures prescribed by this code.

22   (b) To the extent not in conflict with this subchapter, a

23   provision of this code applicable to an electronic voting system is

24   applicable to a voting system that uses a precinct ballot counter.

25   Sec. 125.102.   PRECINCT BALLOT COUNTER USED DURING EARLY

26   VOTING BY PERSONAL APPEARANCE.   (a) This section applies only to

27   voting during the period for early voting by personal appearance.

1   (b) A precinct ballot counter must be properly secured to

2 prevent tampering or the unauthorized deposit of ballots.

3   (c) The early voting clerk or deputy early voting clerk must

4 inspect a precinct ballot counter before voting begins on each day

5 to ensure that the precinct ballot counter:

6   (1) is properly locked with two locks, each with a

7 different key;

8   (2) is properly sealed to detect an unauthorized

9 opening of the box; and

10   (3) registers that no votes have been cast on that day.

11   (d) At the conclusion of voting on each day, the presiding

12 judge shall:

13   (1) print a report from the precinct ballot counter

14 showing the number of ballots cast on that day; and

15   (2) ensure that the precinct ballot counter is

16 properly locked, sealed, and powered off to prevent tampering or

17 the unauthorized deposit of ballots.

18   (e) If a precinct ballot counter is not able to print the

19 report described by Subsection (d)(1), an election officer shall

20 complete a daily ballot count manually and generate a report. A

21 report described by this subsection must be signed by at least two

22 election officers each time an entry is made and may be signed by

23 any poll watchers present.

24   (f) The secretary of state shall prescribe the form of the

25 report described by Subsection (d)(1).

26   (g) The early voting clerk or deputy early voting clerk may

27 not print a results tape from a precinct ballot counter.

1   Sec. 125.103. PROCEDURES BEFORE VOTING BEGINS ON ELECTION

2 DAY. The presiding election judge must inspect a precinct ballot

3 counter before voting begins on election day to ensure that the

4 precinct ballot counter:

5   (1) is properly locked and sealed; and

6   (2) registers that no votes have been cast.

7   Sec. 125.104. ACCEPTING BALLOT. (a) A precinct ballot

8 counter must be designed to accept or reject a voter's ballot

9 according to programmed instructions. The programmed instructions

10 shall reject and return to the voter a ballot that is blank or

11 overvoted.

12   (b) A voter whose ballot is rejected by a precinct ballot

13 counter may:

14   (1) attempt to correct the ballot;

15   (2) return the ballot to an election officer as a

16 spoiled ballot and request a replacement ballot, except as provided

17 by Subsection (c); or

18   (3) request that an election officer override the

19 rejection and instruct the precinct ballot counter to accept the

20 ballot as voted.

21   (c) A voter may not be given a replacement ballot under

22 Subsection (b)(2) if the voter has already been provided with two

23 replacement ballots under that subsection for the election. A

24 voter who has reached the limit for replacement ballots must follow

25 the procedure provided by Subsection (b)(3).

26   SECTION 5. Chapter 127, Election Code, is amended by adding

27 Subchapter I to read as follows:

4

1 SUBCHAPTER I. PROCESSING RESULTS OF VOTING SYSTEM USING PRECINCT

2 BALLOT COUNTER

3 Sec. 127.251. PRECINCT BALLOT COUNTER. (a) This

4 subchapter applies to the processing of election results in a

5 voting system using a precinct ballot counter.

6 (b) The secretary of state shall prescribe any necessary

7 procedures, in addition to those prescribed by this subchapter, for

8 processing the election results.

9 Sec. 127.252. PROCEDURES AFTER VOTING COMPLETED.

10 (a) After the last voter has voted on election day, the presiding

11 judge must secure a precinct ballot counter to ensure that no

12 additional votes can be cast.

13 (b) If the votes cast on a precinct ballot counter are not to

14 be counted at a central counting station, the presiding judge shall

15 print three copies of the tape containing the ballot tabulation

16 from the precinct ballot counter for purposes of checking for a

17 discrepancy under Section 127.156. If a discrepancy is found as

18 provided by that section, the official tabulation shall be

19 conducted in the manner provided by Section 127.157.

20 Sec. 127.253. PROCESSING RESULTS AT CENTRAL COUNTING

21 STATION. If votes cast on a precinct ballot counter are to be

22 counted at a central counting station, the procedures established

23 for counting votes under Subchapters C and E must be followed.

24 Sec. 127.254. EARLY VOTING BALLOTS COUNTED BY EARLY VOTING

25 BALLOT BOARD. (a) At the time tabulation is to begin, the

26 presiding judge of the early voting ballot board shall inspect the

27 precinct ballot counter to determine whether the seals are intact

1 and that they match the serial numbers listed on the ballot and seal

2 certificate. If the seals are not intact, the ballots must be

3 counted with another tabulation device.

4   (b) If the seals are intact, the presiding judge shall print

5 a report from the precinct ballot counter to verify that no

6 unauthorized ballots have been cast since the conclusion of early

7 voting by personal appearance.

8   (c) If the report printed under Subsection (b) shows that no

9 unauthorized ballots were cast on the precinct ballot counter, the

10 presiding judge shall print three copies of the tape containing the

11 ballot tabulation from the precinct ballot counter for purposes of

12 checking for a discrepancy under Section 127.156.

13   (d) If no discrepancy under Section 127.156 requires the

14 official tabulation of ballots to be conducted at a central

15 counting station as provided by Section 127.157, the presiding

16 judge shall use the printed results tapes, and any tally sheets used

17 for the manual counting of write-in votes, to prepare the early

18 voting precinct returns.

19   Sec. 127.255. EARLY VOTING BALLOTS COUNTED AT CENTRAL

20 COUNTING STATION. If early voting ballots cast on a precinct ballot

21 counter are to be counted at a central counting station, the

22 procedures established for counting votes under Subchapters C and E

23 must be followed.

24   Sec. 127.256. COUNTING OF EARLY VOTING BALLOTS VOTED BY

25 MAIL. (a) A precinct ballot counter may be used to count early

26 voting ballots voted by mail.

27   (b) A precinct ballot counter used during early voting by

1 personal appearance may be used to count early voting ballots voted

2 by mail if:

3   (1) all appropriate documentation, including rosters

4 and voting history, are maintained separately for early ballots

5 cast by mail and by personal appearance;

6   (2) the authority counting the ballots prints a report

7 from the precinct ballot counter showing that no unauthorized

8 ballots were cast on the precinct ballot counter after the close of

9 early voting by personal appearance; and

10   (3) the authority counting the ballots removes all

11 ballots cast during early voting by personal appearance from the

12 precinct ballot counter and places them in a secured container.

13   (c) The presiding judge of the authority counting the

14 ballots shall place the early voting ballots voted by mail in the

15 precinct ballot counter to be scanned and counted.

16   (d) On completion of the scanning, the early voting ballots

17 voted by mail shall be removed from the precinct ballot counter and

18 placed in a secured container. The container may be the same as the

19 container described by Subsection (b)(3), but early voting ballots

20 voted by personal appearance must be maintained separately from the

21 early voting ballots voted by mail.

22   (e) The presiding judge of the authority counting the

23 ballots shall print two copies of the tape containing the ballot

24 tabulation from the precinct ballot counter to verify that the

25 total number of ballots scanned is equal to the sum of the total

26 number of ballots scanned from early voting by personal appearance

27 and the total number of ballots scanned from early voting by mail on

1 the precinct ballot counter.

2   (f) Any deviation from the procedures described by this

3 section must be approved by the secretary of state.

4   SECTION 6.   Section 127.067, Election Code, is amended by

5 adding Subsection (d) to read as follows:

6   (d) An audit log produced by a central accumulator is

7 considered part of the election records.

8   SECTION 7.   Subchapter E, Chapter 127, Election Code, is

9 amended by adding Section 127.1302 to read as follows:

10   Sec. 127.1302.   PREPARING AUDIT LOG.   (a) A poll watcher

11 may request a printed copy of an audit log produced by a central

12 accumulator:

13   (1) before any votes are tabulated;

14   (2) after early voting results are tabulated; and

15   (3) immediately following the completion of the vote

16 tabulation.

17   (b) After the automatic counting of ballots for each

18 precinct is completed, the manager of a central counting station

19 shall print a copy of the entire audit log to retain with other

20 election records.

21   SECTION 8.   Section 129.054, Election Code, is amended to

22 read as follows:

23   Sec. 129.054.   NETWORK CONNECTIONS AND WIRELESS TECHNOLOGY.

24 (a) A voting system, including any voting system used in the

25 countywide polling place program, may not be connected to any

26 external communications network, including the Internet.

27   (b) A voting system, including any voting system used in the

1 countywide polling place program, may not have the capability of

2 permitting   wireless   communication   unless   the   system   uses

3 line-of-sight infrared technology that shields the transmitter and

4 receiver from external infrared transmissions and the system can

5 only accept transmissions generated by the system.

6   SECTION 9.   This Act takes effect immediately if it receives

7 a vote of two-thirds of all the members elected to each house, as

8 provided by Section 39, Article III, Texas Constitution.   If this

9 Act does not receive the vote necessary for immediate effect, this

10 Act takes effect September 1, 2017.