

By: Swanson

H.B. No. 4459

Substitute the following for H.B. No. 4459:

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C.S.H.B. No. 4459

A BILL TO BE ENTITLED

AN ACT

relating to voting system equipment; creating a criminal offense.

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

SECTION 1. Section 31.014, Election Code, is amended to read as follows:

Sec. 31.014. CERTIFICATION OF ELECTRONIC DEVICES TO ACCEPT VOTERS. (a) The secretary of state shall prescribe specific requirements and standards, consistent with this code, for the certification of an electronic device used to accept voters under Chapter 63 that require the device to:

(1) produce an electronic copy of the list of voters who were accepted to vote for delivery to the election judge after the polls close;

(2) display the voter's original signature in accordance with Section 63.002;

(3) accept a voter for voting even when the device is off-line;

(4) provide the full list of voters registered in the county with an indication of the jurisdictional or distinguishing number for each territorial unit in which each voter resides;

(5) time-stamp when each voter is accepted at a polling place, including the voter's unique identifier;

(6) if the county participates in the countywide polling place program under Section 43.007 or has more than one

1 early voting polling place, transmit a time stamp when each voter is  
2 accepted, including the voter's unique identifier, to all polling  
3 place locations;

4 (7) time-stamp the receipt of a transmission under  
5 Subdivision (6); ~~and~~

6 (8) perform a self-assessment on starting up to ensure  
7 functionality and connectivity;

8 (9) maintain a secure wireless connection that does  
9 not transmit or store data on any device or medium located outside  
10 the state; and

11 (10) produce in an electronic format capable of  
12 updating in real time and compatible with the statewide voter  
13 registration list under Section 18.061 data for retention and  
14 transfer that includes:

15 (A) the polling location in which the device was  
16 used;

17 (B) the dated time stamp under Subdivision (5);  
18 and

19 (C) the dated time stamp under Subdivision (7).

20 (b) A device described by this section must be certified  
21 annually by the secretary of state. The secretary of state may not  
22 certify a device that does not meet each requirement listed in  
23 Subsection (a).

24 (c) The secretary of state shall adopt rules that:

25 (1) require a device described by this section used  
26 during the early voting period or under the countywide polling  
27 place program under Section 43.007 to update data in not more than

1 10 minutes; and

2 (2) require a county that uses a device described by  
3 this section to use each device function described by Subsection  
4 (a) [~~real time~~].

5 (d) If a county uses a device that does not comply with a  
6 rule adopted under this section or uses a device in a manner that  
7 does not comply with a [~~the~~] rule adopted under this section in an  
8 election [~~two consecutive general elections~~] for state and county  
9 officers, the secretary of state shall assess a noncompliance fee.  
10 The noncompliance fee shall be set at an amount determined by  
11 secretary of state rule.

12 SECTION 2. Section 122.032(a), Election Code, is amended to  
13 read as follows:

14 (a) For a voting system or voting system equipment to be  
15 approved for use in elections, the voting system in which the  
16 equipment is designed to be used must:

17 (1) comply with the standards prescribed by Subchapter  
18 A; and

19 (2) beginning September 1, 2021, have all software and  
20 hardware used in the voting system manufactured, stored, and held  
21 in the United States and sold by a company whose:

22 (A) headquarters are located in the United  
23 States; and

24 (B) parent company's headquarters, if  
25 applicable, are located in the United States.

26 SECTION 3. Subchapter B, Chapter 123, Election Code, is  
27 amended by adding Section 123.0311 to read as follows:

1       Sec. 123.0311. DISCLOSURE OF RELATED ENTITIES. (a) A  
2 contract under Section 123.031 to acquire equipment necessary for  
3 operating a voting system from a vendor must identify each person or  
4 entity that has a five percent or greater ownership interest in:

5           (1) the vendor;

6           (2) the vendor's parent company, if applicable; and

7           (3) each subsidiary or affiliate of the vendor, if  
8 applicable.

9       (b) This section applies only to equipment acquired on or  
10 after September 1, 2021.

11       SECTION 4. Section 124.002, Election Code, is amended by  
12 adding Subsections (c) and (d) to read as follows:

13       (c) Voting system ballots may not be arranged in a manner  
14 that allows a political party's candidates to be selected in one  
15 motion or gesture.

16       (d) A person who arranges a ballot in a manner that violates  
17 Subsection (c) commits an offense. An offense under this section is  
18 a state jail felony.

19       SECTION 5. Subchapter A, Chapter 125, Election Code, is  
20 amended by adding Section 125.0071 to read as follows:

21       Sec. 125.0071. VOTER ALLOWED TO CAST BALLOT AT ANY TIME. A  
22 voting machine or ballot marking device must allow a voter the  
23 option to cast or complete the voter's ballot prior to voting on all  
24 races or measures if the voter affirmatively chooses to do so.

25       SECTION 6. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2021.