



**House
Legislative
Analysis
Section**

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VOTING: COMPLETING THE ARROW

House Bill 5559 with committee amendment
First Analysis (5-4-88)

RECEIVED

Sponsor: Rep. Nick Ciaramitaro
Committee: Elections

MAY 12 1988

High State Law Library

THE APPARENT PROBLEM:

Under the Michigan Election Law, an electronic voting system cannot be used in an election until it has been approved by the Board of State Canvassers as meeting the demands of the law. (An electronic voting system is one in which ballots are counted and tabulated by automatic tabulating equipment. The punch card system, for example, is an electronic voting system.) The secretary of state's office is interested in evaluating with the board of canvassers a new optical scan voting system that uses paper ballots that are fed into an optical scanner by the voter and automatically tabulated on the spot. According to the elections division, this system cannot be evaluated unless certain changes are made to the election law. Currently, the law only permits paper ballots to be counted if they are marked with an "X" or a check mark, whereas the system to be evaluated works by having the voter complete an arrow. Further, the law requires that a voter hand the ballot to an election inspector who then deposits it in the ballot box. The system to be tested works by having the voter feed the ballot into the scanning equipment (which would reject it if it had been spoiled). Also, currently ballots can only be tabulated after the polls are closed.

THE CONTENT OF THE BILL:

The bill would amend the section of the Michigan Election Law dealing with electronic voting systems to specify that a ballot that requires the voter to vote by making a mark with pen, pencil, or other instrument must have an incomplete arrow printed opposite each candidate and opposite the yes and no of a ballot question. The voter would then vote by connecting the appropriate arrow.

The bill would also establish a separate procedure for depositing ballots in cases in which the tabulating equipment used at a precinct automatically tabulates a voted ballot and deposits the voted ballot into the ballot box. The election law now requires a voter to return a marked ballot to an election inspector who then removes the stub and deposits the ballot. In cases involving automatic tabulating equipment, the voter would return the marked ballot to the election inspector who would remove the stub and then return the ballot to the voter. The voter would deposit the ballot into the automatic tabulating equipment. In such cases, the voted ballots would be placed in a ballot container and delivered to a place designated by the election clerk rather than delivered to a counting center.

The bill would also require that voting equipment that tabulates voted ballots as they are deposited must be constructed so as not to reveal the results of the tabulation while the polls are open.

MCL 168.795 et al.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill has no fiscal implications. (5-4-88)

ARGUMENTS:

For:

The bill would make changes in the election law necessary to allow the Board of State Canvassers to consider approving an optical scan electronic voting system for use at elections in the state. The bill does not require approval of the system or mandate that it be used. Before any such system could be used, the Department of State would have to promulgate rules governing its use. The department has noted that there are disadvantages at present to the optical scan system: it won't count valid marks made by some kinds of marking instruments (because of their color or density) and it will count marks in the incomplete part of the arrow that do not complete the arrow, such as check marks, crosses, stars, and question marks. Nevertheless, the department argues that the system is worth further study.

Against:

Wouldn't it be preferable to put into the election law generic language authorizing state elections officials to test and evaluate voting systems as they see fit rather than change the election law each time a new kind of voting system becomes available? If the optical scan system proves unworkable in Michigan, won't the election law have to be amended to remove these new provisions?

POSITIONS:

The Department of State supports the bill. (5-3-88)

H.B. 5559 (5-4-88)