



HOUSE BILL No. 4897

September 28, 1999, Introduced by Rep. Law and referred to the Committee on Constitutional Law and Ethics.

A bill to amend 1954 PA 116, entitled
"Michigan election law,"
by amending sections 795a and 797a (MCL 168.795a and 168.797a),
section 795a as amended by 1998 PA 215 and section 797a as
amended by 1996 PA 583.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 795a. (1) An electronic voting system shall not be
2 used in an election ~~unless~~ EXCEPT UNDER EITHER OR BOTH OF THE
3 FOLLOWING CIRCUMSTANCES:

4 (A) AN ELECTRONIC VOTING SYSTEM MAY BE USED IF it is
5 approved by the board of state canvassers as meeting the require-
6 ments of sections 794 and 795 and instructions regarding recounts
7 of ballots cast on that electronic voting system that have been
8 issued by the secretary of state. ~~, unless~~

1 (B) AN ELECTRONIC VOTING SYSTEM MAY BE USED IF section 797c
2 has been complied with ~~—~~ and ~~unless it~~ THE ELECTRONIC VOTING
3 SYSTEM meets 1 of the following conditions:

4 (i) ~~—(a)—~~ Is certified by an independent testing authority
5 accredited by the national association of state election direc-
6 tors and by the board of state canvassers.

7 (ii) ~~—(b)—~~ In the absence of an accredited independent test-
8 ing authority, is certified by the manufacturer of the voting
9 system as meeting or exceeding the performance and test standards
10 referenced in ~~subdivision (a)~~ SUBPARAGRAPH (i) in a manner pre-
11 scribed by the board of state canvassers.

12 (2) The vendor or representative seeking approval of an
13 electronic voting system shall do all of the following:

14 (a) Deposit with the secretary of state a nonrefundable
15 application fee of \$1,500.00 for a new voting system and a fee of
16 \$500.00 for an upgrade to any existing system.

17 (b) File with the secretary of state a list of all states in
18 which the voting system has been approved for use. This list
19 shall state how long the system has been used in the state and
20 shall disclose any reports compiled by any state or local govern-
21 ment concerning the performance of the system. The vendor shall
22 remain responsible for filing this information on an ongoing
23 basis.

24 (c) File with the secretary of state copies of all standard
25 contracts and maintenance agreements used in connection with the
26 sale of the voting system. All changes to standard contracts and

1 maintenance agreements shall be filed with the secretary of
2 state.

3 (d) Pay the cost for any field test required by the board of
4 state canvassers.

5 (e) State the number of voters each component of the voting
6 system can process per hour under each of the following
7 circumstances:

8 (i) An election in which there are 10 or fewer items to be
9 voted on the ballot by each voter.

10 (ii) An election in which the ballot consists of the number
11 of items typically voted on at a presidential general election in
12 this state.

13 (3) The board of state canvassers shall conduct a field test
14 of all new voting systems as part of the certification process.

15 ~~The~~ WHEN CONDUCTING A field test, ~~shall involve~~ THE BOARD OF
16 STATE CANVASSERS SHALL DO BOTH OF THE FOLLOWING:

17 (A) INVOLVE Michigan electors and election officials in sim-
18 ulated election day conditions. ~~The test shall be designed to~~
19 ~~gauge voter~~

20 (B) DESIGN THE TEST TO DETERMINE ALL OF THE FOLLOWING:

21 (i) VOTER reaction to the system. ~~,~~

22 (ii) ANY problems that voters have with the system. ~~, and~~
23 ~~the~~

24 (iii) THE number of voting stations required for the effi-
25 cient operation of an election based upon the vendor's statement
26 provided under subsection (2)(e).

1 (iv) THE ADEQUACY OF INSTRUCTIONAL MATERIALS PROVIDED BY THE
2 VENDOR TO ENSURE THAT VOTERS ARE PROPERLY PREPARED TO VOTE ON THE
3 NEW VOTING SYSTEM.

4 (4) The board of state canvassers shall approve an elec-
5 tronic voting system for use in this state only if it meets the
6 conditions of subsection (1) except that in an emergency situa-
7 tion that threatens the ability of a county, city, or township to
8 conduct a scheduled election, the board of state canvassers may
9 approve a correction of software or firmware after testing the
10 software or firmware performance.

11 (5) If an electronic voting system is approved for use
12 before January 1, 1997 by the board of state canvassers, it may
13 be used in an election. However, if the electronic voting system
14 has its software or firmware improved or changed, the system
15 shall comply with the requirements of subsection (1).

16 (6) After an electronic voting system is approved, an
17 improvement or change in the electronic voting system shall be
18 submitted to the board of state canvassers for approval pursuant
19 to this section. This subsection does not apply to the technical
20 capability of a general purpose computer, reader, or printer to
21 electronically record and count votes.

22 (7) A county, city, township, village, or school district
23 shall file "an intent to purchase statement" with the secretary
24 of state 30 days before any purchase agreement is made to pur-
25 chase a new voting system. The secretary of state shall provide
26 all information concerning the operation of the voting system in
27 Michigan or any other state to the local unit of government

1 within 25 days after receiving the "intent to purchase
2 statement".

3 (8) The secretary of state shall instruct local election
4 officials regarding the operation and use of an approved elec-
5 tronic voting system in order to carry out the purposes of sec-
6 tions 794 to 799a and the rules promulgated pursuant to sections
7 794 to 799a.

8 (9) If the board of state canvassers determines that an
9 electronic voting system that was approved under subsection (1)
10 no longer meets the requirements described in that subsection,
11 the board of state canvassers may disapprove that ELECTRONIC
12 voting system. An electronic voting system that has been disap-
13 proved by the board of state canvassers under this subsection
14 shall not be used in an election, unless it is reapproved by the
15 board of state canvassers under subsection (1).

16 Sec. 797a. (1) Before ~~entering the voting station, each~~
17 ~~elector shall be offered~~ THE POLLS OPEN ON ELECTION DAY, THE
18 BOARD OF ELECTION INSPECTORS SHALL DESIGNATE 1 ELECTION INSPECTOR
19 TO BE THE INSPECTOR IN CHARGE OF OFFERING instruction in the
20 proper method of voting on the electronic voting system. THE
21 BOARD OF ELECTION INSPECTORS SHALL PLACE THE NAME OF THE DESIG-
22 NATED INSPECTOR OF INSTRUCTION IN THE POLL BOOK. THE DESIGNATED
23 INSPECTOR OF INSTRUCTION SHALL OFFER TO EACH ELECTOR BEFORE HE OR
24 SHE ENTERS THE VOTING STATION THE OPPORTUNITY FOR INSTRUCTION IN
25 VOTING ON THE SYSTEM. THE DESIGNATED INSPECTOR OF INSTRUCTION
26 SHALL ALSO INFORM EACH ELECTOR ABOUT THE PROCESS FOR REQUESTING
27 ASSISTANCE ONCE HE OR SHE ENTERS THE VOTING STATION. If the

1 elector needs additional instruction after entering the voting
2 station, 2 election inspectors from different political parties
3 may, if necessary, enter the voting station and provide the addi-
4 tional instructions. AN ELECTION OFFICIAL SHALL PROVIDE THAT
5 APPROPRIATE MATERIALS BE AVAILABLE IN EACH PRECINCT FOR THE
6 INSTRUCTION REQUIRED UNDER THIS SUBSECTION. AFTER THE POLLS
7 CLOSE, THE DESIGNATED INSPECTOR OF INSTRUCTION SHALL SIGN A CER-
8 TIFICATE IN THE POLL BOOK STATING THAT HE OR SHE OFFERED INSTRU-
9 TION ON THE OPERATION OF THE VOTING SYSTEM TO EACH ELECTOR AND,
10 UPON REQUEST OF AN ELECTOR, PROVIDED THAT INSTRUCTION.

11 (2) If the electronic voting system provides for the use of
12 a ballot that is processed through electronic tabulating equip-
13 ment after the elector votes, the elector shall transport the
14 ballot to the ballot box, or other approved ballot container,
15 without exposing any votes. An election inspector shall ascer-
16 tain, by comparing the number appearing on the ballot stub with
17 the number recorded on the poll list, that the ballot delivered
18 by the ~~voter~~ ELECTOR is the same ballot that was issued to the
19 elector. If the numbers do not agree, the ballot shall be marked
20 as "rejected", and the elector shall not be allowed to vote. If
21 the numbers agree, an election inspector shall remove and discard
22 the stub. Except as otherwise provided in this subsection, the
23 election inspector shall deposit the ballot in the ballot box or
24 other approved ballot container. If electronic tabulating equip-
25 ment that deposits the voted ballot into the ballot box or other
26 approved ballot container is used at the precinct, the election
27 inspector shall return the ballot to the elector, and the elector

1 shall then deposit the ballot into the electronic tabulating
2 equipment. The electronic tabulating equipment shall be arranged
3 so that the secrecy of the ballot is not violated. If required
4 for the proper operation of the electronic tabulating equipment,
5 2 election inspectors from different political parties may peri-
6 odically open the equipment to rearrange voted ballots and may
7 transfer voted ballots to another approved ballot container.

8 (3) A ballot from which the stub is detached shall not be
9 accepted by the election inspector in charge of the ballot box or
10 other approved ballot container. An elector who spoils his or
11 her ballot may return it and secure another ballot. The word
12 "spoiled" shall be written across the face of the ballot, and the
13 ballot shall be marked and secured for later return.

14 (4) A ballot of a challenged voter that has the names of
15 candidates and questions printed directly on the voted ballot
16 shall be processed in the manner prescribed for challenging a
17 vote cast by paper ballot. A challenge to a voter voting on an
18 electronic voting system that does not use an individual hard
19 copy ballot shall be processed in the manner prescribed for chal-
20 lenging a vote cast on a voting machine.

21 (5) Except as otherwise provided in this act, an election
22 inspector shall not allow any portion of a ballot, including a
23 ballot stub, to be removed by any person other than an election
24 inspector from the polling place.