

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 310

H.P. 254

House of Representatives, January 19, 2007

An Act To Ensure the Integrity of Maine's Electoral Process by Requiring Physical Ballots

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BURNS of Berwick.

Cosponsored by Representative PINGREE of North Haven, Senator MITCHELL of Kennebec and Representatives: CANAVAN of Waterville, CARTER of Bethel, CRESSEY of Cornish, DRISCOLL of Westbrook, EMERY of Cutler, GREELEY of Levant, HILL of York, WHEELER of Kittery.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 21-A MRSA §812, sub-§10**, as amended by PL 2005, c. 445, §1, is
3 repealed.

4 **Sec. 2. 21-A MRSA §812-A, sub-§1**, as amended by PL 2005, c. 445, §2, is
5 further amended to read:

6 **1. Accessible voting equipment at each polling place.** The Secretary of State, in
7 compliance with the voting accessibility requirements of the federal Help America Vote
8 Act of 2002, shall provide one direct recording electronic voting machine, or other voting
9 system equipped for individuals with disabilities, for use at each polling place used in the
10 conduct of state elections. Such machines must produce permanent paper records that
11 provide a manual audit capacity for the machines and must also provide voters with audio
12 functions that enable the voters to verify their ballots aurally before the votes are cast, and
13 all such machines must meet the requirements of ~~section 812, subsection 10~~ § 812-B unless
14 the Secretary of State is unable to procure machines that the Secretary of State determines
15 are adequate to meet the requirements of this section and ~~section~~ sections 812 and 812-B
16 in time to comply with the Help America Vote Act of 2002.

17 Additional accessible voting machines may be used in the conduct of state elections, but
18 those machines must meet the requirements set forth in ~~section~~ sections 812 and 812-B.

19 **Sec. 3. 21-A MRSA §812-B** is enacted to read:

20 **§812-B. Voting machine standards**

21 In addition to the requirements prescribed in section 812, all voting machines used in
22 any election in this State must conform to the following standards.

23 **1. General.** The mechanisms and computer software by which any voting machine
24 tabulates, transmits or stores votes must be fully accessible to the office of the Secretary
25 of State and agents of that office. Any computer software relating to voting machines
26 must employ an open-source operating code that is fully accessible to the office of the
27 Secretary of State and agents of that office. Appropriate encryption software for
28 electronic voting machines must be incorporated and used to prevent any unauthorized
29 access while allowing full access by authorized agents and employees of the State. Any
30 instance of work or inspections done to any voting machine in the State must be entered
31 into a permanent log attached to that machine, with copies of the log sent to the
32 Department of the Secretary of State, Bureau of Corporations, Elections and
33 Commissions on a monthly basis. The log is a public record for purposes of Title 1,
34 chapter 13.

35 **2. Ballots.** All voting machines in the State must produce a physical ballot,
36 equivalent or superior to that of a hand-cast ballot, that unambiguously reflects the intent
37 of the voter. Each voter shall personally review and deliver the physical ballot to an
38 official ballot box. If a touch-screen voting machine is used, the voting machine must
39 produce a legible, large-print physical ballot so that each voter may verify that voter's
40 electoral choices before it is placed in the official ballot box. Each physical ballot must

1 also identify the individual touch-screen voting machine that produced it but may not
2 identify the voter.

3 A. Physical ballots may be an optional feature only of direct recording electronic
4 voting machines dedicated to accommodate the needs of sight-impaired voters or
5 other voters with disabilities for whom wardens determine the use of ballot-free
6 voting is appropriate. The option of using a ballot-free function on a touch-screen
7 voting machine may be executed only by the warden on duty at an individual voting
8 place upon request of a voter with a disability and only on a direct recording
9 electronic voting machine dedicated for access by voters with disabilities. A total
10 count of such ballot-free uses on dedicated direct recording electronic voting
11 machines, compiled in a manner that maintains complete voter anonymity, must be
12 kept at each voting district and transmitted to the office of the Secretary of State
13 along with the election results.

14 B. Each voting district that uses voting machines of any type must have on hand
15 sufficient provisional ballots to accommodate any voter whose eligibility to vote is
16 challenged as well as any voter who chooses to cast a hand-counted ballot in lieu of a
17 machine-cast or machine-tabulated vote. A voter who chooses a provisional ballot is
18 not required to provide justification for that choice.

19 C. If a voter detects a discrepancy in a physical ballot produced by a touch-screen
20 voting machine, that voter must be directed, by instructions clearly posted adjacent to
21 the voting machine, to call the discrepancy to the attention of election officials on
22 duty, who shall place the physical ballot in a designated envelope and note it in a
23 spoiled-ballot log. The voter must then be allowed to fill out a provisional ballot or
24 to use another voting machine. The spoiled ballots must be counted at the conclusion
25 of the voting day, and the totals must be deducted from the vote totals for that voting
26 district. If any voting machine is associated with 5 such discrepancies in a given
27 election day, that voting machine must be immediately taken out of service and
28 impounded, and all physical ballots associated with that voting machine must, at the
29 conclusion of the vote, be segregated from the rest of the physical ballots and
30 subjected to a hand recount to compare with the tally of the voting machine in
31 question. That recount must serve as the final tally for votes cast on that machine.

32

SUMMARY

33 This bill requires all voting machines used by voters to cast their votes in an election
34 to provide a physical ballot that is the equivalent of or superior to a hand-cast ballot and
35 clearly reflects the intent of the voter. The bill also prescribes the process to be followed
36 if the voter determines that the physical ballot is not consistent with the vote cast using
37 the voting machine.