**South Carolina General Assembly**

124th Session, 2021-2022

**H. 4882**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. W. Newton, Erickson, Taylor and Herbkersman

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Summary: Voting System

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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1/27/2022 House Referred to Committee on **Judiciary** ([House Journal‑page 31](file:///h:\hj\20220127.docx))

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**VERSIONS OF THIS BILL**

[1/27/2022](file:///p:\pprever\2021-22\4882_20220127.docx)

**A** **BILL**

TO AMEND SECTION 7‑5‑186, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATEWIDE VOTER REGISTRATION DATABASE, SO AS TO REQUIRE THE STATE ELECTION COMMISSION TO DEVELOP CERTAIN SECURITY PROTOCOLS AND TO CERTIFY COMPLIANCE AT LEAST ANNUALLY; TO AMEND SECTION 7‑5‑430, RELATING TO REGISTRATION BOOKS FOR ELECTIONS, SO AS TO REQUIRE THE STATE ELECTION COMMISSION TO DEVELOP CERTAIN SECURITY PROTOCOLS FOR ELECTRONIC POLL BOOKS AND TO CERTIFY COMPLIANCE AT LEAST ANNUALLY; TO AMEND SECTIONS 7‑13‑320 and 7‑13‑610, BOTH RELATING TO BALLOT STANDARDS, BOTH SO AS TO REQUIRE BALLOTS BE PRINTED ON PAPER WITH CERTAIN FEATURES; TO AMEND SECTION 7‑13‑1330, RELATING TO THE APPROVAL OF OPTICAL SCAN VOTING SYSTEMS, SO AS TO REQUIRE ANY OPTICAL SCAN VOTING SYSTEM TO BE CERTIFIED AS MEETING OR EXCEEDING THE MOST CURRENT FEDERAL VOTING SYSTEM STANDARDS; TO AMEND SECTION 7‑13‑1340, RELATING TO REQUIREMENTS FOR VOTE RECORDERS AND OPTICAL SCAN VOTING DEVICES, SO AS TO PROHIBIT CERTAIN FUNCTIONALITIES AND FEATURES DURING VOTING; TO AMEND SECTION 7‑13‑1370, RELATING TO BALLOT CARD SPECIFICATIONS, SO AS TO REQUIRE ALL BALLOT CARDS TO BE SOURCED SOLELY BY THE STATE ELECTION COMMISSION; TO AMEND SECTION 7‑13‑1620, RELATING TO THE VOTING SYSTEM APPROVAL PROCESS, SO AS TO REQUIRE A VOTING SYSTEM TO BE CERTIFIED AS MEETING OR EXCEEDING THE MOST CURRENT FEDERAL VOTING SYSTEM STANDARDS; TO AMEND SECTION 7‑13‑1640, RELATING TO VOTING MACHINE REQUIREMENTS, SO AS TO PROHIBIT CERTAIN FUNCTIONALITIES AND FEATURES DURING VOTING, AND TO REQUIRE CERTAIN ELECTRONIC RECORDS BE PRESERVED AS ELECTION RECORDS; TO AMEND SECTION 7‑13‑1710, RELATING TO VOTING MACHINE BALLOT SPECIFICATIONS, SO AS TO REQUIRE ALL VOTING MACHINE BALLOTS TO BE SOURCED SOLELY BY THE STATE ELECTION COMMISSION; AND TO REPEAL SECTION 7‑13‑440 RELATING TO VOTING MACHINE BALLOTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 7‑5‑186 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“(B) Security protocols for voter registration information maintained and developed by the State Election Commission shall be generally consistent with current industry security standards, and in promulgating this requirement, the State Election Commission shall consider those security standards issued by the National Institute of Standards and Technology, the Cybersecurity and Infrastructure Security Agency, and the federal Election Assistance Commission. The State Election Commission shall certify, at least annually, that the State of South Carolina has substantially complied with the requirements of this section.”

SECTION 2. Section 7‑5‑430 of the 1976 Code is amended to read:

“Section 7‑5‑430. Immediately preceding each general election or any special election, the county board of voter registration and elections must furnish one registration book for each polling precinct in the county containing the names of all electors entitled to vote at each precinct. Security protocols for electronic poll books shall be generally consistent with current industry security standards, and in promulgating this requirement, the State Election Commission shall consider those security standards issued by the National Institute of Standards and Technology, the Cybersecurity and Infrastructure Security Agency, and the federal Election Assistance Commission. The State Election Commission shall certify, at least annually, that the State of South Carolina has substantially complied with the requirements of this section.”

SECTION 3. Section 7‑13‑320(A) of the 1976 Code is amended to read:

“(A) Other than ballots delivered electronically to qualified electors who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. Section 20301, et seq.,the ballots shall be printed on security paper that incorporates features which can be used to authenticate the ballot as an official ballot but which does not make the ballot identifiable to a particular elector. The ballot shall be printed on paper of such thickness that the printing cannot be distinguished from the back and shall be of such size and color as directed by the State Election Commission. If more than one ballot is to be used in any election, each such ballot shall be printed upon different colored paper;”

SECTION 4. Section 7‑13‑610(C) of the 1976 Code is amended to read:

“(C) Other than ballots delivered electronically to qualified electors who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. Section 20301, et seq., the ballots shall be printed on security paper that incorporates features which can be used to authenticate the ballot as an official ballot but which do not make the ballot identifiable to a particular elector. The ballot must be printed on paper of a thickness so that the printing cannot be distinguished from the back and must be of a size and color as directed by the State Election Commission. If more than one ballot is to be used in a primary, each ballot must be printed on different colored paper. The ballot must contain a voting square opposite the name of each candidate, and the voter shall vote by putting a mark in the voting square opposite the name of the candidate of his choice. The State Election Commission may establish, under Chapter 23 of Title 1, such rules and regulations as are necessary for the proper administration of this section.”

SECTION 5. Section 7‑13‑1330 of the 1976 Code is amended to read:

“Section 7‑13‑1330. (A) Before any kind of optical scan voting system is used at any election, it must be approved by the State Election Commission, which shall examine the optical scan voting system and make and file in the commission’s office a report, attested by the signature of the commission’s executive director, stating whether, in the commission’s opinion, the kind of optical scan voting system examined may be accurately and efficiently used by electors at elections, as provided by law. An optical scan voting system may not be approved for use in the State unless certified by a testing laboratory accredited by the Federal Election Assistance Commission as meeting or exceeding the minimum requirements of the latest federal voting system standards and guidelines. Notwithstanding any other provision of law to the contrary, if these voting system standards have been amended less than thirty‑six months prior to an election, the State Election Commission may approve and certify a voting system that meets the prior standards after determining:

(1) the effect that such approval would have on the integrity and security of elections; and

(2) the procedure and cost involved to bring the voting system into compliance with the amended standards.

(B) No kind of vote recorder not approved pursuant to this section shall be used at any election and if, upon the reexamination of any type vote recorder previously approved, it appears that the vote recorder so reexamined can no longer be accurately and efficiently used by electors at elections as provided by law, the approval of the vote recorder must immediately be revoked by the State Election Commission, and no such type vote recorder shall thereafter be purchased for use or used in this State.

(C) If a vote recorder, including an optical scan voting system, which was approved for use before July 1, 1999, is improved or otherwise changed in a way since its approval that does not impair its accuracy, efficiency, or capacity, the vote recorder may be used in elections. However, if the software, hardware, or firmware of the system is improved or otherwise changed, the system must comply with the requirements of subsection (A).

(D) Any person or company who requests an examination of any type of vote recorder or optical scan voting system shall pay a nonrefundable examination fee of one thousand dollars for a new voting system and a nonrefundable examination fee of five hundred dollars for an upgrade to any existing system to the State Election Commission. The State Election Commission may at any time, in its discretion, reexamine any vote recorder or optical scan voting system when evidence is presented to the commission that the accuracy or the ability of the system to be used satisfactorily in the conduct of elections is in question.

(E) Any person or company who seeks approval for any vote recorder or optical scan voting system in this State must file with the State Election Commission a list of all states or jurisdictions in which the system has been approved for use. This list must state how long the system has been used in the state; contain the name, address, and telephone number of that state or jurisdiction’s chief election official; and must disclose any reports compiled by state or local government concerning the performance of the system. The vendor is responsible for filing this information on an ongoing basis.

(F) Any person or company who seeks approval for any vote recorder or optical scan voting system must file with the State Election Commission copies of all contracts and maintenance agreements used in connection with the sale of the voting system. All changes to standard contracts and maintenance agreements must be filed with the State Election Commission.

(G) Any person or company who seeks approval for any vote recorder or optical scan voting system must conduct, under the supervision of the State Election Commission and any county board of voter registration and elections, a field test for any new voting system, as part of the certification process. The field test shall involve South Carolina voters and election officials and must be conducted as part of a scheduled primary, general, or special election. This test must be held in two or more precincts, and all costs relating to the voting system must be borne by the vendor. The test must be designed to gauge voter reaction to the system, problems that voters have with the system, and the number of voting units required for the efficient operation of an election. The test must also demonstrate the accuracy of votes cast and reported on the system.

(H) Before an optical scan voting system may be used in elections in the State, all source codes for the system must be placed in escrow by the manufacturer, at the manufacturer’s expense, with the authority approved by the Federal Election Assistance Commission. These source codes must be available to the State Election Commission in case the company goes out of business, pursuant to court order, or if the State Election Commission determines that an examination of these source codes is necessary. The manufacturer shall place all updates of these source codes in escrow, and notify the State Election Commission that this requirement has been met.

(I) After a vote recorder or optical scan voting system is approved, an improvement or change in the system must be submitted to the State Election Commission for approval pursuant to this section; however, this requirement does not apply to the technical capability of a general purpose computer ~~or reader to electronically count and record votes~~ or ~~to a~~ printer to accurately reproduce vote totals.

(J) If the State Election Commission determines that a vote recorder or optical scan voting system that was approved no longer meets the requirements set forth in subsections (A) and (C) or Section 7‑13‑1340, the commission may decertify that system. A decertified system shall not be used in elections unless the system is reapproved by the commission under subsections (A) and (C).

(K) Neither a member of the State Election Commission, any county board of voter registration and elections or custodian, nor a member of a county governing body shall have any pecuniary interest in any vote recorder, or in the manufacture or sale of the vote recorder.

(L) To attain a measure of integrity over the process, the optical scan voting system also must maintain an image of each ballot that is cast, such that records of individual ballots are maintained by a subsystem independent and distinct from the main vote detection, interpretation, processing, and reporting path. The electronic images of each ballot must protect the integrity of the data and the anonymity of each voter, for example, by means of storage location scrambling. The ballot image records may be either machine‑readable or manually transcribed, or both, at the discretion of the vendor.

(M) All electronic records of configurations, software logs, security devices, ballot images, hardware, and voting system firmware must be preserved for the same amount of time that the state or federal law requires for all election‑related materials.”

SECTION 6. Section 7‑13‑1340(k) of the 1976 Code is amended to read:

“(k) ~~if approved after July 1, 1999, or if an upgrade in software, hardware, or firmware is submitted for approval as required by Section 7‑13‑1330 (C), is able to electronically transmit vote totals for all elections to the State Election Commission in a format and timeframe specified by the commission.~~ prohibits, at all times while utilized in a current election, the following:

(1) a connection to the Internet or an external network;

(2) capability to establish a wireless connection to an external network;

(3) establishment of a connection to an external network through a cable, a wireless modem or any other mechanism or process; or

(4) automatic adjudication functions.”

SECTION 7. Section 7‑13‑1370 of the 1976 Code is amended to read:

“Section 7‑13‑1370. Ballot cards for all precincts shall be sourced solely ~~of suitable design, size and stock, as prescribed~~ by the State Election Commission~~, to permit processing by a tabulating machine. A serially numbered stub and strip shall be attached to each ballot card in a manner and form similar to that prescribed by law for paper ballots~~.”

SECTION 8. Section 7‑13‑1620(A) and (G) of the 1976 Code is amended to read:

“(A) Before any kind of voting system, including an electronic voting system, is used at an election, it must be approved by the State Election Commission, which shall examine the voting system and make and file in the commission’s office a report, attested to by the signature of the commission’s executive director, stating whether, in the commission’s opinion, the kind of voting system examined may be accurately and efficiently used by electors at elections, as provided by law. A voting system may not be approved for use in the State unless certified by a testing laboratory accredited by the Federal Election Assistance Commission as meeting or exceeding the minimum requirements of the latest federal voting system standards and guidelines. Notwithstanding any other provision of law to the contrary, if these voting system standards have been amended less than thirty‑six months prior to an election, the State Election Commission may approve and certify a voting system that meets the prior standards after determining:

(1) the effect that such approval would have on the integrity and security of elections; and

(2) the procedure and cost involved to bring the voting system into compliance with the amended standards.

(G) After a voting system is approved, an improvement or change in the system must be submitted to the State Election Commission for approval pursuant to this section. This requirement does not apply to the technical capability of a general purpose computer, reader, or printer used for election preparation or ballot ~~tallying~~ tally reporting.”

SECTION 9. Section 7‑13‑1640(C) of the 1976 Code is amended to read:

“(C) If approved after July 1, 1999, or if an upgrade in software, hardware, or firmware is submitted for approval as required by Section 7‑13‑1620(B), the voting system must be able to electronically transmit vote totals for all elections from county board of voter registration and elections to the State Election Commission in a format and time frame specified by the commission.

(D) During anytime a voter is eligible to cast a ballot, the voting machine and any counting device shall not:

(1) be connected to the Internet or an external network;

(2) be capable of establishing a wireless connection;

(3) establish a connection to an external network through a cable, a wireless modem, or any other mechanism or process; or

(4) allow automatic adjudication functions.

(E) All electronic records of configurations, software, logs, security devices, ballot images, hardware, and voting system firmware must be preserved for the same amount of time that state or federal law requires for all election related materials.”

SECTION 10. Section 7‑13‑1710 of the 1976 Code is amended to read:

“Section 7‑13‑1710. In every county, city or town providing voting machines, the board of voter registration and elections shall furnish to the managers of election a sufficient number of ballots ~~printed on clear white paper, of such form and size as will fit the ballot frames of the machines, the arrangement of the names of the candidates on such ballots to be~~ prescribed by the board of voter registration and elections. Ballot cards for all precincts shall be sourced solely by the State Election Commission. Party nominations shall be arranged on each voting machine either in columns or horizontal rows, as shall nominations by petition, and the captions of the various ballots on such machines shall be so placed as to indicate to the voter what push knob, key lever or other device is to be used or operated in order to vote for the candidate or candidates of his choice.”

SECTION 11. Section 7‑13‑440 of the 1976 Code is repealed.

SECTION 12. This act takes effect upon approval by the Governor.

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