

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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

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

**Sec. 1. 21-A MRSA §812, sub-§10**, as amended by PL 2005, c. 445, §1, is repealed.

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

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

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

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

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

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

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

**2. Ballots.** All voting machines in the State must produce a physical ballot, equivalent or superior to that of a hand-cast ballot, that unambiguously reflects the intent of the voter. Each voter shall personally review and deliver the physical ballot to an official ballot box. If a touch-screen voting machine is used, the voting machine must produce a legible, large-print physical ballot so that each voter may verify that voter's electoral choices before it is placed in the official ballot box. Each physical ballot must also identify the individual touch-screen voting machine that produced it but may not identify the voter.

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

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

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

## SUMMARY

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