

1 **H. B. 2222**

2
3 (By Delegate White)

4 [Introduced January 12, 2011; referred to the
5 Committee on the Judiciary then Finance.]
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10 A BILL to amend and reenact §3-4A-1, §3-4A-2, §3-4A-11a, §3-4A-15,
11 §3-4A-17, §3-4A-19, §3-4A-26 and §3-4A-27 of the Code of West
12 Virginia, 1931, as amended, all relating to electronic voting
13 systems; prohibiting the use of touch screen voting machines.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §3-4A-1, §3-4A-2, §3-4A-11a, §3-4A-15, §3-4A-17,
16 §3-4A-19, §3-4A-26 and §3-4A-27 of the Code of West Virginia, 1931,
17 as amended, be amended and reenacted, all to read as follows:

18 **ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.**

19 **§3-4A-1. Use of electronic voting systems authorized.**

20 (a) Electronic voting systems may be used for the purpose of
21 registering or recording and computing votes cast in general,
22 special and primary elections: *Provided*, That the use of the
23 electronic voting systems shall be governed by the terms,
24 conditions, restrictions and limitations imposed by this article.

1 (b) Each county which is authorized to use electronic voting
2 systems in any statewide election shall establish a written policy
3 for securing the electronic voting equipment. The policy shall
4 outline how the equipment is secured from tampering and under what
5 circumstances county personnel are authorized to have access. The
6 clerk of the county commission shall submit a copy of the policy to
7 the Secretary of State by February 1 in each even-numbered year.
8 The clerk shall also submit a copy of any change to the policy
9 within thirty days after its adoption.

10 (c) Notwithstanding any other provision of this code to the
11 contrary, voting machines employing "touch screens" or requiring
12 the voter to touch the screen with a stylus or means of touch to
13 make a selection on the ballot may not be used.

14 **§3-4A-2. Definitions.**

15 As used in this article, unless otherwise specified:

16 (1) "Automatic tabulating equipment" means all apparatus
17 necessary to electronically count votes recorded on ballots and
18 tabulate the results;

19 (2) "Ballot" means a tabulating card or paper on which votes
20 may be recorded by means of perforating or marking with
21 electronically sensible ink or pencil; ~~or a screen upon which votes~~
22 ~~may be recorded by means of a stylus or by means of touch;~~

23 (3) "Central counting center" means a facility equipped with
24 suitable and necessary automatic tabulating equipment, selected by

1 the county commission, for the electronic counting of votes
2 recorded on ballots;

3 (4) "Electronic poll book" means an electronic device
4 containing the same voter registration information maintained by
5 the county clerk in a printed poll book.

6 (5) "Electronic voting system" is a means of conducting an
7 election whereby votes are recorded on ballots by means of an
8 electronically sensible marking ink, by perforating or are recorded
9 on equipment that registers votes on a computer disk, ~~or by~~
10 ~~touching a screen with a stylus or by means of touch,~~ and votes are
11 subsequently counted by automatic tabulating equipment at the
12 central counting center;

13 (6) "Program deck" means the actual punch card deck or decks,
14 or a computer program disk, diskette, tape or other programming
15 media, containing the program for counting and tabulating the
16 votes, including the "application program deck";

17 (7) "Application program deck" means the punch card deck or
18 equivalent capacity in other program medias as provided, containing
19 specific options used and necessary to modify the program of
20 general application, to conduct and tabulate a specific election
21 according to applicable law;

22 (8) "Standard validation test deck" means a group of ballots
23 wherein all voting possibilities which can occur in an election are
24 represented; and

1 (9) "Vote-recording device" means equipment in which ballot
2 labels and ballots are placed to allow a voter to record his or her
3 vote by perforating ~~or equipment with a screen upon which votes may~~
4 ~~be recorded by means of a stylus or by means of touch.~~

5 **§3-4A-11a. Ballots tabulated electronically; arrangement, quantity**
6 **to be printed, ballot stub numbers.**

7 (a) The board of ballot commissioners in counties using
8 ballots upon which votes may be recorded by means of marking with
9 electronically sensible ink or pencil and which marks are tabulated
10 electronically shall cause the ballots to be printed or displayed
11 upon the screens of the electronic voting system for use in
12 elections.

13 (b) (1) For the primary election, the heading of the ballot,
14 the type faces, the names and arrangement of offices and the
15 printing of names and arrangement of candidates within each office
16 are to conform as nearly as possible to the provisions of sections
17 thirteen and thirteen-a, article five of this chapter.

18 (2) For the general election, the heading of the ballot, the
19 straight ticket positions, the instructions to straight ticket
20 voters, the type faces, the names and arrangement of offices and
21 the printing of names and the arrangement of candidates within each
22 office are to conform as nearly as possible to the provisions of
23 section two, article six of this chapter, except as otherwise
24 provided in this article.

1 (3) Nonpartisan elections for board of education and any
2 question to be voted upon are to be separated from the partisan
3 ballot and separately headed in display type with a title clearly
4 identifying the purpose of the election and constituting a separate
5 ballot wherever a separate ballot is required under the provisions
6 of this chapter.

7 (4) Both the face and the reverse side of the ballot may
8 contain the names of candidates only if means to ensure the secrecy
9 of the ballot are provided and lines for the signatures of the poll
10 clerks on the ballot are printed on a portion of the ballot which
11 is deposited in the ballot box and upon which marks do not
12 interfere with the proper tabulation of the votes.

13 (5) The arrangement of candidates within each office is to be
14 determined in the same manner as for other electronic voting
15 systems, as prescribed in this chapter. On the general election
16 ballot for all offices, and on the primary election ballot only for
17 those offices to be filled by election, except delegate to national
18 convention, lines for entering write-in votes are to be provided
19 below the names of candidates for each office, and the number of
20 lines provided for any office shall equal the number of persons to
21 be elected, or three, whichever is fewer. The words "WRITE-IN, IF
22 ANY" are to be printed, where applicable, directly under each line
23 for write-ins. The lines are to be opposite a position to mark the
24 vote.

1 (c) ~~Except for electronic voting systems that utilize screens~~
2 ~~upon which votes may be recorded by means of a stylus or by means~~
3 ~~of touch, the~~ The primary election ballots are to be printed in the
4 color of ink specified by the Secretary of State for the various
5 political parties, and the general election ballot is to be printed
6 in black ink. ~~For electronic voting systems that utilize screens~~
7 ~~upon which votes may be recorded by means of a stylus or by means~~
8 ~~of touch, the primary ballots and the general election ballot are~~
9 ~~to be printed in black ink.~~ All ballots are to be printed, where
10 applicable, on white paper suitable for automatic tabulation and
11 are to contain a perforated stub at the top or bottom of the
12 ballot, which is to be numbered sequentially in the same manner as
13 provided in section thirteen, article five of this chapter. ~~or are~~
14 ~~to be displayed on the screens of the electronic voting system upon~~
15 ~~which votes are recorded by means of a stylus or touch.~~ The number
16 of ballots printed and the packaging of ballots for the precincts
17 are to conform to the requirements for paper ballots provided in
18 this chapter.

19 (d) In addition to the official ballots, the ballot
20 commissioners shall provide all other materials and equipment
21 necessary to the proper conduct of the election.

22 **§3-4A-15. Instructions and help to voters; vote-recording device**
23 **models; facsimile diagrams; sample ballots; legal**
24 **ballot advertisements.**

1 ~~(a) For the instruction of the voters on any election day in~~
2 ~~counties utilizing an electronic voting system that uses a screen~~
3 ~~upon which votes may be recorded by means of a stylus or by means~~
4 ~~of touch, the ballot commissioners shall provide for each polling~~
5 ~~place a sample ballot with each screen as it will appear on the~~
6 ~~devices, together with written instructions regarding the operation~~
7 ~~of the devices. Upon request, the election officers shall offer~~
8 ~~instruction to each voter, before voting, in the operation of the~~
9 ~~vote-recording device.~~

10 ~~(b)~~ (a) The ballot commissioners shall ~~also~~ provide facsimile
11 ballots, at least two of which, or complete sets of which, are to
12 be posted on the walls of each polling place. The facsimile
13 diagrams are exact diagrams of the ballots or screens so that the
14 voter may become familiar with the location of the parties,
15 offices, candidates and questions as they appear on the ballot to
16 be used in his or her precinct.

17 ~~(c)~~ (b) The ballot commissioners may, with the consent of the
18 county commission, or the county commission may, prepare and mail
19 to each qualified voter at the address shown on the registration
20 books a facsimile sample of the ballot or screens for his or her
21 precinct.

22 ~~(d)~~ (c) In counties where an electronic voting system has been
23 adopted, the legal ballot advertisements required by articles five
24 and six of this chapter, which specify the publication of a

1 facsimile sample ballot, are to consist of a facsimile of the
2 ballot ~~or screens~~ with the names of the candidates and the offices
3 for which they are running shown in their proper positions.

4 **§3-4A-17. Check of vote-recording devices and electronic poll**
5 **books before use; corrections; reserve vote-**
6 **recording devices.**

7 (a) In counties utilizing an electronic voting system where
8 votes are to be recorded by means of perforating ~~or by touching a~~
9 ~~screen with a stylus or by means of touch~~ before permitting the
10 first voter to vote, the election commissioners shall examine the
11 vote-recording devices to ascertain whether the ballot labels are
12 arranged as specified on the facsimile diagram furnished to the
13 precinct. If the ballot labels are arranged incorrectly, the
14 commissioners shall immediately notify the clerk of the county
15 commission of the foregoing facts in writing, indicating the number
16 of the device, and obtain from the clerk a reserve vote-recording
17 device and thereafter proceed to conduct the election.

18 (b) Any reserve vote-recording device so used is to be
19 prepared for use by the clerk or his or her duly appointed deputy
20 and the reserve vote-recording device is to be prepared, inspected
21 and sealed and delivered to the polling place wherein the seal is
22 to be broken and the device opened in the presence of the precinct
23 election commissioners who shall certify in writing signed by them
24 to the clerk of the county commission, that the reserve

1 vote-recording device was found to be sealed upon delivery to the
2 polling place, that the seal was broken and the device opened in
3 their presence at the polling place. The vote-recording device
4 found to have been with incorrect ballot labels is to be returned
5 immediately to the custody of the clerk who shall then promptly
6 cause the vote-recording device to be repaired, prepared and
7 resealed in order that it may be used as a reserve vote-recording
8 device if needed.

9 (c) In counties using electronic poll books, the election
10 commissioners shall examine the electronic poll books to ascertain
11 whether the poll books are in working order before allowing any
12 voters to enter the polling location. If the electronic poll books
13 are not in working order, the election commissioners shall contact
14 the county clerk who shall immediately authorize a printed poll
15 book to serve in place of the electronic poll book for that
16 election. A printed poll book may accompany the electronic poll
17 book to each precinct.

18 **§3-4A-19. Conducting electronic voting system elections**

19 **generally; duties of election officers; penalties.**

20 (a) The election officers shall constantly and diligently
21 maintain a watch in order to see that no person votes more than
22 once and to prevent any voter from occupying the voting booth for
23 more than five minutes.

24 (b) In primary elections, before a voter is permitted to

1 occupy the voting booth, the election commissioner representing the
2 party to which the voter belongs shall direct the voter to the
3 vote-recording device or supply the voter with a ballot, as may be
4 appropriate, which will allow the voter to vote only for the
5 candidates who are seeking nomination on the ticket of the party
6 with which the voter is affiliated or for unaffiliated voters in
7 accordance with section thirty-one, article two of this chapter.

8 (c) The poll clerk shall issue to each voter when he or she
9 signs the poll book a printed card or ticket numbered to correspond
10 to the number on the poll book of the voter and in the case of a
11 primary election, indicating the party affiliation of the voter,
12 which numbered card or ticket is to be presented to the election
13 commissioner in charge of the voting booth.

14 (d) One hour before the opening of the polls the precinct
15 election commissioners shall arrive at the polling place and set up
16 the voting booths in clear view of the election commissioners.
17 Where applicable, they shall open the vote-recording devices, place
18 them in the voting booths, examine them to see that they have the
19 correct ballots or ballot labels, where applicable by comparing
20 them with the sample ballots, and determine whether they are in
21 proper working order. They shall open and check the ballots, the
22 electronic poll books, if applicable, supplies, records and forms
23 and post the sample ballots or ballot labels and instructions to
24 voters. Upon ascertaining that all ballots, supplies, electronic

1 poll books, if applicable, records and forms arrived intact, the
2 election commissioners shall certify their findings in writing upon
3 forms provided and collected by the clerk of the county commission
4 over their signatures to the clerk of the county commission. Any
5 discrepancies are to be noted and reported immediately to the clerk
6 of the county commission. The election commissioners shall then
7 number in sequential order the ballot stub of each ballot in their
8 possession and report in writing to the clerk of the county
9 commission the number of ballots received. They shall issue the
10 ballots in sequential order to each voter.

11 (e) Upon entering a precinct which is using an electronic poll
12 book, each voter shall be verified by use of the electronic poll
13 book to be a registered voter. If the voter is not registered
14 according to the electronic poll book within that precinct, the
15 poll clerk is to inform the voter of the proper precinct in which
16 the voter is registered.

17 (f) Where applicable, each voter shall be instructed how to
18 operate the vote-recording device before he or she enters the
19 voting booth.

20 (g) Where applicable, any voter who spoils, defaces or
21 mutilates the ballot delivered to him or her, on returning the
22 ballot to the poll clerks, shall receive another in its place.
23 Every person who does not vote any ballot delivered to him or her
24 shall, before leaving the election room, return the ballot to the

1 poll clerks. When a spoiled or defaced ballot is returned, the
2 poll clerks shall make a minute of the fact on the poll books, at
3 the time, write the word "spoiled" across the face of the ballot
4 and place it in an envelope for spoiled ballots.

5 Immediately on closing the polls, the election commissioners
6 shall ascertain the number of spoiled ballots during the election
7 and the number of ballots remaining not voted. The election
8 commissioners shall also ascertain from the poll books the number
9 of persons who voted and shall report, in writing signed by them to
10 the clerk of the county commission, any irregularities in the
11 ballot boxes, the number of ballots cast, the number of ballots
12 spoiled during the election and the number of ballots unused. All
13 unused ballots are to be returned at the same time to the clerk of
14 the county commission who shall count them and record the number.
15 All unused ballots shall be stored with the other election
16 materials and destroyed at the expiration of twenty-two months.

17 (h) Each commissioner who is a member of an election board
18 which fails to account for every ballot delivered to it is guilty
19 of a misdemeanor and, upon conviction thereof, shall be fined not
20 more than \$1,000 or confined in jail for not more than one year, or
21 both.

22 (i) The board of ballot commissioners of each county, or the
23 chair of the board, shall preserve the ballots that are left over
24 in their hands, after supplying the precincts as provided, until

1 the close of the polls on the day of election and shall deliver
2 them to the clerk of the county commission who shall store them
3 with the other election materials and destroy them at the
4 expiration of twenty-two months.

5 (j) Where ballots are used, the voter, after he or she has
6 marked his or her ballot, shall, before leaving the voting booth,
7 place the ballot inside the envelope or sleeve provided for this
8 purpose, with the stub extending outside the envelope, and return
9 it to an election commissioner who shall remove the stub and
10 deposit the envelope, if applicable, with the ballot inside in the
11 ballot box. No ballot from which the stub has been detached may be
12 accepted by the officer in charge of the ballot box, but the ballot
13 shall be marked "spoiled" and placed with the spoiled ballots. ~~If~~
14 ~~an electronic voting system is used that utilizes a screen on which~~
15 ~~votes may be recorded by means of a stylus or by means of touch and~~
16 ~~the signal warning that a voter has attempted to cast his or her~~
17 ~~ballot has failed to do so properly has been activated and the~~
18 ~~voter has departed the polling place and cannot be recalled by a~~
19 ~~poll clerk to complete his or her ballot while the voter remains~~
20 ~~physically present in the polling place, then two election~~
21 ~~commissioners of different registered party affiliations, two poll~~
22 ~~clerks of different registered party affiliations or an election~~
23 ~~commissioner and a poll clerk of different registered party~~
24 ~~affiliations shall spoil the ballot.~~

1 (k) The precinct election commissioners shall prepare a report
2 in quadruplicate of the number of voters who have voted and, ~~where~~
3 ~~electronic voting systems are used that utilize a screen on which~~
4 ~~votes may be recorded by means of a stylus or by means of touch,~~
5 the number of ballots that were spoiled, as indicated by the poll
6 books, and shall place two copies of this report in the ballot box
7 ~~or where electronic voting systems are used that utilize a screen~~
8 ~~upon which votes may be recorded by means of a stylus or by means~~
9 ~~of touch, shall place two copies of this report and the electronic~~
10 ~~ballot devices in a container provided by the clerk of the county~~
11 ~~commission,~~ which thereupon is to be sealed with a paper seal
12 signed by the election commissioners to ensure that no additional
13 ballots may be deposited or removed from the ballot box. Two
14 election commissioners of different registered party affiliations
15 or two special messengers of different registered party
16 affiliations appointed by the clerk of the county commission, shall
17 forthwith deliver the ballot box or container to the clerk of the
18 county commission at the central counting center and receive a
19 signed numbered receipt therefor. The receipt must carefully set
20 forth in detail any and all irregularities pertaining to the ballot
21 boxes or containers and noted by the precinct election officers.

22 The receipt is to be prepared in duplicate, a copy of which
23 remains with the clerk of the county commission who shall have any
24 and all irregularities noted. The time of their departure from the

1 polling place is to be noted on the two remaining copies of the
2 report, which are to be immediately mailed to the clerk of the
3 county commission.

4 (1) The poll books, register of voters, unused ballots,
5 spoiled ballots and other records and supplies are to be delivered
6 to the clerk of the county commission, all in conformity with the
7 provisions of this section.

8 **§3-4A-26. Test of automatic tabulating equipment.**

9 (a) One week prior to the start of the count of the votes
10 recorded on ballots ~~or screens~~, the clerk of the county commission
11 shall have the automatic tabulating equipment tested to ascertain
12 that it will accurately count the votes cast for all offices and on
13 all measures. This test shall consist of a test of the entire
14 voting system, including removal of data from a vote-recording
15 device and its transferral to automatic tabulating equipment. The
16 county commission shall give public notice of the time and place of
17 the test not less than forty-eight hours nor more than two weeks
18 prior to the test by publication of a notice as a Class I-0 legal
19 advertisement in the county involved, in compliance with the
20 provisions of article three, chapter fifty-nine of this code.

21 (b) ~~(1)~~ Vote-recording devices used and tested for early
22 voting may also be used on election day, ~~upon compliance with all~~
23 ~~of the following requirements:~~

24 ~~(A) Following the close of early voting, the personal~~

1 ~~electronic ballot and the programable memory chip shall be removed~~
2 ~~and replaced with another personal electronic ballot and~~
3 ~~programable memory chip prepared for, but unused during, the~~
4 ~~current election period;~~

5 ~~(B) The printed paper trail used during the early voting~~
6 ~~period shall be removed and replaced with a new paper trail; and~~

7 ~~(C) The so long as the vote-recording device shall be retested~~
8 ~~prior to being used on election day.~~

9 ~~(2) Any personal electronic ballot programable memory chip and~~
10 ~~printed paper trail removed from a vote recording device used for~~
11 ~~early voting shall be securely stored by the county clerk until~~
12 ~~such time as it is used to tally the votes on election day in~~
13 ~~accordance with section twenty-seven of this article.~~

14 (c) (1) A test performed pursuant to this section shall be
15 open to representatives of the political parties, candidates, the
16 press and the public. It is to be conducted by processing a set of
17 preaudited ballots marked to record a predetermined number of valid
18 votes for each candidate or each measure. For each multicandidate
19 office, the test shall include one or more ballots which have
20 cross-over votes in order to test the ability of the automatic
21 tabulating equipment to record those votes in accordance with the
22 provisions of this article and any other applicable law. For each
23 office, the test shall include one or more ballots which have votes
24 in excess of the number allowed by law in order to test the ability

1 of the automatic tabulating equipment to reject votes. If, in the
2 process of any of the test counts, any error is detected, the cause
3 of the error is to be ascertained and corrective action promptly
4 taken. After the completion of the corrective action, the test
5 counts are to continue, including a retesting of those precincts
6 previously test counted. Prior to the continuation of the testing,
7 the county commission shall certify in writing, signed by each
8 commissioner, the nature of the error, its cause and the type of
9 corrective action taken. The certification shall be recorded in
10 the office of the clerk of the county commission in the record
11 book. Immediately after conclusion of this completed test, a
12 certified duplicate copy of the test results shall be sent by
13 certified mail to the offices of the State Election Commission,
14 where it is to be preserved and secured for one year and made
15 available for comparison or analysis by order of a circuit court or
16 the Supreme Court of Appeals.

17 (2) The tabulating equipment to be used in the election shall
18 be immediately certified by the county commission to be free from
19 error as determined by the test. All testing material shall be
20 placed with the certification in a sealed container and kept under
21 individual multiple locks with individual keys for each lock. The
22 number of locks and keys shall be the same as the number of county
23 commissioners together with the county clerk, with each
24 commissioner and the county clerk having a single key in his or her

1 possession. The sealed container shall be opened to conduct the
2 test required immediately before the start of the official count.

3 (3) The test shall be repeated immediately before the start of
4 the official count and at the conclusion of the official count
5 before the count is approved as errorless and before the election
6 returns are approved as official.

7 (4) All results of all of the tests are to be immediately
8 certified by the county commission, filed in the office of the
9 clerk of the county commission and immediately recorded in the
10 record book. On completion of the count, the test materials and
11 test ballots are to be sealed, except for purposes of the canvass
12 as provided in section twenty-eight of this article, and retained
13 and kept under individual multiple locks and individual keys for
14 each lock. The number of locks and keys shall be the same as the
15 number of county commissioners together with the county clerk, with
16 each commissioner and the county clerk having a single key in his
17 or her possession.

18 **§3-4A-27. Proceedings at the central counting center.**

19 (a) All proceedings at the central counting center are to be
20 under the supervision of the clerk of the county commission and are
21 to be conducted under circumstances which allow observation from a
22 designated area by all persons entitled to be present. The
23 proceedings shall take place in a room of sufficient size and
24 satisfactory arrangement to permit observation. Those persons

1 entitled to be present include all candidates whose names appear on
2 the ballots being counted or if a candidate is absent, a
3 representative of the candidate who presents a written
4 authorization signed by the candidate for the purpose and two
5 representatives of each political party on the ballot who are
6 chosen by the county executive committee chairperson. A reasonable
7 number of the general public is also freely admitted to the room.
8 In the event all members of the general public desiring admission
9 to the room cannot be admitted at one time, the county commission
10 shall provide for a periodic and convenient rotation of admission
11 to the room for observation, to the end that each member of the
12 general public desiring admission, during the proceedings at the
13 central counting center, is to be granted admission for reasonable
14 periods of time for observation: *Provided*, That no person except
15 those authorized for the purpose may touch any ballot or ballot
16 card or other official records and papers utilized in the election
17 during observation.

18 (b) All persons who are engaged in processing and counting the
19 ballots are to work in teams consisting of two persons of opposite
20 political parties, and are to be deputized in writing and take an
21 oath that they will faithfully perform their assigned duties.
22 These deputies are to be issued an official badge or identification
23 card which is assigned an identity control number and the deputies
24 are to prominently wear on his or her outer garments the issued

1 badge or identification card. Upon completion of the deputies'
2 duties, the badges or identification cards are to be returned to
3 the county clerk.

4 (c) Ballots are to be handled and tabulated and the write-in
5 votes tallied according to procedures established by the Secretary
6 of State, subject to the following requirements:

7 (1) In systems using punch card ballots, the ballot cards and
8 secrecy envelopes for a precinct are to be removed from the box and
9 examined for write-in votes before being separated and stacked for
10 delivery to the tabulator. Immediately after valid write-in votes
11 are tallied, the ballot cards are to be delivered to the tabulator.
12 No write-in vote may be counted for an office unless the voter has
13 entered the name of that office and the name of an official
14 write-in candidate for that office on the inside of the secrecy
15 envelope, either by writing, affixing a sticker or label or placing
16 an ink-stamped impression thereon;

17 (2) In systems using ballots marked with electronically
18 sensible ink, ballots are to be removed from the boxes and stacked
19 for the tabulator which separates ballots containing marks for a
20 write-in position. Immediately after tabulation, the valid
21 write-in votes are to be tallied. No write-in vote may be counted
22 for an office unless the voter has entered the name of an official
23 write-in candidate for that office on the line provided, either by
24 writing, affixing a sticker or placing an ink-stamped impression

1 thereon;

2 ~~(3) In systems using ballots in which votes are recorded upon~~
3 ~~screens with a stylus or by means of touch, the personalized~~
4 ~~electronic ballots are to be removed from the containers and~~
5 ~~stacked for the tabulator. Systems using ballots in which votes~~
6 ~~are recorded upon screens with a stylus or by means of touch are to~~
7 ~~tally write-in ballots simultaneously with the other ballots;~~

8 ~~(4)~~ (3) When more than one person is to be elected to an
9 office and the voter desires to cast write-in votes for more than
10 one official write-in candidate for that office, a single punch or
11 mark, as appropriate for the voting system, in the write-in
12 location for that office is sufficient for all write-in choices.
13 When there are multiple write-in votes for the same office and the
14 combination of choices for candidates on the ballot and write-in
15 choices for the same office exceed the number of candidates to be
16 elected, the ballot is to be duplicated or hand counted, with all
17 votes for that office rejected;

18 ~~(5)~~ (4) Write-in votes for nomination for any office and
19 write-in votes for any person other than an official write-in
20 candidate are to be disregarded;

21 ~~(6)~~ (5) When a voter casts a straight ticket vote and also
22 punches or marks the location for a write-in vote for an office,
23 the straight ticket vote for that office is to be rejected, whether
24 or not a vote can be counted for a write-in candidate; and

1 ~~(7)~~ (6) Official write-in candidates are those who have filed
2 a write-in candidate's certificate of announcement and have been
3 certified according to the provisions of section four-a, article
4 six of this chapter.

5 (d) If any ballot card is damaged or defective so that it
6 cannot properly be counted by the automatic tabulating equipment,
7 a true duplicate copy is to be made of the damaged ballot card in
8 the presence of representatives of each political party on the
9 ballot and substituted for the damaged ballot card. All duplicate
10 ballot cards are to be clearly labeled "duplicate" and are to bear
11 a serial number which is recorded on the damaged or defective
12 ballot card and on the replacement ballot card.

13 (e) The returns printed by the automatic tabulating equipment
14 at the central counting center, to which have been added write-in
15 and other valid votes, are, when certified by the clerk of the
16 county commission, to constitute the official preliminary returns
17 of each precinct or election district. Further, all the returns
18 are to be printed on a precinct basis. Periodically throughout and
19 upon completion of the count, the returns are to be open to the
20 public by posting the returns as have been tabulated precinct by
21 precinct at the central counting center. Upon completion of the
22 canvass, the returns are to be posted in the same manner.

23 (f) If for any reason it becomes impracticable to count all or
24 a part of the ballots with tabulating equipment, the county

1 commission may direct that they be counted manually, following as
2 far as practicable the provisions governing the counting of paper
3 ballots.

4 (g) As soon as possible after the completion of the count, the
5 clerk of the county commission shall have the vote recording
6 devices properly boxed or securely covered and removed to a proper
7 and secure place of storage.

NOTE: The purpose of this bill is to prohibit the use of
electronic voting technology that employs "touch screens" or
requires the voter to touch a screen with a stylus to cast a vote.

Strike-throughs indicate language that would be stricken from
the present law, and underscoring indicates new language that would
be added.