

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing PCB: Ethics & Elections
 2 Subcommittee

3 Representative Edwards offered the following:

4

5 **Amendment (with title amendment)**

6 Between lines 110 and 111, insert:

7 Section 1. Subsection (17) of section 97.012, Florida
 8 Statutes, is created to read:

9 97.012 Secretary of State as chief election officer.- The
 10 Secretary of State is the chief election officer of the state,
 11 and it is his or her responsibility to:

12 (17) Conduct investigations into any defect of an
 13 approved electronic or electromechanical voting system and
 14 impose penalties pursuant to s. 101.56065.

15 Section 1. Subsection (3) of section 101.5605, Florida
 16 Statutes, is amended to read:

17 101.5605 Examination and approval of equipment.-

18 (3) (a) Before the Department of State approves the
 19 electronic or electromechanical voting system, the person who
 20 submitted it for examination shall provide the department the

Amendment No. 4

21 name, mailing address, and telephone number of a registered
22 agent in this state for the voting system, which agent must have
23 and continuously maintain an office in this state. Any change in
24 the name, address, or telephone number of the registered agent
25 shall promptly be made known to the department. The department's
26 proof of delivery or attempted delivery of a written notice to
27 the last mailing address of the registered agent on file with
28 the department at the time of delivery or attempted delivery
29 shall be valid for all notice purposes.

30 (b) ~~(a)~~ Within 30 days after completing the examination and
31 upon approval of any electronic or electromechanical voting
32 system, the Department of State shall make and maintain a report
33 on the system, together with a written or printed description
34 and drawings and photographs clearly identifying the system and
35 the operation thereof. As soon as practicable after such filing,
36 the department shall send a notice of certification and, upon
37 request, a copy of the report to the governing bodies of the
38 respective counties of the state. Any voting system that does
39 not receive the approval of the department shall not be adopted
40 for or used at any election.

41 (c) ~~(b)~~ After a voting system has been approved by the
42 Department of State, any change or improvement in the system is
43 required to be approved by the department prior to the adoption
44 of such change or improvement by any county. If any such change
45 or improvement does not comply with the requirements of this
46 act, the department shall suspend all sales of the equipment or
47 system in the state until the equipment or system complies with
48 the requirements of this act.

Amendment No. 4

49 Section 3. Section 101.56065, Florida Statutes, is created
50 to read:

51 Section 101.56065 Investigations for equipment defects;
52 penalties. -

53 (1) For purposes of this section "defect" means any
54 failure, fault, or flaw in an electronic or electromechanical
55 voting system approved pursuant to s. 101.5605 that results in
56 nonconformance to the standards under which the voting system
57 was approved. "Defect" further includes the voting system
58 manufacturer or vendor's failure to make available hardware or
59 software to the counties who have purchased the approved voting
60 system to permit the voting system to function in the manner as
61 approved by the Department of State.

62 (2) (a) When the Secretary of State has reasonable cause to
63 believe an electronic or electromechanical voting system
64 approved pursuant to s. 101.5605 contains a defect either
65 before, during, or after an election, the Secretary of State
66 shall investigate whether the voting system has a defect.

67 (b) The Secretary of State may initiate the investigation
68 in paragraph (a) on his own initiative or upon the written
69 request of the supervisor of elections of a county in which a
70 defect allegedly exists or existed.

71 (c) In order to carry out the responsibilities prescribed
72 by this section, the Department of State is empowered to
73 subpoena and bring before its duly authorized representatives
74 any person in the state, or any person doing business in the
75 state, or any person who has filed or is required to have filed
76 any application, document, papers, or other information with an

Amendment No. 4

77 office or agency of this state or a political subdivision
78 thereof and to require the production of any papers, books, or
79 other records relevant to any investigation. Duly authorized
80 representatives of the department are empowered to administer
81 all oaths and affirmations in the manner prescribed by law to
82 witnesses who shall appear before them concerning any relevant
83 matter of the investigation. Should any witness fail to respond
84 to the lawful subpoena of the department or, having responded,
85 fail to answer all lawful inquiries or to turn over evidence
86 that has been subpoenaed, the department may file a complaint
87 before any circuit court of the state setting up such failure on
88 the part of the witness. On the filing of such complaint, the
89 court shall take jurisdiction of the witness and the subject
90 matter of said complaint and shall direct the witness to respond
91 to all lawful questions and to produce all documentary evidence
92 in the witness's possession which is lawfully demanded. The
93 failure of any witness to comply with such order of the court
94 shall constitute a direct and criminal contempt of court, and
95 the court shall punish said witness accordingly. However, the
96 refusal by a witness to answer inquiries or turn over evidence
97 on the basis that such testimony or material will tend to
98 incriminate such witness shall not be deemed refusal to comply
99 with the provisions of this section.

100 (d) The Secretary of State shall prepare a written report
101 of any investigation conducted pursuant to this section.

102 (3) (a) During an investigation pursuant to subsection (2),
103 the voting system which is the subject of the investigation and

Amendment No. 4

104 any upgrade to such voting system may not be used in any
105 election in the state.

106 (b) Notwithstanding paragraph (a), the Secretary of State
107 shall have the authority for good cause to allow the continued
108 use of the voting system and any upgrades to such voting system
109 in the state. The Secretary of State shall submit the approval
110 of such continual use in writing to the supervisors of
111 elections.

112 (4) (a) If the Secretary of State determines by a
113 preponderance of the evidence that a defect exists in the voting
114 system, the Secretary of State shall impose a civil penalty of
115 \$25,000 for each defect against:

116 1. A person who submitted the voting system for approval
117 by the Department of State in accordance with s. 101.5605, or
118 that person's successors or assigns; and

119 2. Any person, or that person's successors or assigns, who
120 entered into a contract for the sale or lease of the voting
121 system to any county in which the defect existed, if the defect
122 existed during the term of the contract.

123 (b) If the Secretary of State finds that a defect existed:

124 1. The voting system or any upgrade to such system may not
125 be used in the state until the department provides written
126 confirmation to the supervisors of elections that the defect has
127 been remedied or the department; and

128 2. Any person against whom a civil penalty was imposed
129 under this section may not enter into a contract for sale or
130 lease of a voting system in the state until the civil penalties

Amendment No. 4

131 have been paid and the department provides written confirmation
132 to the supervisors of elections of the payment.

133 (c) Notwithstanding paragraph (b), the Secretary of State
134 shall have the authority for good cause to allow the continued
135 use of the voting system and any upgrades to such voting system
136 in the state. The Secretary of State shall submit the approval
137 of such continual use in writing to the supervisors of
138 elections.

139 (5) The person against whom a civil penalty was imposed
140 under this section shall reimburse the Department of State in an
141 amount equal to the actual costs incurred by the department in
142 conducting the investigation.

143 (6) The Secretary of State's authority under this section
144 is in addition to, and not exclusive of, any other authority
145 provided by law.

146

147

148

149

150

T I T L E A M E N D M E N T

151

Remove lines 9-10 and insert:

152

Enter Amending Text Here

153