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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/06/2018	.	
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The Committee on Community Affairs (Baxley) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present subsections (6) through (45) of section 97.021, Florida Statutes, are renumbered as subsections (7) through (46), respectively, a new subsection (5) is added to that section, and paragraph (a) of present subsection (5) of that section is amended, to read:

97.021 Definitions.—For the purposes of this code, except



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11 where the context clearly indicates otherwise, the term:

12 (5) "Automatic tabulating equipment" means an apparatus  
13 that automatically examines, counts, and records votes.

14 (6)~~(5)~~ "Ballot" or "official ballot" when used in reference  
15 to:

16 (a) "Marksense ballots" means that printed sheet of paper,  
17 used in conjunction with an electronic or electromechanical vote  
18 tabulation voting system, containing the names of candidates, or  
19 a statement of proposed constitutional amendments or other  
20 questions or propositions submitted to the electorate at any  
21 election, or the selections made by the elector of candidates or  
22 other questions or propositions at an election, on which sheet  
23 of paper an elector casts his or her vote either directly on a  
24 sheet of paper or indirectly through the use of a voter  
25 interface device used to designate the elector's ballot  
26 selections on the sheet of paper.

27 Section 2. Subsection (10) is added to section 101.151,  
28 Florida Statutes, to read:

29 101.151 Specifications for ballots.—

30 (10) With respect to any voting system that uses a voter  
31 interface device to designate the elector's ballot selections on  
32 a sheet of paper, the provisions of this section, s. 101.161,  
33 and ss. 101.2512-101.254 that prescribe the ballot layout apply  
34 only to the display of candidates and issues on the voter  
35 interface device.

36 Section 3. Subsection (5) of section 101.5603, Florida  
37 Statutes, is amended to read:

38 101.5603 Definitions relating to Electronic Voting Systems  
39 Act.—As used in this act, the term:



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40 (5) "Marking device" means any approved device for marking  
41 a ballot with ink or other substance, including through a voter  
42 interface device, which will enable the ballot to be tabulated  
43 by means of automatic tabulating equipment.

44 Section 4. Subsection (1) of section 101.56075, Florida  
45 Statutes, is amended to read:

46 101.56075 Voting methods.—

47 (1) Except as provided in subsection (2), all voting shall  
48 be by marksense ballot using ~~utilizing~~ a marking device for the  
49 purpose of designating ballot selections.

50 Section 5. Paragraph (a) of subsection (5) and subsections  
51 (7) and (8) of section 101.5614, Florida Statutes, are amended  
52 to read:

53 101.5614 Canvass of returns.—

54 (5) (a) If any vote-by-mail ballot is physically damaged so  
55 that it cannot properly be counted by the voting system's  
56 automatic tabulating equipment, a true duplicate copy shall be  
57 made of the damaged ballot in the presence of witnesses and  
58 substituted for the damaged ballot. Likewise, a duplicate ballot  
59 shall be made of a vote-by-mail ballot containing an overvoted  
60 race or a marked vote-by-mail ballot in which every race is  
61 undervoted which shall include all valid votes as determined by  
62 the canvassing board based on rules adopted by the division  
63 pursuant to s. 102.166(4). All duplicate ballots shall be  
64 clearly labeled "duplicate," bear a serial number which shall be  
65 recorded on the defective ballot, and be counted in lieu of the  
66 defective ballot. After a ballot has been duplicated, the  
67 defective ballot shall be placed in an envelope provided for  
68 that purpose, and the duplicate ballot shall be tallied with the



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69 other ballots for that precinct.

70 (7) Vote-by-mail ballots may be counted by the voting  
71 system's automatic tabulating equipment if they have been marked  
72 in a manner which will enable them to be properly counted by  
73 such equipment.

74 (8) The return printed by the voting system's automatic  
75 tabulating equipment, to which has been added the return of  
76 write-in, vote-by-mail, and manually counted votes and votes  
77 from provisional ballots, shall constitute the official return  
78 of the election upon certification by the canvassing board. Upon  
79 completion of the count, the returns shall be open to the  
80 public. A copy of the returns may be posted at the central  
81 counting place or at the office of the supervisor of elections  
82 in lieu of the posting of returns at individual precincts.

83 Section 6. Paragraph (a) of subsection (7) of section  
84 102.141, Florida Statutes, is amended to read:

85 102.141 County canvassing board; duties.—

86 (7) If the unofficial returns reflect that a candidate for  
87 any office was defeated or eliminated by one-half of a percent  
88 or less of the votes cast for such office, that a candidate for  
89 retention to a judicial office was retained or not retained by  
90 one-half of a percent or less of the votes cast on the question  
91 of retention, or that a measure appearing on the ballot was  
92 approved or rejected by one-half of a percent or less of the  
93 votes cast on such measure, a recount shall be ordered of the  
94 votes cast with respect to such office or measure. The Secretary  
95 of State is responsible for ordering recounts in federal, state,  
96 and multicounty races. The county canvassing board or the local  
97 board responsible for certifying the election is responsible for



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98 ordering recounts in all other races. A recount need not be  
99 ordered with respect to the returns for any office, however, if  
100 the candidate or candidates defeated or eliminated from  
101 contention for such office by one-half of a percent or less of  
102 the votes cast for such office request in writing that a recount  
103 not be made.

104 (a) Each canvassing board responsible for conducting a  
105 recount shall put each marksense ballot through automatic  
106 tabulating equipment and determine whether the returns correctly  
107 reflect the votes cast. If any marksense ballot is physically  
108 damaged so that it cannot be properly counted by the automatic  
109 tabulating equipment during the recount, a true duplicate shall  
110 be made of the damaged ballot pursuant to the procedures in s.  
111 101.5614(5). Immediately before the start of the recount, a test  
112 of the tabulating equipment shall be conducted as provided in s.  
113 101.5612. If the test indicates no error, the recount tabulation  
114 of the ballots cast shall be presumed correct and such votes  
115 shall be canvassed accordingly. If an error is detected, the  
116 cause therefor shall be ascertained and corrected and the  
117 recount repeated, as necessary. The canvassing board shall  
118 immediately report the error, along with the cause of the error  
119 and the corrective measures being taken, to the Department of  
120 State. No later than 11 days after the election, the canvassing  
121 board shall file a separate incident report with the Department  
122 of State, detailing the resolution of the matter and identifying  
123 any measures that will avoid a future recurrence of the error.  
124 If the automatic tabulating equipment used in a recount is not  
125 part of the voting system and the ballots have already been  
126 processed through such equipment, the canvassing board is not



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127 required to put each ballot through any automatic tabulating  
128 equipment again.

129 Section 7. Subsections (1) and (2) and paragraph (d) of  
130 subsection (5) of section 102.166, Florida Statutes, are amended  
131 to read:

132 102.166 Manual recounts of overvotes and undervotes.—

133 (1) If the second set of unofficial returns pursuant to s.  
134 102.141 indicates that a candidate for any office was defeated  
135 or eliminated by one-quarter of a percent or less of the votes  
136 cast for such office, that a candidate for retention to a  
137 judicial office was retained or not retained by one-quarter of a  
138 percent or less of the votes cast on the question of retention,  
139 or that a measure appearing on the ballot was approved or  
140 rejected by one-quarter of a percent or less of the votes cast  
141 on such measure, a manual recount of the overvotes and  
142 undervotes cast in the entire geographic jurisdiction of such  
143 office or ballot measure shall be ordered unless:

144 (a) The candidate or candidates defeated or eliminated from  
145 contention by one-quarter of 1 percent or fewer of the votes  
146 cast for such office request in writing that a recount not be  
147 made; or

148 (b) The number of overvotes and undervotes is fewer than  
149 the number of votes needed to change the outcome of the  
150 election.

151  
152 The Secretary of State is responsible for ordering a manual  
153 recount for federal, state, and multicounty races. The county  
154 canvassing board or local board responsible for certifying the  
155 election is responsible for ordering a manual recount for all



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156 other races. A manual recount consists of a recount of marksense  
157 ballots or of digital images of those ballots by a person.

158 (2) (a) Any hardware or software used to identify and sort  
159 overvotes and undervotes for a given race or ballot measure must  
160 be certified by the Department of State ~~as part of the voting~~  
161 ~~system pursuant to s. 101.015.~~ Any such hardware or software  
162 must be capable of simultaneously counting votes.

163 (b) Overvotes and undervotes shall be identified and sorted  
164 while recounting ballots pursuant to s. 102.141, if the hardware  
165 or software for this purpose has been certified or the  
166 department's rules so provide. Overvotes and undervotes may be  
167 identified and sorted physically or digitally.

168 (5) Procedures for a manual recount are as follows:

169 (d) The Department of State shall adopt detailed rules  
170 prescribing additional recount procedures for each certified  
171 voting system which shall be uniform to the extent practicable.  
172 The rules shall address, at a minimum, the following areas:

- 173 1. Security of ballots during the recount process;
- 174 2. Time and place of recounts;
- 175 3. Public observance of recounts;
- 176 4. Objections to ballot determinations;
- 177 5. Record of recount proceedings; ~~and~~
- 178 6. Procedures relating to candidate and petitioner

179 representatives; and

180 7. Procedures relating to the certification and the use of  
181 automatic tabulating equipment that is not part of a voting  
182 system.

183 Section 8. This act shall take effect on January 1, 2019.

184



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

186 And the title is amended as follows:

187 Delete everything before the enacting clause

188 and insert:

189 A bill to be entitled

190 An act relating to voting systems; amending s. 97.021,  
191 F.S.; defining the term "automatic tabulating  
192 equipment" for purposes of the Florida Election Code;  
193 revising the definition of the term "marksense  
194 ballots" for purposes of the Florida Election Code;  
195 amending s. 101.151, F.S.; providing applicability of  
196 specified ballot requirements to a voter interface  
197 device; amending ss. 101.5603 and 101.56075, F.S.;  
198 conforming provisions to changes made by the act;  
199 amending s. 101.5614, F.S.; revising procedures  
200 governing the canvassing of returns to specify usage  
201 of a voting system's automatic tabulating equipment;  
202 amending s. 102.141, F.S.; providing that ballots  
203 processed through automatic tabulating equipment in a  
204 recount do not need to be reprocessed in certain  
205 circumstances; amending s. 102.166, F.S.; specifying  
206 the manner by which a manual recount may be conducted;  
207 revising requirements for hardware or software used in  
208 a manual recount; authorizing overvotes and undervotes  
209 to be identified and sorted physically or digitally in  
210 a manual recount; revising minimum requirements for  
211 Department of State rules to require procedures  
212 regarding the certification and use of automatic  
213 tabulating equipment for manual recounts; providing an





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effective date.