

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Ethics and Elections

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BILL: CS/CS/SB 964

INTRODUCER: Ethics and Elections Committee; Community Affairs Committee; and Senator Baxley

SUBJECT: Voting Systems

DATE: February 20, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Ulrich	EE	<b>Favorable</b>
2.	Cochran	Yeatman	CA	<b>Fav/CS</b>
3.	Fox	Ulrich	EE	<b>Fav/CS</b>
4.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 964 authorizes the *general* use of touch screen voting systems with a voter-verifiable paper trail for canvassing and recount purposes, currently available only to disabled voters.

The bill takes effect July 1, 2018.

**II. Present Situation:**

A “voting system” is a method of casting and processing votes that consists of electromechanical components and, in many cases, utilizes mark-sense ballots. The voting system may also include things like procedures, operating manuals, supplies, printouts, and other software necessary for the system’s operation.<sup>1</sup>

The State Division of Elections approves the voting system used in most Florida elections. The Division tests the reliability of both the hardware and software components to make sure that they meet the standards set out in law and rules. Florida’s certification process is among the most comprehensive in the nation.

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<sup>1</sup> Section 97.021(45), F.S.

Section 101.56062, F.S., enumerates the statutory standards for accessible voting systems, including items like requirements for tactile or audio input devices and font size for the visually impaired. *Only persons with disabilities may vote on an accessible voting system.*<sup>2</sup>

The disability voting systems generally include a “voter interface device,” which many Floridians may remember as “touch screens.”<sup>3</sup> The difference between the original “touch screen” systems in use in about 15 counties in the mid-2000s and the current crop of certified disability voting systems, such as the ES&S AutoMARK<sup>4</sup> and ExpressVote,<sup>5</sup> is that the newer systems “mark” a scannable paper ballot — a voter-verifiable paper trail that can be used for recount purposes.<sup>6</sup> These systems prevent an elector from “overvoting” (selecting more than one candidate per race) and warn or prompt the voter if he or she “undervotes” (completely skips a race). There is a summary review screen at the end of the selection process to allow a voter to go back and make or change a selection.<sup>7</sup> After the ballot is printed, voters are able to review the ballot for accuracy before depositing it in an optical scanner for counting.

### III. Effect of Proposed Changes:

CS/CS/SB 964 modifies a few voting system terms and provisions in the Florida Election Code to authorize the use of an electronic “voter interface device” for marking paper ballots for optical scanning. The bill further provides that the ballot layout need only apply to the voter interface device and not to the printed ballot.

These changes will effectively allow *any* elector, not just disabled voters, to use the touch screen voting equipment with a scannable paper trail like the ES&S AutoMARK or ExpressVote systems. Supervisors who have already purchased this type of equipment will benefit by increased use of the machines and possible shorter lines at certain polling places, something that is particularly important *this* election cycle with the potentially longer ballot that includes Constitution Revision Commission proposals.

The bill takes effect July 1, 2018.

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<sup>2</sup> Section 101.56075 (1) and (2), F.S.

<sup>3</sup> In the early-to-mid 2000s, some Florida counties experimented with touch screen voting systems *without a paper trail* for the general voting populace; those systems were ultimately replaced by optical scan (i.e., blacken-the-oval) voting systems for all but disabled voters, beginning with the 2008 primary election. Ch. 2007-30, § 6, Laws of Fla. (codified at § 101.56075, F.S.).

<sup>4</sup> This system marks the same type of optical scan ballot design familiar to voters, effectively serving as an electronic “pen.” Verified Voting, ES&S AutoMARK Description and Instructional Video, <https://www.verifiedvoting.org/resources/voting-equipment/ess/automark/> (last accessed Feb. 20, 2018).

<sup>5</sup> The ExpressVote produces a ballot card with multiple bar codes at the top corresponding to the voter’s choices. Underneath the bar codes, the card contains the offices or amendments on the ballot, along with the voter’s choice in each contest. See Verified Voting, ES&S ExpressVote Description and Instructional Video, <https://www.verifiedvoting.org/resources/voting-equipment/ess/expressvote/> (last accessed Feb. 20, 2018).

<sup>6</sup> About 2/3rds of Florida’s counties (42/67) currently use either the ES&S AutoMark or Express Vote systems for disabled voters. See Fla. Div. of Elections, *Accessible Voting Equipment by County (updated Feb. 2, 2018)*, available at: <http://dos.myflorida.com/media/695364/accessible-voting-systems-in-use-by-county.pdf> (last accessed Feb.20, 2018).

<sup>7</sup> Voters can return to a contest selection *for any reason*, not only because they left a race blank, or undervoted, and change a selection.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

Local Supervisors of Elections typically purchase voting equipment using county funds or, occasionally, federal grant money. There should be no direct impact on state revenues or expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Except for technical changes, the bill contains the same language that unanimously passed the full Senate, the Senate Ethics and Elections Committee, and the Senate Judiciary Committee last year.<sup>8</sup>

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 97.021, 101.151, 101.5603 and 101.56075.

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<sup>8</sup> See SB 1160 (2017); CS/CS HB 1325 (2017).

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Ethics and Elections on February 20, 2018:**

Removes the authorization for digital image recounts using non-voting system equipment; moves the effective date back to July 1, 2018; and, restores the original language of the bill, as filed.

**CS by Community Affairs on February 6, 2018:**

Gives county canvassing boards and Supervisors of Elections the option to use State-certified, digital-imaging, automated tabulating equipment that is not part of the county's voting system to conduct both machine and manual recounts.

- B. **Amendments:**

None.