

1                   A bill to be entitled  
2           An act relating to voting systems; amending s. 97.021,  
3           F.S.; defining the term "automatic tabulating  
4           equipment" for purposes of the Florida Election Code;  
5           amending s. 101.5614, F.S.; revising procedures  
6           governing the canvassing of returns to specify usage  
7           of a voting system's automatic tabulating equipment;  
8           amending s. 102.141, F.S.; clarifying the  
9           circumstances under which ballots must be processed  
10          through automatic tabulating equipment in a recount;  
11          amending s. 102.166, F.S.; specifying the manner by  
12          which a manual recount may be conducted; revising  
13          requirements for hardware or software used in a manual  
14          recount; authorizing overvotes and undervotes to be  
15          identified and sorted physically or digitally in a  
16          manual recount; revising minimum requirements for  
17          Department of State rules to require procedures  
18          regarding the certification and use of automatic  
19          tabulating equipment for manual recounts; providing an  
20          effective date.

21  
22   Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Present subsections (5) through (45) of section  
25   97.021, Florida Statutes, are renumbered as subsections (6)

26 | through (46), respectively, and a new subsection (5) is added to  
27 | that section, to read:

28 |       97.021 Definitions.—For the purposes of this code, except  
29 | where the context clearly indicates otherwise, the term:

30 |       (5) "Automatic tabulating equipment" means an apparatus  
31 | that automatically examines, counts, and records votes.

32 |       Section 2. Paragraph (a) of subsection (4) and subsections  
33 | (6) and (7) of section 101.5614, Florida Statutes, are amended  
34 | to read:

35 |       101.5614 Canvass of returns.—

36 |       (4) (a) If any vote-by-mail ballot is physically damaged so  
37 | that it cannot properly be counted by the voting system's  
38 | automatic tabulating equipment, a true duplicate copy shall be  
39 | made of the damaged ballot in the presence of witnesses and  
40 | substituted for the damaged ballot. Likewise, a duplicate ballot  
41 | shall be made of a vote-by-mail ballot containing an overvoted  
42 | race or a marked vote-by-mail ballot in which every race is  
43 | undervoted which shall include all valid votes as determined by  
44 | the canvassing board based on rules adopted by the division  
45 | pursuant to s. 102.166(4). All duplicate ballots shall be  
46 | clearly labeled "duplicate," bear a serial number which shall be  
47 | recorded on the defective ballot, and be counted in lieu of the  
48 | defective ballot. After a ballot has been duplicated, the  
49 | defective ballot shall be placed in an envelope provided for  
50 | that purpose, and the duplicate ballot shall be tallied with the

51 other ballots for that precinct.

52 (6) Vote-by-mail ballots may be counted by the voting  
53 system's automatic tabulating equipment if they have been marked  
54 in a manner which will enable them to be properly counted by  
55 such equipment.

56 (7) The return printed by the voting system's automatic  
57 tabulating equipment, to which has been added the return of  
58 write-in, vote-by-mail, and manually counted votes and votes  
59 from provisional ballots, shall constitute the official return  
60 of the election upon certification by the canvassing board. Upon  
61 completion of the count, the returns shall be open to the  
62 public. A copy of the returns may be posted at the central  
63 counting place or at the office of the supervisor of elections  
64 in lieu of the posting of returns at individual precincts.

65 Section 3. Paragraph (a) of subsection (7) of section  
66 102.141, Florida Statutes, is amended to read:

67 102.141 County canvassing board; duties.—

68 (7) If the unofficial returns reflect that a candidate for  
69 any office was defeated or eliminated by one-half of a percent  
70 or less of the votes cast for such office, that a candidate for  
71 retention to a judicial office was retained or not retained by  
72 one-half of a percent or less of the votes cast on the question  
73 of retention, or that a measure appearing on the ballot was  
74 approved or rejected by one-half of a percent or less of the  
75 votes cast on such measure, a recount shall be ordered of the

76 | votes cast with respect to such office or measure. The Secretary  
77 | of State is responsible for ordering recounts in federal, state,  
78 | and multicounty races. The county canvassing board or the local  
79 | board responsible for certifying the election is responsible for  
80 | ordering recounts in all other races. A recount need not be  
81 | ordered with respect to the returns for any office, however, if  
82 | the candidate or candidates defeated or eliminated from  
83 | contention for such office by one-half of a percent or less of  
84 | the votes cast for such office request in writing that a recount  
85 | not be made.

86 |       (a) Each canvassing board responsible for conducting a  
87 | recount shall put each marksense ballot through automatic  
88 | tabulating equipment and determine whether the returns correctly  
89 | reflect the votes cast. If any marksense ballot is physically  
90 | damaged so that it cannot be properly counted by the automatic  
91 | tabulating equipment during the recount, a true duplicate shall  
92 | be made of the damaged ballot pursuant to the procedures in s.  
93 | 101.5614(4). Immediately before the start of the recount, a test  
94 | of the tabulating equipment shall be conducted as provided in s.  
95 | 101.5612. If the test indicates no error, the recount tabulation  
96 | of the ballots cast shall be presumed correct and such votes  
97 | shall be canvassed accordingly. If an error is detected, the  
98 | cause therefor shall be ascertained and corrected and the  
99 | recount repeated, as necessary. The canvassing board shall  
100 | immediately report the error, along with the cause of the error

101 and the corrective measures being taken, to the Department of  
102 State. No later than 11 days after the election, the canvassing  
103 board shall file a separate incident report with the Department  
104 of State, detailing the resolution of the matter and identifying  
105 any measures that will avoid a future recurrence of the error.  
106 If the automatic tabulating equipment used in a recount is not  
107 part of the voting system and the ballots have already been  
108 processed through such equipment, the canvassing board is not  
109 required to put each ballot through any automatic tabulating  
110 equipment again.

111 Section 4. Subsections (1), (2), and (5) of section  
112 102.166, Florida Statutes, are amended to read:

113 102.166 Manual recounts of overvotes and undervotes.—

114 (1) If the second set of unofficial returns pursuant to s.  
115 102.141 indicates that a candidate for any office was defeated  
116 or eliminated by one-quarter of a percent or less of the votes  
117 cast for such office, that a candidate for retention to a  
118 judicial office was retained or not retained by one-quarter of a  
119 percent or less of the votes cast on the question of retention,  
120 or that a measure appearing on the ballot was approved or  
121 rejected by one-quarter of a percent or less of the votes cast  
122 on such measure, a manual recount of the overvotes and  
123 undervotes cast in the entire geographic jurisdiction of such  
124 office or ballot measure shall be ordered unless:

125 (a) The candidate or candidates defeated or eliminated

126 from contention by one-quarter of 1 percent or fewer of the  
127 votes cast for such office request in writing that a recount not  
128 be made; or

129 (b) The number of overvotes and undervotes is fewer than  
130 the number of votes needed to change the outcome of the  
131 election.

132  
133 The Secretary of State is responsible for ordering a manual  
134 recount for federal, state, and multicounty races. The county  
135 canvassing board or local board responsible for certifying the  
136 election is responsible for ordering a manual recount for all  
137 other races. A manual recount consists of a recount of marksense  
138 ballots or of digital images of those ballots by a person.

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

144 (b) Overvotes and undervotes shall be identified and  
145 sorted while recounting ballots pursuant to s. 102.141, if the  
146 hardware or software for this purpose has been certified or the  
147 department's rules so provide. Overvotes and undervotes may be  
148 identified and sorted physically or digitally.

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

150 (a) The county canvassing board shall appoint as many

151 counting teams of at least two electors as is necessary to  
152 manually recount the ballots. A counting team must have, when  
153 possible, members of at least two political parties. A candidate  
154 involved in the race shall not be a member of the counting team.

155 (b) Each duplicate ballot prepared pursuant to s.  
156 101.5614(4) or s. 102.141(7) shall be compared with the original  
157 ballot to ensure the correctness of the duplicate.

158 (c) If a counting team is unable to determine whether the  
159 ballot contains a clear indication that the voter has made a  
160 definite choice, the ballot shall be presented to the county  
161 canvassing board for a determination.

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

- 166 1. Security of ballots during the recount process;
- 167 2. Time and place of recounts;
- 168 3. Public observance of recounts;
- 169 4. Objections to ballot determinations;
- 170 5. Record of recount proceedings; ~~and~~
- 171 6. Procedures relating to candidate and petitioner  
172 representatives; and
- 173 7. Procedures relating to the certification and the use of  
174 automatic tabulating equipment that is not part of a voting  
175 system.

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Section 5. This act shall take effect July 1, 2019.