

Act No. 215
Public Acts of 1998
Approved by the Governor
July 1, 1998
Filed with the Secretary of State
July 1, 1998
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Reps. Hammerstrom and Brackenridge

ENROLLED HOUSE BILL No. 5075

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending sections 31, 795a, and 796a (MCL 168.31, 168.795a, and 168.796a), as amended by 1996 PA 583.

The People of the State of Michigan enact:

Sec. 31. The secretary of state in addition to other powers and duties conferred upon him or her has the power and it is his or her duty to do all of the following:

(a) To prepare rules, regulations, and instructions for the conduct of elections and registrations in accordance with the laws of this state.

(b) To advise and direct local election officials as to the proper methods of conducting elections.

(c) To publish and furnish for the use in each election precinct before each state primary and election a manual of instructions that includes specific instructions on assisting voters in casting their ballots, directions on the location of voting stations in polling places, procedures and forms for processing challenges, and procedures on prohibiting campaigning in the polling places as prescribed in this act.

(d) To publish indexed pamphlet copies of the registration, primary, and election laws and to furnish to the various county, city, township, and village clerks a sufficient number of copies for their own use and to enable them to include 1 copy with the election supplies furnished each precinct board of election inspectors under their respective jurisdictions, and the secretary of state may furnish single copies of the publications to organizations or individuals who request the same for purposes of instruction or public reference.

(e) To prescribe and require uniform forms, notices, and supplies the secretary of state considers advisable for use in the conduct of elections and registrations.

(f) To prepare the form of ballot for any proposed amendment to the constitution or proposal under the initiative or referendum provision of the constitution to be submitted to the voters of this state.

(g) To require reports from the local election officials the secretary of state considers necessary.

(h) To investigate, or cause to be investigated by local authorities, the administration of election laws, and to report violations of the election laws and regulations to the attorney general or prosecuting attorney, or both, for prosecution.

(i) To publish in the legislative manual the vote for governor and secretary of state by townships and wards and the vote for members of the state legislature cast at the preceding November election, which shall be returned to the secretary of state by the county clerks on or before the first day of December following the election. It is also the duty of all clerks to furnish to the secretary of state, promptly and without compensation, any further information requested of them to be used in the compilation of the manual.

(j) To establish a curriculum for comprehensive training and accreditation of all county, city, township, village, and school elections officials.

(k) To establish and require attendance by all new appointed or elected election officials at an initial course of instruction within 6 months before the date of the election.

(l) To establish a comprehensive training curriculum for all precinct inspectors.

(m) To create an election day dispute resolution team that has regional representatives of the department of state, which team shall appear on site, if necessary.

Sec. 795a. (1) An electronic voting system shall not be used in an election unless it is approved by the board of state canvassers as meeting the requirements of sections 794 and 795 and instructions regarding recounts of ballots cast on that electronic voting system that have been issued by the secretary of state, unless section 797c has been complied with, and unless it meets 1 of the following conditions:

(a) Is certified by an independent testing authority accredited by the national association of state election directors and by the board of state canvassers.

(b) In the absence of an accredited independent testing authority, is certified by the manufacturer of the voting system as meeting or exceeding the performance and test standards referenced in subdivision (a) in a manner prescribed by the board of state canvassers.

(2) The vendor or representative seeking approval of an electronic voting system shall do all of the following:

(a) Deposit with the secretary of state a nonrefundable application fee of \$1,500.00 for a new voting system and a fee of \$500.00 for an upgrade to any existing system.

(b) File with the secretary of state a list of all states in which the voting system has been approved for use. This list shall state how long the system has been used in the state and shall disclose any reports compiled by any state or local government concerning the performance of the system. The vendor shall remain responsible for filing this information on an ongoing basis.

(c) File with the secretary of state copies of all standard contracts and maintenance agreements used in connection with the sale of the voting system. All changes to standard contracts and maintenance agreements shall be filed with the secretary of state.

(d) Pay the cost for any field test required by the board of state canvassers.

(e) State the number of voters each component of the voting system can process per hour under each of the following circumstances:

(i) An election in which there are 10 or fewer items to be voted on the ballot by each voter.

(ii) An election in which the ballot consists of the number of items typically voted on at a presidential general election in this state.

(3) The board of state canvassers shall conduct a field test of all new voting systems as part of the certification process. The field test shall involve Michigan electors and election officials in simulated election day conditions. The test shall be designed to gauge voter reaction to the system, problems that voters have with the system, and the number of voting stations required for the efficient operation of an election based upon the vendor's statement provided under subsection (2)(e).

(4) The board of state canvassers shall approve an electronic voting system for use in this state only if it meets the conditions of subsection (1) except that in an emergency situation that threatens the ability of a county, city, or township to conduct a scheduled election, the board of state canvassers may approve a correction of software or firmware after testing the software or firmware performance.

(5) If an electronic voting system is approved for use before January 1, 1997 by the board of state canvassers, it may be used in an election. However, if the electronic voting system has its software or firmware improved or changed, the system shall comply with the requirements of subsection (1).

(6) After an electronic voting system is approved, an improvement or change in the electronic voting system shall be submitted to the board of state canvassers for approval pursuant to this section. This subsection does not apply to the technical capability of a general purpose computer, reader, or printer to electronically record and count votes.

(7) A county, city, township, village, or school district shall file "an intent to purchase statement" with the secretary of state 30 days before any purchase agreement is made to purchase a new voting system. The secretary of state shall

provide all information concerning the operation of the voting system in Michigan or any other state to the local unit of government within 25 days after receiving the "intent to purchase statement".

(8) The secretary of state shall instruct local election officials regarding the operation and use of an approved electronic voting system in order to carry out the purposes of sections 794 to 799a and the rules promulgated pursuant to sections 794 to 799a.

(9) If the board of state canvassers determines that an electronic voting system that was approved under subsection (1) no longer meets the requirements described in that subsection, the board of state canvassers may disapprove that voting system. An electronic voting system that has been disapproved by the board of state canvassers under this subsection shall not be used in an election, unless it is reapproved by the board of state canvassers under subsection (1).

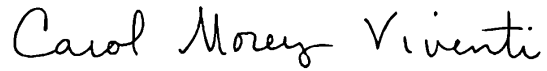
Sec. 796a. (1) Before an election at which an electronic voting system is used, the board of election commissioners of the county, city, village, township, or school district shall have the system prepared for the election. The board shall provide the election board of each voting precinct with the necessary equipment and supplies.

(2) Before an election, the board of election commissioners of a county, city, village, township, or school district shall provide a sufficient number of voting stations needed to ensure the orderly conduct of the election taking into consideration the projected turnout, the length of the ballot, and the number of voters the voting system can process per hour as determined under section 795a. As a minimum for each election, the board of election commissioners shall provide at least 1 voting station for each 400 registered voters in each precinct through August 31, 1998 and at least 1 voting station for each 300 registered voters on and after September 1, 1998. If counting centers are used, the board of election commissioners of the county, city, village, township, or school district shall establish 1 or more counting centers as needed before the election.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved -----

Governor.