

CHAPTER 355

ELECTIONS

HOUSE BILL 00-1467

BY REPRESENTATIVES Stengel, Lee, Kester, George, Gotlieb, Hoppe, Kaufman, and Vigil;
also SENATOR Tebedo.

AN ACT

CONCERNING DIRECT RECORD ELECTRONIC VOTING MACHINES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 1-8-209, Colorado Revised Statutes, is amended to read:

1-8-209. Casting early voters' ballot. (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, the voting machines, electronic voting machines, or ballot boxes used for the casting of early ballots shall remain locked and secured with a numbered seal, and the tabulation of the votes cast shall remain unknown until the time prescribed in section 1-8-302 for counting absentee and early voters' ballots. Alternatively, for any electronic voting equipment, the ballot boxes shall be opened each night, and the voted ballots shall be placed in a transfer case that is locked and secured with a numbered seal. A record shall be maintained consisting of the date, number of ballots, and seal number of each ballot box and transfer case until each ballot box and transfer case is transferred to the supply judge for the absent voters' polling place for preparation for counting and tabulating pursuant to section 1-8-303. When a seal is broken, the designated election official and a person who shall not be of the same political party as the designated election official shall record the number of the seal and maintain the seal along with an explanation of the reasons for breaking the seal. During the time the early voters' polling place is not open, the designated election official shall have the custody and keys of any voting machine or electronic voting equipment being used for the casting of early ballots, EXCEPT FOR THOSE DIRECT RECORD EARLY VOTING ELECTRONIC VOTING MACHINES BEING REUSED AT THE POLLING PLACE ON ELECTION DAY AS PROVIDED IN SUBSECTION (2) OF THIS SECTION. The voting machines or electronic voting machines used for the casting of early ballots shall not be used for the further counting of absentee ballots, as provided in sections 1-8-305 and 1-8-306.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) (a) DIRECT RECORD ELECTRONIC VOTING MACHINES UTILIZED FOR CASTING OF EARLY BALLOTS MAY BE REUSED FOR THE CASTING OF VOTES AT THE POLLING PLACE ON ELECTION DAY. THE DESIGNATED ELECTION OFFICIAL SHALL PLACE IN A LOCKED AND SECURED LOCATION ALL DIRECT RECORD ELECTRONIC VOTING MACHINE CARTRIDGES THAT RECORD EARLY VOTES CAST ON SUCH VOTING MACHINES THAT ARE TO BE REUSED AT THE POLLING PLACE ON ELECTION DAY. THE TABULATION OF EARLY VOTES CAST AND RECORDED ON SUCH CARTRIDGES SHALL REMAIN UNKNOWN UNTIL THE TIME PRESCRIBED IN SECTION 1-8-302 FOR COUNTING ABSENTEE AND EARLY VOTERS' BALLOTS.

(b) BEFORE ANY DIRECT RECORD ELECTRONIC VOTING MACHINE MAY BE REUSED FOR THE CASTING OF VOTES AT THE POLLING PLACE ON ELECTION DAY, THE DESIGNATED ELECTION OFFICIAL SHALL STORE OR RECORD ALL EARLY VOTES PREVIOUSLY TABULATED AND RECORDED FROM SUCH VOTING MACHINE ON AN EXTERNAL DEVICE SUCH AS A DISKETTE, TAPE, OR COMPACT DISC.

SECTION 2. Article 10.5 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

1-10.5-110. Procedures for recount on direct recording electronic voting equipment. (1) ANY RECOUNT PROCEDURE FOR VOTES CAST ON DIRECT RECORD ELECTRONIC VOTING MACHINES ADOPTED BY A DESIGNATED ELECTION OFFICIAL SHALL:

(a) BE SUBMITTED IN WRITING TO THE SECRETARY OF STATE; AND

(b) PROVIDE FOR AN ELECTRONIC RECOUNT OF VOTES CAST ON SUCH VOTING MACHINE AS PRESCRIBED BY THIS SECTION.

(2) A RECOUNT OF VOTES CAST ON DIRECT RECORD ELECTRONIC VOTING MACHINES SHALL INCLUDE EARLY VOTING, ELECTION DAY VOTING, AND ELECTION DAY EMERGENCY VOTING. THE DESIGNATED ELECTION OFFICIAL SHALL PRODUCE A RECOUNT REPORT THAT SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING:

(a) A SUMMARY OF THE RECOUNT RESULTS;

(b) POLITICAL SUBDIVISION RECOUNT RESULTS; AND

(c) PRECINCT RECOUNT RESULTS.

(3) ALL RECOUNTS OF VOTES CAST ON DIRECT RECORD ELECTRONIC VOTING MACHINES SHALL BE CONDUCTED USING ELECTRONIC BALLOT IMAGES. AS USED IN THIS SECTION, "BALLOT IMAGE" MEANS A RECORD OF EACH VOTE CAST BY A VOTER THAT IS STORED ON A REMOVABLE MEMORY DEVICE CONTAINED IN SUCH VOTING MACHINE. ALL BALLOT IMAGES SHALL BE RANDOMIZED IN SUCH VOTING MACHINE TO ASSURE VOTER ANONYMITY.

(4) ALL RECOUNTS OF VOTES CAST ON DIRECT RECORD ELECTRONIC VOTING MACHINES SHALL RETABULATE VOTE TOTALS FROM INDIVIDUAL BALLOT IMAGES. TABULATING INCREMENTED OR SUMMARY VOTE TOTALS FROM INDIVIDUAL DIRECT

RECORD ELECTRONIC VOTING MACHINES SHALL NOT CONSTITUTE A RECOUNT FOR PURPOSES OF COMPLIANCE WITH THIS SECTION.

(5) BEFORE ANY RECOUNT OF VOTES CAST ON DIRECT RECORD ELECTRONIC VOTING MACHINES, THE DESIGNATED ELECTION OFFICIAL SHALL STORE OR RECORD ALL PREVIOUS PREELECTION, OFFICIAL ELECTION, OR POSTELECTION TABULATIONS OF VOTES CAST ON SUCH VOTING MACHINE ON AN EXTERNAL DEVICE SUCH AS A DISKETTE, TAPE, OR COMPACT DISC.

(6) NO TABULATION SYSTEM SOFTWARE UTILIZED BY A DESIGNATED ELECTION OFFICIAL TO PERFORM A RECOUNT OF VOTES CAST ON A DIRECT RECORD ELECTRONIC VOTING MACHINE SHALL DELETE ANY PREVIOUSLY TABULATED RESULTS FROM SUCH VOTING MACHINE, INCLUDING PREELECTION, OFFICIAL ELECTION, OR POSTELECTION TABULATIONS OF VOTES CAST, IN ORDER TO PERFORM THE RECOUNT.

(7) IF THE RETABULATION OF BALLOT IMAGES FROM A REMOVABLE MEMORY DEVICE IS IMPOSSIBLE DUE TO DESTRUCTION, LOSS, OR ANY OTHER REASON, THE AUDIT TRAIL FROM THE DIRECT RECORD ELECTRONIC VOTING MACHINE FROM WHICH SUCH DEVICE WAS REMOVED SHALL BE COPIED TO A NEW TRANSFER DEVICE AND THE BALLOT IMAGES SHALL THEN BE RECOUNTED BY THE TABULATION SYSTEM SOFTWARE.

(8) AFTER ALL OF THE BALLOT IMAGES FROM ALL OF THE REMOVABLE MEMORY DEVICES USED IN THE ELECTION HAVE BEEN RETABULATED BY THE TABULATION SYSTEM SOFTWARE, THE DESIGNATED ELECTION OFFICIAL SHALL PRODUCE THE RECOUNT REPORTS DESCRIBED IN SUBSECTION (2) OF THIS SECTION TO DETERMINE IF THE RECOUNT RESULTS AND OFFICIAL ELECTION RESULTS MATCH.

SECTION 3. Effective date. This act shall take effect July 1, 2000.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2000