

Direct Recording Electronic Voting Machines

This Act sets standards for direct recording electronic voting machines (DREs). As of July 1, 2005, DREs must, among other things:

- produce a voter-verified paper record (VVPAT) and a voting machine-generated paper record, both with an identical unique identifier that can be matched against the other;
- permit all voters to verify their selections and make changes;
- secure the secrecy of each elector's ballot; and
- ensure accessibility to blind or visually impaired people providing an audio description.

The Act also establishes procedures for elections and primaries that use DREs. The procedures require all votes to be tallied immediately following the close of the polls. If a canvass is needed, the procedures require a manual recount of the voter-verified paper records, establishing them as the official record if the recount does not reconcile with the electronic vote tabulation. If an elector's voter-verified paper record is damaged, the voting machine-generated paper record bearing the same identifier becomes the official record.

Within five days after each election or primary, the registrars of voters must conduct a manual audit of at least two randomly selected DREs in each assembly district. If the officials are unable to reconcile the manual count with the electronic tabulation, the secretary of the state must conduct an investigation, and may order a canvass.

Submitted as:

Connecticut

Sections 7 and 8 of Public Act 188 of 2005

Status: Enacted into law in 2005.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “An Act Regarding Direct Recording
2 Electronic Voting Machines.”

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4

Section 2. [*Voting Machine Construction.*]

5

(A) A voting machine approved by the [Secretary of the State] shall be so constructed as
6 to provide facilities for voting for the candidates of at least [nine] different parties or
7 organizations. It shall permit voting in absolute secrecy. It shall be provided with a lock by
8 means of which any illegal movement of the voting or registering mechanism is absolutely
9 prevented. Such machine shall be so constructed that an elector cannot vote for a candidate or on
10 a proposition for whom or on which he is not lawfully entitled to vote.

11

(B) It shall be so constructed as to prevent an elector from voting for more than one
12 person for the same office, except when they are lawfully entitled to vote for more than one
13 person for that office, and it shall afford the voter an opportunity to vote for only as many
14 persons for that office as the voter is by law entitled to vote for, at the same time preventing their
15 voting for the same person twice. It shall be so constructed that all votes cast will be registered or
16 recorded by the machine.

17

(C) Notwithstanding the provisions of subsection (B) of this section, the [Secretary of the
18 State] may approve a voting machine which requires the elector in the polls to place their ballot

19 into the recording device and which meets the voluntary performance and test standards for
20 voting systems adopted by the Federal Election Commission on January 25, 1990, as amended
21 from time to time, or the Election Assistance Commission pursuant to the Help America Vote
22 Act of 2002, P.L. 107-252, 42 USC 15481-85, as amended from time to time, whichever
23 standards are most current at the time of the [Secretary of the State's] approval, and regulations
24 which the [Secretary of the State] may adopt in accordance with the provisions of [insert
25 citation], provided the voting machine shall:

26 (1) Warn the elector of overvotes,

27 (2) Not record overvotes, and

28 (3) Not record more than one vote of an elector for the same person for an office.

29 (D) Any direct recording electronic voting machine approved by the [Secretary of the
30 State] for an election or primary held on or after [insert date], shall be so constructed as to:

31 (1) (a) Contemporaneously produce an individual, permanent, paper record
32 containing all of the elector's selections of ballot preferences for candidates and questions or
33 proposals, if any, prior to the elector's casting a ballot, as set forth in this subsection, and

34 (b) Produce at any time after the close of the polls a voting machine
35 generated, individual, permanent, paper record of each such elector's selections of ballot
36 preferences for candidates and questions or proposals, if any. Both the contemporaneously
37 produced paper record and the voting machine generated paper record of each elector's selections
38 of ballot preferences shall include a voting machine generated unique identifier that can be
39 matched against each other and which preserves the secrecy of the elector's ballot as set forth in
40 subdivision (4) of this subsection;

41 (2) Provide each elector with an opportunity to verify that the contemporaneously
42 produced, individual, permanent, paper record accurately conforms to such elector's selection of
43 ballot preferences, as reflected on the electronic summary screen, and to hear, if desired, an
44 audio description of such electronic summary screen, for the purpose of having an opportunity to
45 make any corrections or changes prior to casting the ballot. If an elector makes corrections or
46 changes prior to casting the ballot, the voting machine shall void such contemporaneously
47 produced paper record, contemporaneously produce another paper record containing such
48 corrections or changes and provide the elector with another opportunity to verify ballot
49 preferences in accordance with the provisions of this subdivision. As used in this section,
50 "electronic summary screen" means a screen generated by a direct recording electronic voting
51 machine that displays a summary of an elector's selections of ballot preferences for candidates
52 and questions or proposals, if any, at an election or primary;

53 (3) Provide that a ballot shall be deemed cast on the voting machine at the time
54 that an elector's contemporaneously produced, individual, permanent, voter-verified paper
55 record, containing all of the elector's final selections of ballot preferences, is

56 (a) deposited inside a receptacle designed to store all such paper records
57 produced by such voting machine on the day of the election or primary, and

58 (b) the elector's selection of ballot preferences is simultaneously
59 electronically recorded inside the voting machine for the purpose of

60 (I) being electronically tabulated immediately after the polls are
61 closed on the day of the election or primary, and

62 (II) producing, on such other day as required under section 8 of
63 this Act, a voting machine generated, individual, permanent, paper record of each such elector's
64 selections of ballot preferences for candidates and questions or proposals, if any;

65 (4) Except as otherwise provided by statute, secure the secrecy of each such
66 elector's ballot by making it impossible for any other individual to identify the elector in
67 relationship to such elector's selection of ballot preferences at the time that the elector

68 (a) selects ballot preferences;
69 (b) verifies the accuracy of the electronic summary screen by comparing it
70 to the contemporaneously produced, individual, permanent, paper record or the audio description
71 of such electronic summary screen, prior to casting a ballot;
72 (c) makes corrections or changes by reselecting ballot preferences and
73 verifies the accuracy of such preferences in accordance with the provisions of subdivision (2) of
74 this subsection prior to casting a ballot; and
75 (d) casts the ballot; and at the time that all electors' ballots are canvassed,
76 recanvassed or otherwise tallied to produce a final count of the vote for candidates and questions
77 or proposals, if any, whether through the electronic vote tabulation process or through the
78 manual count process of each elector's contemporaneously produced, individual, permanent,
79 voter-verified paper record, as set forth in [insert citation]; and

80 (5) (a) Be accessible to blind or visually impaired persons by providing each
81 elector, if desired by the elector, an audio description of the contemporaneously produced
82 individual, permanent, paper record containing all of the elector's selections of ballot
83 preferences, in addition to an audio description of the electronic summary screen.

84 (b) Notwithstanding the provisions of subparagraph (a) of this
85 subdivision, the [Secretary of the State] may approve an electronic voting machine that does not
86 comply with the provisions of said subparagraph if

87 (I) the [Secretary] determines that there are no electronic voting
88 machines available for purchase or lease at the time of such approval that are capable of
89 complying with said subparagraph (a),

90 (II) the electronic voting machine complies with the provisions of
91 subdivisions (1) to (4), inclusive, of this subsection, and

92 (III) the person applying to the [Secretary] for approval of the
93 electronic voting machine agrees to include a provision in any contract for the sale or lease of
94 such voting machines that requires such person, upon notification by the [Secretary] that
95 modifications to such machines that would bring the machines into compliance said
96 subparagraph (a) are available, to

97 (i) so modify any electronic voting machines previously
98 sold or leased under such contract in order to comply with said subparagraph (a), and

99 (ii) provide that any electronic voting machines sold or
100 leased after receipt of such notice comply with said subparagraph (a).

101
102 Section 3. [*Procedures for any Election or Primary on Which one or More Direct*
103 *Recording Electronic Voting Machines are Used.*]:

104 (A) Any elector who requires assistance by reason of blindness, disability, or inability to
105 read or write shall have the right to request assistance inside the voting booth by a person of the
106 elector's choice in accordance with 42 USC 1973aa-6, as amended from time to time, or [insert
107 citation].

108 (B) A canvass of the votes shall take place inside the polling place immediately following
109 the close of the polls on the day of the election or primary in accordance with the requirements of
110 [insert citation]. With respect to direct recording electronic voting machines, any such canvass
111 shall be an electronic vote tabulation of all of the votes cast on each such voting machine for
112 each candidate and question or proposal, and the moderator shall attach a printout of such
113 electronic vote tabulation to the tally sheets. The moderator shall then add together all of the
114 votes recorded on each voting machine in use at the polling place, whether or not such voting
115 machines were direct recording electronic voting machines, to produce a cumulative count
116 within the polling place of all candidates and any questions or proposals appearing on the ballot

117 in the election or primary. Any member of the public shall have a right to be present in the
118 polling place to observe the canvass of the votes beginning as soon as the polls are declared
119 closed by the moderator and continuing throughout the canvass of the votes of each voting
120 machine until the final canvass of all of the votes cast on all of the voting machines in use in the
121 polling place are added together for each candidate and question or proposal and publicly
122 announced and declared by the moderator.

123 (C) If a recanvass of the votes is required pursuant to [insert citation], the recanvass
124 officials shall conduct a manual tally of the individual, permanent, voter-verified, paper records
125 contemporaneously produced by each direct recording electronic voting machine used within the
126 geographical jurisdiction that is subject to such recanvass. The manual tally conducted for the
127 recanvass shall be limited to the particular candidates and questions or proposals that are subject
128 to recanvass. If the manual tabulation of such contemporaneously produced paper records does
129 not reconcile with the electronic vote tabulation of a particular direct recording electronic voting
130 machine or machines, such contemporaneously produced paper records shall be considered the
131 true and correct record of each elector's vote on such electronic voting machine or machines and
132 shall be used as the official record for purposes of declaring the official election results or for
133 purposes of any subsequent recanvass, tally or election contest conducted pursuant to [insert
134 citation]. If any of the contemporaneously produced individual, permanent, voter-verified paper
135 records are found to have been damaged in such manner as they are unable to be manually tallied
136 with respect to the ballot positions that are the subject of the recanvass, each such damaged
137 record shall be matched against the voting machine generated, individual, permanent, paper
138 record produced by the voting machine bearing the identical machine-generated unique identifier
139 as the damaged record and, in such instance, shall be substituted as the official record for
140 purposes of determining the final election results or for purposes of any subsequent recanvass,
141 tally or election contest.

142 (D) The [Secretary of the State] may order a discrepancy recanvass of the returns of an
143 election or a primary for a district office, a state office or the office of elector of President and
144 Vice-President of the United States, if the [Secretary] has reason to believe that discrepancies
145 may have occurred that could affect the outcome of the election or primary. Any such
146 discrepancy recanvass may be conducted of the returns in any or all voting districts in

147 (1) the district in which an election or primary is held, in the case of an election or
148 primary for a district office, or

149 (2) the state, in the case of an election or primary for a state office or the office of
150 elector of President and Vice-President of the United States or a presidential preference primary,
151 whichever is applicable. As used in this subdivision, "district office" and "state office" have the
152 same meanings as provided in [insert citation].

153 (E) Not later than [five business days] after each election in which a direct recording
154 electronic voting machine is used, the registrars of voters or their designees, representing at least
155 [two political parties], shall conduct a manual audit of the votes recorded on at least [two] direct
156 recording electronic voting machines used in each [assembly district]. Not later than [five
157 business days] after a primary in which a direct recording electronic voting machine is used, the
158 registrar of voters of the party holding the primary shall conduct such a manual audit by
159 designating [two or more] people, one of whom may be the registrar, representing at least [two]
160 candidates in the primary. The machines audited shall be selected in a random drawing that is
161 announced in advance to the public and is open to the public. All direct recording electronic
162 voting machines used within a [house district] shall have an equal chance of being selected for
163 the audit. The [Secretary of the State] shall determine and publicly announce the method of
164 conducting the random drawing, before the election. The manual audit shall consist of a manual
165 tabulation of the contemporaneously produced, individual, permanent, voter-verified, paper

166 records produced by each voting machine subject to the audit and a comparison of such count,
167 with respect to all candidates and any questions or proposals appearing on the ballot, with the
168 electronic vote tabulation reported for such voting machine on the day of the election or primary.
169 Such audit shall not be required if a recanvass has been, or will be, conducted on the voting
170 machine. Such manual audit shall be noticed in advance and be open to public observation. A
171 reconciliation sheet, on a form prescribed by the [Secretary of the State], that reports and
172 compares the manual and electronic vote tabulations of each candidate and question or proposal
173 on each such voting machine, along with any discrepancies, shall be prepared by the audit
174 officials, signed and forthwith filed with the town clerk of the municipality and the [Secretary of
175 the State]. If any contemporaneously produced, individual, permanent, voter-verified, paper
176 record is found to have been damaged, the same procedures described in subdivision (C) of this
177 section for substituting such record with the voting machine generated, individual, permanent,
178 paper record produced by the voting machine bearing the identical machine generated unique
179 identifier as the damaged record shall apply and be utilized by the audit officials to complete the
180 reconciliation. The reconciliation sheet shall be open to public inspection and may be used as
181 prima facie evidence of a discrepancy in any contest arising pursuant to [insert citation]. If the
182 audit officials are unable to reconcile the manual count with the electronic vote tabulation and
183 discrepancies, the [Secretary of the State] shall conduct such further investigation of the voting
184 machine malfunction as may be necessary for the purpose of reviewing whether or not to
185 decertify the voting machine or machines and may order a recanvass.

186 (F) The individual, permanent, voter-verified, paper records contemporaneously
187 produced by any direct recording electronic voting machine in use at an election or primary held
188 on or after the effective date of this section shall be carefully preserved and returned in their
189 designated receptacle in accordance with the requirements of [insert citation] and may not be
190 opened or destroyed, except during recanvass or manual audit as set forth in this section, for [one
191 hundred eighty days] following an election or primary that does not include a federal office, or
192 for [twenty-two months] following an election or primary involving a federal office, pursuant to
193 42 USC 1974, as amended from time to time.

194 (G) Nothing in this section shall preclude any candidate or elector from seeking
195 additional remedies pursuant to the state statutes.

196 (H) After an election or primary, any voting machine may be kept locked for a period
197 longer than that prescribed by [insert citation], if such an extended period is ordered by either a
198 court of competent jurisdiction or the [state elections enforcement commission]. Either a [court]
199 or said [commission] may order an audit of such voting machines to be conducted by such
200 persons as the [court] or said [commission] may designate.

201

202 Section 4. [*Severability.*] [Insert severability clause.]

203

204 Section 5. [*Repealer.*] [Insert repealer clause.]

205

206 Section 6. [*Effective Date.*] [Insert effective date.]