

Amendments proposed to HR 811 to prohibit electronic ballots

To amend the Voter Confidence and Increased Accessibility Act of 2007 (HR 811) to require the voter-verified permanent paper ballot, defined under such Act as the official ballot for audits and recounts, to be also defined as the official ballot for the initial count.

- ◆ In the proposed HAVA Section 301(a)(2)(A)(i):
 1. Add "or" before "a paper ballot created".
 2. Add "or marked" before "through the use of".
 3. Add "non-tabulating" before "ballot marking device or system."
 4. After "created through the use of a [non-tabulating] ballot marking device or system," delete "or a paper ballot produced by a touch screen or other electronic voting machine,"
 5. Change "permitted to verify the ballot in a paper form" to "permitted to verify the paper ballot".
 6. At the end, add "Electronic ballots, ballots cast on any medium other than paper, and ballots that are not clearly readable by the naked eye are specifically prohibited."

Changes are summarized below:

The voting system shall require the use of or produce an individual voter-verified paper ballot of the voter's vote that shall be created by or made available for inspection and verification by the voter before the voter's vote is cast and counted. For purposes of this clause, examples of such a ballot include a paper ballot marked by the voter for the purpose of being counted by hand or read by an optical scanner or other similar device, a paper ballot prepared by the voter to be mailed to an election official (whether from a domestic or overseas location), or a paper ballot created or marked through the use of a non-tabulating ballot marking device or system, ~~or a paper ballot produced by a touch screen or other electronic voting machine,~~ so long as in each case the voter is permitted to verify the paper ballot ~~in a paper form~~ in accordance with this subparagraph. Electronic ballots, ballots cast on any medium other than paper, and ballots that are not clearly readable by the naked eye are specifically prohibited.

- ◆ In the proposed HAVA Section 301(a)(2)(B):
 1. In subparagraph (i), before "preserved", add "the official ballot with respect to any election for Federal office in which the voting system is used, and shall be."
 2. In subparagraph (ii), before the period, add ", and shall be counted by hand in any recount or audit conducted with respect to any election for Federal office"
 3. In subparagraph (iii), after "correct record of the votes cast, delete "and shall be used as the official ballots for purposes of any recount or audit conducted "

Changes are summarized below:

(B) MANUAL AUDIT CAPACITY-

`(i) The permanent voter-verified paper ballot produced in accordance with subparagraph (A) shall be the official ballot with respect to any election for Federal office in which the voting system is used, and shall be preserved—

`(I) in the case of votes cast at the polling place on the date of the election, within the polling place in the manner or method in which all other paper ballots are preserved within such polling place;

`(II) in the case of votes cast at the polling place prior to the date of the election or cast by mail, in a manner which is consistent with the manner employed by the jurisdiction for preserving such ballots in general; or

`(III) in the absence of either such manner or method, in a manner which is consistent with the manner employed by the jurisdiction for preserving paper ballots in general.

`(ii) Each paper ballot produced pursuant to subparagraph (A) shall be suitable for a manual audit equivalent to that of a paper ballot voting system, and shall be counted by hand in any recount or audit conducted with respect to any election for Federal office.

`(iii) In the event of any inconsistencies or irregularities between any electronic vote tallies and the vote tallies determined by counting by hand the individual permanent paper ballots produced pursuant to subparagraph (A), and subject to subparagraph (D), the individual permanent paper ballots shall be the true and correct record of the votes cast ~~and shall be used as the official ballots for purposes of any recount or audit conducted~~ with respect to any election for Federal office in which the voting system is used.

◆ In the proposed HAVA Section 301(a)(2)(C):

After "Act and this Act", delete, "except that to the extent that such protocols permit the use of electronic mail in the delivery or submission of such ballots, paragraph (11) shall not apply with respect to the delivery or submission of the ballots."

Changes are summarized below:

`(C) SPECIAL RULE FOR VOTES CAST BY ABSENT MILITARY AND OVERSEAS VOTERS- In the case of votes cast by absent uniformed services voters and overseas voters under the Uniformed and Overseas Citizens Absentee Voting Act, the ballots cast by such voters shall serve as the permanent paper ballot under subparagraph (A) in accordance with protocols established by the Commission, in consultation with the Secretary of Defense after notice and opportunity for public comment, which preserve the privacy of the voter and are consistent with the requirements of such Act and this Act, ~~except that to the extent that such protocols permit the use of electronic mail in the delivery or submission of such ballots, paragraph (11) shall not apply with respect to the delivery or submission of the ballots.~~

- ◆ In the proposed HAVA Section 301(a)(2)(D):
 1. Change "voting machine" to "tabulating machine", and change "voting-machine-to-voting-machine" to "tabulator-by-tabulator".
 2. Insert "result of the" before "election".

Changes are summarized below:

For purposes of the previous sentence, the paper ballots associated with each ~~voting tabulating~~ machine shall be considered on a tabulator-by tabulator ~~voting-machine-by-voting-machine~~ basis, and only the sets of paper ballots deemed compromised, if any, shall be considered in the calculation of whether or not the result of the election would be changed due to the compromised paper ballots.

- ◆ In the proposed HAVA Section 301(a)(12)(B)(v), change "voting machine" to "voting equipment". Changes are summarized below:

The appropriate election official shall ensure that all ~~voting machines~~ tabulating machines and related supplies to be used in the election shall remain secured within storage facilities arranged for by the election official, and shall not be removed from such facilities until such time as they are to be delivered to the relevant polling place and secured at the polling place until used in the election.

- ◆ In Section 247(c)(8)(A) of HR 881, change the notice to: "DO NOT CAST YOUR PAPER BALLOT UNTIL YOU HAVE CONFIRMED THAT IT ACCURATELY RECORDS YOUR VOTE." Changes are summarized below:

IN GENERAL- The appropriate election official at each polling place shall cause to be placed in a prominent location in the polling place a notice containing the following statement, in boldface type, large font, and using only upper-case letters: ~~'THE PAPER BALLOT REPRESENTING YOUR VOTE SHALL BE USED FOR THE OFFICIAL TALLY AND SERVE AS THE VOTE OF RECORD IN ALL RECOUNTS AND AUDITS. DO NOT LEAVE THE VOTING BOOTH~~ DO NOT CAST YOUR PAPER BALLOT UNTIL YOU HAVE CONFIRMED THAT IT ACCURATELY RECORDS YOUR VOTE'.