

2023 -- S 0742 SUBSTITUTE A

LC000865/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO ELECTIONS -- STATE BOARD OF ELECTIONS

Introduced By: Senators Lawson, DiMario, F. Lombardi, Euer, Cano, McKenney,
Murray, Lauria, Miller, and Britto

Date Introduced: March 22, 2023

Referred To: Senate Judiciary

(Secretary of State)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 17-7-3 of the General Laws in Chapter 17-7 entitled "State Board of
2 Elections" is hereby amended to read as follows:

3 **17-7-3. Appointment of members — Vacancies.**

4 (a) The governor shall forthwith upon June 8, 1979 appoint seven (7) members of initial
5 terms as follows: one member upon initial appointment shall serve for a term of two (2) years; one
6 member upon initial appointment shall serve for a term of four (4) years; one member upon initial
7 appointment shall serve for a term of six (6) years; one member upon initial appointment shall serve
8 for a term of eight (8) years; one member upon initial appointment shall serve for a term of ten (10)
9 years; one member upon initial appointment shall serve for a term of twelve (12) years; one member
10 upon initial appointment shall serve for a term of fourteen (14) years; and upon the expiration of
11 the terms, the governor shall appoint persons for succeeding terms of fourteen (14) years,
12 respectively. All members of the board appointed or reappointed after January 1, 2008, shall serve
13 for terms of nine (9) years beginning in January 2008, and in January of every even numbered year
14 thereafter, the chairperson and vice chairperson of the board shall be elected by majority vote of
15 the members of the board.

16 (b) In the event a vacancy occurs in the office of chairperson or vice chairperson after
17 January 1, 2008, the board shall in the manner provided in subsection 17-7-3(a) elect another of its
18 members to be chairperson or vice chairperson, to fill the vacancy; provided, if the vacancy occurs
19 as a result of death or resignation, the new chairperson or vice chairperson shall only fill the

1 unexpired term.

2 (c) In the event a vacancy occurs on the board, the governor shall appoint within thirty (30)
3 days a new member to fill the vacancy; provided if the vacancy occurs as a result of death or
4 resignation, the new member shall only fill the unexpired term. All appointments to fill vacancies
5 shall be made in accordance with Article IX, section 5 of the Constitution of the state of Rhode
6 Island and §§ 36-1-10 through 36-1-12.

7 (d) Notwithstanding the provisions of § 17-7-2 and in order to facilitate communication
8 between the department of state and the board of elections, the secretary of state shall designate a
9 liaison (the director of elections or the deputy secretary of state who oversees the elections division)
10 to serve as a reporting and informational resource at all board of elections meetings with the
11 exception of when the board meets in executive session or is engaged in agenda items addressing
12 issues related to campaign finance or appeal. The board may call upon the department of state
13 liaison to offer insight or clarification, or answer any direct questions, through the chair, from
14 members, in real time, at any time during a meeting. The board of elections shall make a platform
15 available to the liaison to facilitate this process.

16 SECTION 2. Sections 17-19-3 and 17-19-14 of the General Laws in Chapter 17-19 entitled
17 "Conduct of Election and Voting Equipment, and Supplies" are hereby amended to read as follows:

18 **17-19-3. Voting equipment and services — Specifications.**

19 (a) The board of elections shall, in consultation with the office of secretary of state ~~shall~~
20 develop, from time to time, and, in coordination with the general assembly for the purpose of
21 funding procurement, submit specifications to the department of administration that the department
22 of administration shall utilize in procuring voting equipment, voting systems, and services related
23 thereto in accordance with this chapter and chapter 2 of title 37 of the general laws. These
24 specifications and requests for proposals for the options of purchasing, leasing to own, or renting
25 precinct-count voting systems that utilize technologies, methods, and equipment considered
26 reasonable best practices for the state and in compliance with all laws, and for a full-service contract
27 for such voting systems, shall be constructed and shall operate in a manner that meets the following
28 minimum requirements:

29 (1) It shall enable the voter to:

30 (i) Mark his or her ballot and cast his or her vote in secrecy;

31 (ii) Vote for all candidates of political parties or organizations, and for, or against, questions
32 as submitted;

33 (iii) Vote for as many persons for an office as the voter is lawfully entitled to vote for, but
34 no more; and

- 1 (iv) Vote on any question the voter may have the right to vote on;
- 2 (2) It shall prevent the voter from voting for the same person more than once for the same
3 office;
- 4 (3) The voting equipment shall allow the voter to cast one vote, thereby allowing the voter
5 to vote for all the presidential electors of a party by a clear and unambiguous means; provided, that
6 means shall be furnished by which the voter can cast a vote in part for the candidates for presidential
7 electors of one party, and in part for those of one or more other parties, or in part or in whole, for
8 persons not nominated by any party;
- 9 (4) The precinct-counting system shall meet the following specifications:
- 10 (i) Vote counting, including absentee ballots, shall be performed through the use of
11 automated electronic equipment;
- 12 (ii) All vote counting shall be performed on equipment supplied as part of the bid. The
13 system shall not require the use of non-supplied equipment to count ballots or tabulate results;
- 14 (iii) There shall be privacy enclosures in which a voter may mark his or her ballot or
15 otherwise cast his or her vote in secret;
- 16 (iv) There shall be a device located in each polling place that can record the vote count and
17 tally the vote count in that polling place and that can produce a printed tally of all races contained
18 on said ballot in human, readable form. The device shall automatically print a “zero report” at the
19 beginning of the day when the device is activated. The device that receives ballots for counting
20 shall have an external counter indicating the number of ballots received. The actual vote tally shall
21 be capable of being performed only by election officials and shall not be visible during the actual
22 voting process. Each recording device shall ensure the security of voted ballots and ease of access;
- 23 (v) As part of the voting process, there shall be created a physical ballot showing the votes
24 cast by an individual voter that is capable of being hand counted so that electronic-recorded device
25 totals can be checked for accuracy;
- 26 (vi) There shall be a device at each polling place to receive the physical audit trail of ballots
27 cast and that shall securely store the ballots and have the capability of restricting access to the
28 ballots only to authorized officials;
- 29 (vii) In the event of loss of electrical power, the polling place vote count shall be stored on
30 an ongoing basis in media that will retain the count of the votes cast to that point in time for a
31 period of no less than five (5) years;
- 32 (viii) The polling place vote counts shall be stored on a stable media that may be easily
33 transported and that may be accessed and counted by an electronic device so that state, city, and/or
34 town vote totals can be electronically calculated by combining individual polling place totals. It

1 shall not be necessary to enter individual polling place totals by, and into, a central computer or
2 device for the purpose of producing the state, city, and/or town totals, but rather the electronic
3 media on which the polling place totals are stored shall be directly readable and accessible by a
4 regional or central device;

5 (ix) There shall be a device that has the capability to electronically read the storage device
6 upon which the individual polling place totals are stored and that shall produce a combined total
7 for all races, which total can be printed in easily readable and legible form in a format prescribed
8 by the state board of elections;

9 (x) The system provided shall allow the secretary of state to have the capability to design
10 the ballot format;

11 (xi) The system shall provide a capability for the state, without the use of outside services,
12 to set up and prepare the counting devices to total an election; and

13 (xii) The system must be capable of receiving voted ballots without counting when without
14 power and must provide for securely storing uncounted ballots;

15 (5) The following minimum equipment shall be required for the state:

16 (i) There shall be a minimum number of units to permit counting to be conducted in each
17 polling place within the state with a reserve of equipment on hand;

18 (ii) There shall be a sufficient number of voting booths for each precinct to accommodate
19 voters as determined in this title;

20 (iii) The number of polling place units and voting booths must be sufficient to permit the
21 election to run smoothly without excessive waiting of voters;

22 (iv) If there is an increase in the number of polling places statewide during the term of the
23 contract, the vendor will supply additional polling place units and voting booths at a cost
24 proportional to the cost of the initial units pro rated for the balance of the agreement years;

25 (v)(A) There shall be high-speed, absentee vote tabulating equipment. These tabulators, as
26 a whole, must be capable of counting absentee ballots at a reasonable best practices rate. The
27 tabulators shall utilize the same ballots used in the polling place;

28 (B) This system shall have the following capabilities in connection with the counting of
29 ballots and producing results:

30 (I) This system shall be able to read the media from the polling place units on which polling
31 place results are stored and shall be able to compile polling place results producing a ballot total
32 for each race; and

33 (II) This system shall be capable of producing and printing out ballot totals on a polling-
34 place-by-polling-place basis for each race, and shall be capable of producing a final total and

1 subtotals of all races from all races and polling places in the state. All totals must be able to be
2 produced at any time, based upon the number of polling places counted up to that point in time,
3 and these printout results shall state the number of precincts counted and the percentage of precincts
4 reporting;

5 (vi) There shall be all equipment necessary to program the system and erase the memory
6 devices;

7 (vii) Reasonable best-practices tabulating equipment shall be located in each of the thirty-
8 nine (39) local boards of canvassers and the central tabulation equipment shall be located at the
9 state board of elections. The state board of elections, in conjunction with the service contract
10 vendor, no less than thirty (30) days prior to an election, shall test the tabulation system to be
11 utilized for the election and determine whether regional and/or central tabulation is adequate, and
12 if regional tabulation is required, so implement it. The tabulation system shall have the following
13 capabilities in connection with the counting of ballots and producing results:

14 (A) This system shall be able to read the media from the polling place units on which
15 polling place results are stored and shall be able to compile polling place results producing a ballot
16 total for each race;

17 (B) This system shall be capable of producing and printing out ballot totals on a polling-
18 place-by-polling-place basis for each race and shall be capable of producing a final total and
19 subtotal of all races from all races and polling places in the state;

20 (C) All totals must be able to be produced at any time based upon the number of polling
21 places counted up to that point in time, and the printout results shall state the number of precincts
22 counted and the percentage of precincts reporting; and

23 (D) This system shall be capable of transferring information gathered from the precincts
24 and, if regional and/or central tabulation sites are utilized, the system shall be capable of
25 transferring information gathered at any regional or central sites utilized by the thirty-nine (39)
26 local boards of canvassers;

27 (6) All necessary programming and accumulation software shall be provided to run the
28 election system in accordance with the required specifications as well as all necessary and required
29 modules. Any software updates during the term of the agreement shall not be charged to the state;

30 (7) The vendor of the precinct-count system shall provide written proof of compliance with
31 federal standards then in place and administered by the designated federal agency or organization
32 from an independent testing company and this written proof must be on file with the office of the
33 secretary of state and the state board of elections;

34 (8) The vendor shall also provide the following information to be included in the vendor's

1 bid proposal:

2 (i)(A) An audited financial statement covering the previous five (5) years, and if the vendor
3 is not the manufacturer of the equipment, both the agent and manufacturer must submit an audited
4 financial statement covering the previous five (5) years with the bid;

5 (B) In the event that either the vendor, agent, or manufacturer has been in existence for less
6 than five (5) years, that entity must submit an audited financial statement for each and every full
7 year that they have been in existence;

8 (ii) Proof of experience in the field of elections including, but not limited to, years of
9 experience in this field and experience with a jurisdiction having the same needs as the state of
10 Rhode Island; and

11 (iii) Names and addresses of the support organizations that will provide support of all
12 equipment.

13 (b) The full-service plan shall include the following services, but, at the discretion of the
14 office of the secretary of state, shall not be limited to the following services:

15 (1) Computer coding and layout of all ballots to be used in each election under contract,
16 including the printing of the ballot and the preparation of the ballot-reading [and accessible voting](#)
17 device to ensure that the ballots are compatible with the ballot-reading device. Subsequent thereto,
18 the state board of elections shall be responsible for the following:

19 (2) Testing of each [precinct count and accessible voting](#) unit for logic and accuracy
20 [including calibration of any touchscreens and the testing of the coding by creating a sufficient](#)
21 [number of ballots on the accessible voting units and ensuring the ballots are accurate and properly](#)
22 [read by the precinct count unit](#);

23 (3) Testing of each programmed memory device [on each precinct count and accessible](#)
24 [voting unit](#);

25 (4) Set up of each precinct-count [and accessible voting](#) unit at each polling place;

26 (5) Maintenance of all precinct-count [and accessible voting](#) units;

27 (6) Training of poll workers;

28 (7) On-site election night staff at the central tabulation location and any other locations as
29 may be determined by the state board to receive and transmit election results;

30 (8) On-site election day field technicians to respond to repair calls;

31 (9) Providing the following equipment and supplies:

32 (i) Secrecy covers for voted ballots;

33 (ii) Demonstration ballots;

34 (iii) Precision-cut shell program ballots ready for printing with timing marks;

- 1 (iv) Marking pens;
- 2 (v) Ballot transfer cases;
- 3 (vi) Envelopes for mailing and receiving absentee ballots; and
- 4 (vii) Printer ribbons, paper tape rolls, and seals.

5 (c) Any bid proposal by an offeror for a precinct-count system and a full-service agreement
6 for a precinct-count system that does not conform in all respects to the requirements of subdivisions
7 (a)(1) — (b)(9)(vii) of this section may be accepted by the office of the secretary of state with the
8 consent of the department of administration. The office of the secretary of state shall memorialize
9 the acceptance of any bid proposal that does not conform with the requirements of subsections
10 (a)(1) — (b)(9)(vii) of this section in each instance of such non-conformance.

11 (d) The office of the secretary of state periodically shall conduct a review of the election
12 system, provide a report to the general assembly, and shall be responsible for establishing minimum
13 requirements and specifications for the procurement of voting equipment and services.

14 **17-19-14. Preparation of voting equipment for election — Testing.**

15 (a) Prior to any election at which optical scan precinct count [voting](#) units are to be used,
16 [including those that are accessible for voters who are blind, visually impaired or disabled](#), the
17 secretary of state shall prepare the layout and format of the computer ballot in conjunction with the
18 voting equipment vendor under contract with the state. The secretary of state shall be responsible
19 for the coding and layout of all computer ballots to be used in each election under contract,
20 including the printing of the ballot and the preparation of the device to ensure that the ballots are
21 [displayed correctly on the accessible voting units and](#) compatible with the device, and shall transfer
22 all information relative to the ballot and its preparation to the state board.

23 (b) Subsequently, the state board, in conjunction with the voter equipment vendor under
24 contract with the state, shall be responsible for the testing of the programmed memory cartridge,
25 the testing of each unit for logic and accuracy, [including ensuring the accessible voting unit is](#)
26 [properly calibrated and correctly coded](#), and the set up of each optical scan precinct unit at each
27 polling place. The state board of elections shall determine, and document on the forms provided
28 for that purpose, the fact that the programmed memory [device](#) cartridges for the optical scan
29 precinct count [and accessible voting](#) units are in good working order, that the daily counter is at
30 zero, and all of the candidates' counters are set at zero and record no vote for any candidate.

31 (c) The state board of elections, in conjunction with the voting equipment vendor under
32 contract with the state, shall publicly conduct these tests on each programmed cartridge for each
33 optical scan precinct count [and accessible voting](#) unit to be used for the election. This testing shall
34 be made as near to the time of the election as is feasible.

1 (d) The state board of elections in consultation with the secretary of state, shall promulgate
2 rules and regulations on logic and accuracy testing protocols, pursuant to chapter 35 of title 42
3 ("administrative procedures").

4 SECTION 3. This act shall take effect upon passage.

=====
LC000865/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO ELECTIONS -- STATE BOARD OF ELECTIONS

- 1 This act would designate a liaison position within the secretary of state's office to formulate
- 2 communication between the department of state and the board of elections, and would add
- 3 accessible voting devices to the equipment maintained by the secretary of state.
- 4 This act would take effect upon passage.

=====
LC000865/SUB A
=====