House Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 295

HOUSE BILL 2729

AN ACT

AMENDING SECTION 16-442, ARIZONA REVISED STATUTES; RELATING TO CONDUCT OF ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 16-442, Arizona Revised Statutes, is amended to read:

16-442. Committee approval; adoption of vote tabulating equipment; experimental use; emergency

A. The secretary of state shall appoint a committee of three persons, to consist of a member of the engineering college at one of the universities, a member of the state bar of Arizona and one person familiar with voting processes in the state, no more than two of whom shall be of the same political party, ~~who~~ AND AT LEAST ONE OF WHOM SHALL HAVE AT LEAST FIVE YEARS OF EXPERIENCE WITH AND SHALL BE ABLE TO RENDER AN OPINION BASED ON KNOWLEDGE OF, TRAINING IN OR EDUCATION IN ELECTRONIC VOTING SYSTEMS, PROCEDURES AND SECURITY. THE COMMITTEE shall investigate and test the various types of vote recording or tabulating machines or devices ~~which~~ THAT may be used under this article. They shall submit their recommendations to the secretary of state who shall make final adoption of the type or types, make or makes, model or models to be certified for use in this state. The committee shall serve without compensation.

B. On completion of acquisition of machines or devices that comply with the help America vote act of 2002 (P.L. 107-252), machines or devices used at any election for federal, state or county offices may only be certified for use in this state and may only be used in this state if they comply with the help America vote act of 2002 and if those machines or devices have been tested and approved by a laboratory that is accredited pursuant to the help America vote act of 2002.

C. After consultation with the committee prescribed by subsection A, the secretary of state shall adopt standards that specify the criteria for loss of certification for equipment THAT WAS used at any election for federal, state or county offices and that was previously certified for use in this state. On loss of certification, machines or devices used at any election may not be used for any election for federal, state or county offices in this state unless recertified for use in this state.

D. The secretary of state may revoke the certification of any voting system or device for use in a federal, state or county election in this state or may prohibit for up to five years the purchase, lease or use of any voting system or device leased, installed or used by a person or firm in connection with a federal, state or county election in this state, or both, if either of the following occurs:

1. The person or firm installs, uses or permits the use of a voting system or device that is not certified for use or approved for experimental use in this state pursuant to this section.

2. The person or firm uses or includes hardware, firmware or software in a version that is not certified for use or approved for experimental use pursuant to this section in a certified voting system or device.

E. The governing body of a city or town or the board of directors of an agricultural improvement district may adopt for use in elections any kind of electronic voting system or vote tabulating device approved by the secretary of state, and thereupon the voting or marking device and vote tabulating equipment may be used at any or all elections for voting, recording and counting votes cast at AN election.

F. The secretary of state or the governing body may provide for the experimental use of a voting system or device without a final adoption thereof, and its use at the election is as valid as if the machines had been permanently adopted.

G. After consultation with the committee prescribed by subsection A, the secretary of state may approve for emergency use an upgrade or modification to a voting system or device that is certified for use in this state if the governing body establishes in an open meeting that the election cannot be conducted without the emergency certification. Any such emergency certification shall be limited to no more than six months. At the conclusion of the certification period the voting system or device shall be decertified and unavailable for future use unless certified in accordance with this section.

Sec. 2. Applicability

This act applies to appointments made by the secretary of state after January 3, 2011.

APPROVED BY THE GOVERNOR MAY 10, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2010.