

SENATE FILE NO. SF0028

Elections-voting machine and voting system tests.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to elections; clarifying the procedure for
2 testing voting machines and electronic voting systems;
3 specifying that tests shall be open to the public;
4 specifying rulemaking authority; removing the presumption
5 of proper preparation of voting machines; and providing for
6 an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 22-10-108, 22-10-110, 22-11-103(c)
11 and 22-11-104(b)(iii) are amended to read:

12

13 **22-10-108. Procedure for preparing machines for**
14 **election; inspection and certification.**

15

1 (a) Before preparing a voting machine for an
2 election, the county clerk shall, not later than two (2)
3 days before a test of a voting machine or not later than
4 twenty-four (24) hours before any re-test of a voting
5 machine, post a public notice in the office of the county
6 clerk and on the website of the county clerk and notify in
7 writing the county chairman of each political party having
8 a candidate on the ballot and all independent candidates,
9 stating the time and place where the voting machine will be
10 prepared for the election. The political party
11 representatives, ~~and~~ representatives of independent
12 candidates, at the county clerk's discretion not less than
13 three (3) members of the public, but not more than a number
14 that will ensure the orderly testing of machines, and
15 members of the public may be present at the preparation of
16 the voting machine for the election, to see that the
17 machine is tested for accuracy and is properly prepared and
18 that all registering counters are set at zero (00000). The
19 county clerk, in the presence of these ~~representatives~~
20 attendees, shall prepare the voting machine for the
21 election and set all registering counters at zero (00000).
22 He shall then test each registering counter for accuracy by
23 casting votes on it until the registering counter is

1 correctly registering each vote cast on it. The county
2 clerk shall then reset each registering counter to zero
3 (00000) and shall immediately lock and seal the voting
4 machine with a numbered metal seal and make a record of the
5 number of the seal on the certificate for the machine. The
6 seal shall be so placed as to prevent operation of the
7 machine or its registering counters without breaking the
8 seal. The county clerk shall then immediately make a record
9 on the certificate for the machine of the reading shown on
10 the protective counter.

11

12 (b) Inspection of voting machines ~~may~~shall begin not
13 less than two (2) weeks before an election and continue
14 until all machines to be used are publicly tested and
15 sealed. Immediately following testing of a machine, the
16 county clerk shall make a certificate in writing stating
17 the serial number of each machine, whether the machine has
18 all the registering counters set at zero (00000), and
19 whether the machine has been tested by voting on each
20 registering counter to prove that each registering counter
21 is in perfect and accurate condition, the number registered
22 on the protective counter, and the number on the seal with
23 which the machine is sealed against operation. A copy of

1 this certificate shall be filed with the secretary of state
2 and the certificate shall be kept on file in the office of
3 the county clerk.

4
5 (c) No voting machine shall be used in any election
6 unless the individual machine is tested and prepared in
7 accordance with this section. Every voting machine used in
8 an election, including but not limited to all electronic
9 ballot marking devices, shall be individually tested.

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11 **22-10-110. Objections.**

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13 A voting machine prepared for an election and certified by
14 the county clerk ~~shall be conclusively presumed to be~~
15 ~~properly prepared unless within two (2) days~~ may be
16 challenged within five (5) days after the machine is sealed
17 by filing a complaint in the district court, and ~~certified~~
18 before the election if a complaint is filed in the district
19 court of the county stating the number of the machine and
20 the grounds for objecting to its use.

21
22 **22-11-103. Capabilities required.**

1 (c) The secretary of state may from time to time as
2 necessary promulgate rules and regulations consistent with
3 subsection (a) of this section and with all other
4 requirements of this Election Code to govern the
5 characteristics of electronic voting systems that may be
6 used in Wyoming. The rules shall ensure the fairness and
7 accuracy of elections. The rules may govern both the
8 characteristics of the systems and the procedures to be
9 followed in testing and using the systems. The rules shall
10 allow the county clerks to follow appropriate
11 recommendations of the vendors of the systems for
12 maintenance and management of the systems to the extent
13 these recommendations are not inconsistent with this
14 Election Code and with the rules. The rules shall be
15 adopted following consultation with the county clerks.

16

17 **22-11-104. Conduct of elections in which systems**
18 **utilized.**

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20 (b) The county clerk of each county using an
21 electronic voting system shall:

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1 (iii) Before testing an electronic voting system
2 for an election, not later than two (2) days before a test
3 of an electronic voting system or not later than
4 twenty-four (24) hours before any re-test of an electronic
5 voting system, post a public notice in the office of the
6 county clerk and the website of the county clerk and notify
7 the state chairman and the county chairman of each
8 political party having a candidate on the ballot, stating
9 the time and place of the test. The political party
10 representatives, ~~and~~—representatives of independent
11 candidates, at the county clerk's discretion not less than
12 three (3) members of the public, but not more than a number
13 that will ensure the orderly testing of machines, and
14 members of the public may be present for the test, which
15 shall be held at least two (2) weeks before the election.
16 The test shall ascertain that ~~the~~ all automatic tabulating
17 equipment to be used in the election will accurately count
18 the votes cast on all ballot styles that may be used in the
19 election for all offices and all measures. The test shall
20 be conducted by processing a preaudited group of ~~paper~~
21 ~~ballots or~~ all ballot ~~cards~~ styles on which are recorded a
22 predetermined number of valid votes for each candidate and
23 on each measure and shall include for each office one (1)

1 or more ballots which have votes in excess of the number
2 allowed by law in order to test the ability of the
3 automatic tabulating equipment to reject such votes. If the
4 county use an electronic ballot marking device in any way,
5 the test shall also be conducted using ballots or ballot
6 cards on each machine that are marked by an electronic
7 ballot marking device. During the test a different number
8 of valid votes shall be assigned to each candidate,
9 including write-in candidates, for an office, and for and
10 against each measure, including at least one (1) undervote
11 and one (1) overvote in each race or measure in each ballot
12 style for each machine type capable of recording an
13 undervote or overvote. If any error is detected, or if the
14 test is not completed in compliance with law, the cause of
15 it shall be ascertained and corrected and an errorless
16 count shall be secured and certified to by the county
17 clerk. On completion of the count, the results, reported in
18 the same manner official election results are reported,
19 shall be retained by the county clerk, posted to the county
20 clerk's website and a copy of the results, reported in the
21 same manner official election results are reported, shall
22 be provided to any person upon request. The programs, test
23 materials and ballots shall be sealed and retained as

1 provided for paper ballots, provided that if a re-test is
2 required the seals may be broken so that an errorless count
3 can be secured and certified as provided in this paragraph;
4

5 **Section 2.** This act is effective immediately upon
6 completion of all acts necessary for a bill to become law
7 as provided by Article 4, Section 8 of the Wyoming
8 Constitution.

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(END)