

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.**

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1           (a) Before preparing a voting machine for an  
2 election, the county clerk shall, not later than five (5)  
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~~ Members of the public may be present at the  
13 preparation of the voting machine for the election, to see  
14 that the machine is tested for accuracy and is properly  
15 prepared and that all registering counters are set at zero  
16 (00000). The county clerk, in the presence of these  
17 ~~representatives~~ attendees, shall prepare the voting machine  
18 for the election and set all registering counters at zero  
19 (00000). He shall then test each registering counter for  
20 accuracy by casting votes on it until the registering  
21 counter is correctly registering each vote cast on it. The  
22 county clerk shall then reset each registering counter to  
23 zero (00000) and shall immediately lock and seal the voting

1 machine with a numbered metal seal and make a record of the  
2 number of the seal on the certificate for the machine. The  
3 seal shall be so placed as to prevent operation of the  
4 machine or its registering counters without breaking the  
5 seal. The county clerk shall then immediately make a record  
6 on the certificate for the machine of the reading shown on  
7 the protective counter.

8  
9 (b) Inspection of voting machines ~~may~~shall begin not  
10 less than two (2) weeks before an election and continue  
11 until all machines to be used are publicly tested and  
12 sealed. Immediately following testing of a machine, the  
13 county clerk shall make a certificate in writing stating  
14 the serial number of each machine, whether the machine has  
15 all the registering counters set at zero (00000), and  
16 whether the machine has been tested by voting on each  
17 registering counter to prove that each registering counter  
18 is in perfect and accurate condition, the number registered  
19 on the protective counter, and the number on the seal with  
20 which the machine is sealed against operation. This  
21 certificate shall be filed with the secretary of state and  
22 a copy shall be kept on file in the office of the county  
23 clerk.

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

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8           **22-10-110. Objections.**

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

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18           **22-11-103. Capabilities required.**

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20       (c) The secretary of state may from time to time as  
21 necessary promulgate rules and regulations consistent with  
22 subsection (a) of this section and with all other  
23 requirements of this Election Code to govern the

1 characteristics of electronic voting systems that may be  
2 used in Wyoming. The rules shall ensure the fairness and  
3 accuracy of elections. The rules may govern both the  
4 characteristics of the systems and the procedures to be  
5 followed in testing and using the systems. The rules shall  
6 allow the county clerks to follow appropriate  
7 recommendations of the vendors of the systems for  
8 maintenance and management of the systems to the extent  
9 these recommendations are not inconsistent with this  
10 Election Code and with the rules. The rules shall be  
11 adopted following consultation with the county clerks.

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13 **22-11-104. Conduct of elections in which systems**  
14 **utilized.**

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16 (b) The county clerk of each county using an  
17 electronic voting system shall:

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19 (iii) Before testing an electronic voting system  
20 for an election, not later than five (5) days before a test  
21 of an electronic voting system or not later than  
22 twenty-four (24) hours before any re-test of an electronic  
23 voting system, post a public notice in the office of the

1 county clerk and the website of the county clerk and notify  
2 the state chairman and the county chairman of each  
3 political party having a candidate on the ballot, stating  
4 the time and place of the test. ~~The political party~~  
5 ~~representatives and representatives of independent~~  
6 ~~candidates~~ Members of the public may be present for the  
7 test, which shall be held at least two (2) weeks before the  
8 election. The test shall ascertain that ~~the all~~ automatic  
9 tabulating equipment to be used in the election will  
10 accurately count the votes cast on all ballot styles that  
11 may be used in the election for all offices and all  
12 measures. The test shall be conducted by processing a  
13 preaudited group of ~~paper ballots or all~~ ballot ~~cards~~  
14 styles on which are recorded a predetermined number of  
15 valid votes for each candidate and on each measure and  
16 shall include for each office one (1) or more ballots which  
17 have votes in excess of the number allowed by law in order  
18 to test the ability of the automatic tabulating equipment  
19 to reject such votes. If the county use an electronic  
20 ballot marking device in any way, the test shall also be  
21 conducted using ballots or ballot cards on each machine  
22 that are marked by an electronic ballot marking device.  
23 During the test a different number of valid votes shall be

1 assigned to each candidate, including write-in candidates,  
2 for an office, and for and against each measure, including  
3 at least one (1) undervote and one (1) overvote in each  
4 race or measure in each precinct and in each county. If any  
5 error is detected, or if the test is not completed in  
6 compliance with law, the cause of it shall be ascertained  
7 and corrected and an errorless count shall be secured and  
8 certified to by the county clerk. On completion of the  
9 count, the results, reported in the same manner official  
10 election results are reported, shall be retained by the  
11 county clerk, posted to the county clerk's website and a  
12 copy of the results, reported in the same manner official  
13 election results are reported, shall be provided to any  
14 person upon request. The programs, test materials and  
15 ballots shall be sealed and retained as provided for paper  
16 ballots, provided that if a re-test is required the seals  
17 may be broken so that an errorless count can be secured and  
18 certified as provided in this paragraph;  
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1       **Section 2.** This act is effective immediately upon  
2 completion of all acts necessary for a bill to become law  
3 as provided by Article 4, Section 8 of the Wyoming  
4 Constitution.

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(END)