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CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 2097

Introduced by Assembly Member Goldberg
(Coauthors: Assembly Members Koretz, Leno, and Lieber)
(Coauthor: Senator Kuehl)

February 17, 2006

An act to add Section 19213.5 to the Elections Code, relating to voting systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 2097, as amended, Goldberg. Voting system certification: vendors.

Existing law prohibits the Secretary of State from approving any voting system or part of a voting system, unless it fulfills specified state law requirements and regulations. Existing law also requires the Secretary of State to study and adopt regulations governing the use of voting machines, voting devices, vote tabulating devices, and any software used for each.

This bill would prohibit the Secretary of State, as of June 30, 2007, from approving a voting system for use in an election until its operation and specifications are publicly disclosed. *The bill would also apply these disclosure requirements to voting systems certified prior to June 30, 2007.*

The bill would also require a vendor applying for voting system certification, as of June 30, 2007, to comply with specified conditions and also require the Secretary of State to place specified information on his or her Web site by that date. It would require the secretary, no later than June 30, 2007, to establish a public review process that allows any member of the public to review voting system software based on the information required to be disclosed pursuant to these provisions. It would authorize the secretary, in specified circumstances, to deem a voting system product as a noncompliant product, decertify a product, and replace voting system software by contracting, without bid, with the University of California, or by issuing a request for proposal.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
 2 following:

3 (a) Current state law requires that the vote counting process be
 4 publicly observable. However, with the advent of computerized
 5 vote counting processes, the ability of the public to meaningfully
 6 observe tabulation is limited because details of these systems are
 7 secret. Public scrutiny is lacking. The people of California
 8 declare that every voter has the right to know that votes are
 9 accurately recorded and counted.

10 (b) Vendors shall be required to disclose all technical details
 11 when applying for state certification for a voting system. The
 12 Secretary of State shall manage a process whereby citizens can
 13 obtain technical information free of charge, including computer
 14 source code, relevant to voting systems under review for
 15 certification as well as systems that have obtained state
 16 certification.

17 SEC. 2. Section 19213.5 is added to the Elections Code, to
 18 read:

19 19213.5. (a) By June 30, 2007, the Secretary of State shall
 20 not approve a voting system for use in any election until all
 21 details of its operating system and specifications are publicly
 22 disclosed. *A voting system certified prior to June 30, 2007, shall*
 23 *comply with the disclosure requirements of this section.*

- 1 (b) By June 30, 2007, an application for voting system
2 certification in this state shall be subject to both of the following:
- 3 (1) The voter's right to inspect and test the voting system, to
4 retain test materials, test results, and to freely publish the same
5 openly.
- 6 (2) A promise to refrain from exerting any copyright, trade
7 secret, or other rights that it may have to hinder any voter of the
8 state from exercising the rights under paragraph (1) of this
9 subdivision.
- 10 (c) The Secretary of State shall require reasonable notice of
11 public testing and that the tests be performed in a manner that
12 does not burden the vendor with significant costs beyond those of
13 making the voting system available.
- 14 (d) The materials to be made freely available to the voting
15 public include all of the following:
- 16 (1) All voting system specific source code.
- 17 (2) Detailed instructions for building the software, including
18 compiler used, compilation scripts, and checksums.
- 19 (3) Voting specific hardware, complete specifications,
20 drawings and schematics.
- 21 (4) General purpose COTS components described in detail,
22 including versions and dates of manufacture.
- 23 (e) By June 30, 2007, the Secretary of State shall establish and
24 maintain a Web page on the Internet to provide all of the
25 following:
- 26 (1) Free download of materials pertaining to each voting
27 system certified or under consideration for certification.
- 28 (2) A system for acquiring and processing input from the
29 voting public.
- 30 (3) A reporting system to inform the public on findings,
31 problems reported, problem resolution, and comments from the
32 Secretary of State, the public, and vendors.
- 33 (4) Standards used by the Secretary of State for evaluating
34 voting systems, including test plans and specific test cases
35 employed.
- 36 (f) The Secretary of State, no later than June 30, 2007, shall
37 establish a public review process that allows any member of the
38 public to review voting system software based on the information
39 required to be disclosed pursuant to this section.

1 (g) (1) If, by February 1, 2007, the Secretary of State is
2 dissatisfied for any reason with a vendor’s progress toward
3 compliance with this section, he or she may do either or both of
4 the following:

5 (A) Contract without bid with any campus or campuses of the
6 University of California to create voting system software to run
7 on existing voting system hardware or replacement COTS
8 hardware.

9 (B) Issue a request for proposal for replacing any
10 noncompliant product.

11 (2) Any product deemed by the secretary to be a noncompliant
12 product shall be irrevocably decertified and neither it, nor a
13 similar product from the same vendor, shall be eligible for
14 recertification, except that it may be used in elections until
15 January 31, 2008. The secretary shall replace any noncompliant
16 product no later than February 1, 2008, subject to the following
17 conditions:

18 (A) The secretary may forego the federal certification process
19 otherwise applicable to the product.

20 (B) All software developed for a replacement product shall be
21 open source.

22 ~~(h) The Secretary of State shall utilize funds made available~~
23 ~~from the Voting Modernization Fund. The Secretary of State may~~
24 ~~not expend General Fund moneys for this purpose.~~

25 (i)

26 (h) For purposes of this section, the following terms have the
27 following meanings:

28 (1) “COTS” means a common off-the-shelf component that is
29 manufactured in large quantities and is widely available.

30 (2) “General purpose COTS devices” means a COTS
31 component intended for use in a variety of nonvoting systems.

32 (3) “Voting specific” means a hardware or software
33 component manufactured specifically for use in a voting system.

34 (4) “Vendor” means any person, partnership, corporation, or
35 other entity that offers a voting system, whether for money or
36 not, to the state, to any county, or city of the state, or to any
37 governmental agency.

38 (5) “Voting system” means any computerized machinery used
39 in a public election to present one or more contests to voters, to
40 obtain voter choices, to verify voter choices, to store voter

1 choices, to communicate voter choices, to tabulate voter choices,
2 or to present partial or full results of one or more contests.

3 (6) “Source code” means computer instructions written by
4 programmers.

5 (7) “Noncompliant product” means a product that is certified
6 before January 1, 2007, for use in elections but that the secretary,
7 no later than February 1, 2007, deems as likely to fail to meet the
8 full public disclosure requirements of this section.

9 (8) “Open source” means publicly disclosed source code
10 licensed under a free software license.

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