

**ASSEMBLY BILL**

**No. 829**

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**Introduced by Assembly Member Fong**

February 21, 2013

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An act to add Chapter 7 (commencing with Section 2500) to Division 2 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 829, as introduced, Fong. Election management systems.

Existing law requires the vendor of a voting system or a ballot marking system to cause an exact copy of the source code for each component of the system to be deposited into an approved escrow facility.

This bill would require the vendor of an election management system to cause an exact copy of the source code for each component of the election management system to be deposited into an approved escrow facility. The bill would require the Secretary of State to adopt regulations implementing this requirement. The bill would provide to the Secretary of State reasonable access to the materials placed in escrow. The bill would authorize the Secretary of State to seek injunctive relief to implement these requirements, and would provide that venue for the proceeding would be exclusively in Sacramento County.

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. Chapter 7 (commencing with Section 2500) is  
2 added to Division 2 of the Elections Code, to read:

CHAPTER 7. ELECTION MANAGEMENT SYSTEMS

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3 2500. As used in this chapter, an “election management system”  
4 is a system that is used by a county in the state to track voter  
5 registration or voter preferences, including, for example, a voter’s  
6 vote-by-mail status.

7 2501. (a) No later than January 31, 2014, and annually  
8 thereafter, the vendor of an election management system shall  
9 cause an exact copy of the source code for each component of the  
10 election management system, including complete build and  
11 configuration instructions and related documents for compiling  
12 the source code into object code, to be deposited into an approved  
13 escrow facility. The vendor shall place in escrow source codes for  
14 each version of the election management system in use in a county  
15 in the state.

16 (b) The Secretary of State shall adopt regulations relating to all  
17 of the following:

18 (1) The definition of source code components of an election  
19 management system, including source code for all firmware and  
20 software of the election management system. Firmware and  
21 software shall include commercial off-the-shelf or other third-party  
22 firmware and software that is available and able to be disclosed  
23 by the vendor of the election management system.

24 (2) Specifications for the escrow facility, including security and  
25 environmental specifications necessary for the preservation of the  
26 election management system source codes.

27 (3) Procedures for submitting election management system  
28 source codes.

29 (4) Criteria for access to election management system source  
30 codes.

31 (5) Requirements for the vendor to include in the materials  
32 deposited in escrow build and configuration instructions and  
33 documents so that a neutral third party may create, from the source  
34 codes in escrow, executable object codes identical to the code  
35 installed on the election management system.

36 (c) The Secretary of State shall have reasonable access to the  
37 materials placed in escrow, under the following circumstances:

38 (1) In the course of an investigation or prosecution regarding  
39 election management system equipment or procedures.

1 (2) Upon a finding by the Secretary of State that an escrow  
2 facility or escrow company is unable or unwilling to maintain  
3 materials in escrow in compliance with this section.

4 (3) For any other purpose deemed necessary to fulfill the  
5 provisions of this code or Section 12172.5 of the Government  
6 Code.

7 (d) The Secretary of State may seek injunctive relief requiring  
8 the elections officials, approved escrow facility, or any vendor or  
9 manufacturer of an election management system to comply with  
10 this section and related regulations. Venue for a proceeding under  
11 this section shall be exclusively in Sacramento County.

12 (e) This section applies to all elections.