

GENERAL ASSEMBLY OF VIRGINIA -- 2001 SESSION

ENROLLED

HOUSE JOINT RESOLUTION NO. 681

Establishing a joint subcommittee to study Virginia's election process and voting technologies.

Agreed to by the House of Delegates, February 22, 2001

Agreed to by the Senate, February 21, 2001

WHEREAS, public confidence in the integrity of the ballot, accuracy of the reported vote, and certainty of the election is crucial in a democratic process; and

WHEREAS, such public confidence is essential to acceptance of the legitimacy of the election outcome, an orderly transfer of power, and the stability of the political system itself; and

WHEREAS, the framers of the Constitution of the United States placed primary authority with the sovereign states to conduct and regulate elections; and

WHEREAS, it is the policy of the Commonwealth to promote the integrity of the election process by ensuring the accurate recording and counting of all legal votes cast for candidates and on ballot questions; and

WHEREAS, the closeness of the popular vote and subsequent disputes over the counting of the vote in Florida and several other states during the November 2000 presidential election have highlighted questions related to ballot design, methods of casting and recording votes, equipment accuracy and reliability, standards for counting and recounting ballots, vote-swapping sites on the Internet, and numerous other issues in the conduct of elections; and

WHEREAS, it would appear that many of the problems stemmed from a reliance on antiquated technology and ambiguous standards; and

WHEREAS, the recent presidential election introduced voters to the problems associated with the "butterfly" ballot design and the dimpled chad, pregnant chad, tri-cornered chad and swinging chad created with the punch card voting method; and

WHEREAS, irregularities in the transit, handling and acceptance of military and overseas ballots in Florida confounded the determination of when certain ballots were voted and sent; and

WHEREAS, the appearance of vote-swapping sites on the Internet last year facilitated the pledge of interstate votes between voters, which enables major party candidates to pick up votes in swing states and third parties to retain votes needed to qualify for federal matching funds for the next election; and

WHEREAS, while Virginia did not experience election uncertainty on the scale of that revealed elsewhere in 2000, the Commonwealth has seen a recount for statewide office as recently as the 1989 gubernatorial election and in the past decade alone several state legislative contests and local elections have involved recounts or questions about the conduct of the vote; and

WHEREAS, voters have a right to expect ballot designs and methods for casting and counting ballots that are easily understood, simple to operate, and employ foolproof technologies to prevent voter error; and

WHEREAS, the Commonwealth's counties use various voting systems, including the mark sense tabulator (optical scan), direct recording electronic (touch screen), mechanical and punch-card tabulator, some of which are at least 20 years old; and

WHEREAS, individual local electoral boards determine from an approval list the voting systems that will be used in each county or city; and

WHEREAS, establishing standardized voting systems throughout the Commonwealth could lead to more efficient and nondiscriminating elections; and

WHEREAS, ballot and voting devices should minimize, and preferably eliminate, the necessity or opportunity for election officials and agents for individual interests to seek to interpret the intent of voters by examining the ballots they cast; and

WHEREAS, voting procedures should generate confidence that the voter's ballot will be recorded and counted and that the results of elections will be tabulated and reported accurately; and

WHEREAS, since 1995 the State Board of Elections has been required to provide a second or divisible precinct registered voter list to serve as the official pollbook at each precinct; and

WHEREAS, the registered voter list and pollbook are used to record who voted at the polls and serve as accurate and secured sources for citizens reviewing the events of the election; and

WHEREAS, a combined precinct registered voter list and pollbook offers a means to streamline and simplify the process of recording registered voters at the polls and may improve elections by the efficient use of officers of election, faster processing of votes and reduction in paperwork and storage space; and

WHEREAS, the integrity of the registration and election process also depends heavily on the professional performance of the general, assistant and deputy registrars; and

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WHEREAS, a career development program for voter registrars may provide the means to encourage and reward performance of their duties; and

WHEREAS, every citizen who is eligible has the right to vote and to have that vote counted; and

WHEREAS, the Commonwealth's election laws should be evaluated to be certain that no qualified voter is excluded from the process; and

WHEREAS, the Commonwealth and its citizens would be well served by a determination of whether additional actions, procedures, guidelines, regulations, policies or systems are necessary or advisable to ensure the orderly, objective, accurate, and fair conduct of elections and resolution of disputes over results before an election crisis occurs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study Virginia's election process and voting technologies. The joint subcommittee shall consist of 16 members, which shall include 10 legislative members and 4 nonlegislative members and 2 ex officio members as follows: 6 members of the House of Delegates to be appointed by the Speaker in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; 4 members of the Senate to be appointed by the Senate Committee on Privileges and Elections; 3 nonlegislative members, 1 of whom shall be a member of a local electoral board, to be appointed by the Speaker; 1 voter registrar appointed by the Senate Committee on Privileges and Elections; and the Secretary of Technology or his designee and the Secretary of the State Board of Elections or her designee to serve ex officio with voting privileges.

In conducting the study, the joint subcommittee shall (i) examine the reliability and performance of the various types of voting systems in use throughout Virginia and in other states; (ii) examine the feasibility, advisability and costs of standardizing voting systems throughout the Commonwealth; (iii) consider ways to encourage localities to purchase or phase-in upgraded voting systems, including match grant programs; (iv) examine new and developing technologies that might advance the goals of better determining vote eligibility, ensuring voter privacy, enhancing the ability of voters to cast accurate and legal ballots and reducing the potential for election officials and individual interests to seek to interpret the intent of voters from ballots cast; (v) establish the extent to which, and the circumstances under which, spoiled ballots are cast or rescinded in elections; (vi) collect information regarding possible or actual voter misunderstanding of the ballot in elections throughout the Commonwealth; (vii) solicit the advice and experience of local electoral boards in ascertaining, establishing, and certifying the results of elections for accuracy and fairness; (viii) investigate the extent of and legality of vote-swapping strategies; (ix) examine local electoral board membership and qualification; (x) consider procedures for voter-friendly registration; (xi) examine standard procedures for assisting voters at the polls; (xii) ascertain the training needs of election officials and monitor the study by the State Board of Elections and the Weldon Cooper Center for Public Service on establishing a career development program for voter registrars; (xiii) consider procedures for standardizing absentee voting; (xiv) examine legal, technological, logistical and other related issues, including privacy involved in the handling and security of a merged pollbook; (xv) investigate the experience of, and monitor current actions in, other states; and (xvi) make any other recommendations for changes that may be desirable to advance the certainty of, and fairness in establishing, the outcome of elections in the Commonwealth. The study shall include, but not be limited to, the development of secure systems to facilitate voting and other procedures involved in the voter registration and voting process and shall examine new advances such as biometrics, passcodes and other appropriate devices.

The direct costs of this study shall not exceed \$14,500.

The Division of Legislative Services shall provide staff support for the study. Technical assistance shall be provided by the State Board of Elections. All agencies of the Commonwealth shall provide assistance, upon request.

The joint subcommittee, during the course of its study, may recommend to the State Board of Elections that the Board adopt or implement such procedures as are within its authority to ensure accurate or fair elections during the 2001 election process, and shall complete its work in time to submit its written findings and recommendations by November 30, 2001, to the Governor and the 2002 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.