

HOUSE No. 1910

By Mr. Harrison of Gloucester, petition of the Massachusetts Federation of Taxpayers Associations, Inc., for legislation to authorize the use of electronic voting systems by cities and towns in elections and providing for rules and regulations governing the operation thereof. Election Laws.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Five.

AN ACT AUTHORIZING THE USE OF ELECTRONIC VOTING SYSTEMS BY CITIES AND TOWNS IN ELECTIONS AND GRANTING RULE MAKING AUTHORITY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 54 of the General Laws is hereby amended by
2 inserting after section 39 the following new sections:—

3 *Section 39A. Electronic Voting Systems.*—Any city or town
4 which accepts the provisions of this and the following seven
5 sections may provide for the installation and use at primaries
6 and elections, in all or part of the precincts within its bound-
7 aries, of any approved electronic voting system in which the
8 voter records his votes by means of marking or punching a
9 ballot or one or more ballot cards, which are so designed that
10 votes may be counted by data processing machines at one or
11 more counting places.

12 *Section 39B.* Terms used in sections thirty-nine A through
13 thirty-nine E inclusive, shall be construed as follows, unless
14 a contrary intention clearly appears:

15 “Automatic tabulating equipment” shall include apparatus
16 necessary to automatically examine and count votes as desig-
17 nated on ballots and data processing machines which can be
18 used for counting ballots and tabulating results.

19 “Ballot card” shall mean a ballot which is voted by the
20 process of punching.

21 "Ballot labels" shall mean the cards, papers, booklet, pages
22 or other material containing the names of offices and candi-
23 dates and statements of measures to be voted on.

24 "Ballot" may include the ballot cards, ballot labels and paper
25 ballots.

26 "Counting location" shall mean a location selected by the
27 city or town clerk with the approval of the mayor, city manager
28 or selectmen, as the case may be, for the automatic processing
29 or counting, or both, of ballots.

30 "Electronic voting system" shall mean a system of casting
31 votes by use of marking devices and tabulating ballots em-
32 ploying automatic tabulating equipment or data processing
33 equipment.

34 "Marking device" shall mean either an apparatus in which
35 ballots or ballot cards are inserted and used in connection with
36 a punch apparatus for the piercing of ballots by the voter or
37 any approved device for marking a paper ballot with ink or
38 other substance which will enable the ballot to be tabulated by
39 means of automatic tabulating equipment.

40 The provisions of this chapter and of chapters fifty-three,
41 fifty-four A and fifty-six relative to procedures at primaries
42 and elections and the approval and use of voting machines,
43 ballot boxes and other counting apparatus shall apply, so far
44 as applicable and consistent with the provisions of this and
45 the following six sections, to the approval and use of electronic
46 voting systems.

47 *Section 39C.* No electronic voting system shall be installed
48 by any city or town which has not been approved by the state
49 secretary or which requires the use of any marking device or
50 tabulating equipment which has not been approved by the
51 board of voting machine examiners established under section
52 thirty-two of chapter fifty-four.

53 *Section 39D.* In approving an electronic voting system the
54 state secretary may promulgate rules, consistent with law, for
55 its administration and use. Said rules may provide for the
56 handling and protection of ballots, marking devices and tabu-
57 lating equipment prior to, during and after primaries and elec-
58 tions, the terms under which a city or town may purchase or
59 lease such devices or equipment, the substitution of duplicates
60 for defective or damaged ballots, the opening of ballot boxes

61 and the counting of ballots or envelopes, and the counting of
62 write-in votes.

63 *Section 39E.* Any marking device or automatic tabulating
64 equipment submitted for approval to the board of voting ma-
65 chine examiners which has not been acted upon by said board
66 within six months following such submission shall be deemed
67 to be approved.

68 *Section 39F.* In granting its approval of any marking device
69 or tabulating equipment said board may, as a condition thereof,
70 require of the appropriate city or town officials such testing of
71 equipment prior to each primary or election as will reasonably
72 ensure a correct count of the votes cast for all offices and on
73 all measures. For such testing the board may provide pre-
74 audited ballots on which votes have been punched or marked
75 and may require an errorless count of such ballots before the
76 equipment is approved for use at such primary or election.

77 *Section 39G.* No marking device or automatic tabulating
78 equipment shall be approved by the board of voting machine
79 examiners for use in an electronic voting system which fails
80 to meet the following requirements:

81 (a) It shall permit and require voting in absolute secrecy.

82 (b) It shall permit each voter to vote at any election for
83 all persons and offices for whom and for which he is lawfully
84 entitled to vote, and no others; to vote for as many persons
85 for an office as he is entitled to vote for; to vote for or against
86 any question upon which he is entitled to vote; and to vote,
87 by means of a single device, where applicable, for all candi-
88 dates of one party.

89 (c) It shall permit each voter, at presidential elections, by
90 one mark or punch to vote for the candidates of that party
91 for president, vice president, and their presidential electors.

92 (d) It shall comply with all other requirements of the elec-
93 tion laws so far as they are applicable.

94 (e) Automatic tabulating equipment shall reject all votes for
95 any office when the number of votes therefor exceeds the number
96 which the voter is entitled to cast, or when the voter is not by
97 law entitled to cast a vote for the office.

98 (f) At primaries, it shall count only votes for the candidates
99 of one party and shall reject all votes of a voter cast for candi-
100 dates of more than one party.

101 *Section 39H.* In precincts where an electronic voting system
102 is used, a sufficient number of voting booths shall be provided
103 for the use of such systems, and the booths shall be arranged
104 in the same manner as provided for use with paper ballots.
105 The city or town clerk shall provide sample ballots, ballot cards
106 or ballot labels which shall be exact copies of the official ballots
107 which are caused to be printed by them. Such sample ballots
108 shall be arranged in the form of a diagram showing the front
109 of the marking device as it will appear after the ballots are
110 arranged therein for voting. Such sample ballots shall be
111 posted near the entrance of the voting place and shall be
112 there open to public inspection as long as the polls remain
113 open. Ballot information, whether placed on the ballot or on
114 the marking device, shall, as far as practicable, be in the order
115 of arrangement provided for paper ballots except that such
116 information may be in vertical or horizontal rows, or in a
117 number of separate pages. Ballots for all questions must be
118 provided in the same manner and must be arranged on or in
119 the marking device in the places provided for such purpose.
120 Any voter who spoils his ballot or ballot card or makes an
121 error may return it to the presiding officer and secure another.
122 A separate write-in ballot, which may be in the form of a
123 paper ballot, card or envelope in which the voter places his
124 ballot card after voting, shall be provided where necessary to
125 permit voters to write in the names of persons whose names
126 are not on the ballot.