

AB 56 Legislative history:

COMPLETE BILL HISTORY BILL NUMBER :

A.B. No. 56 AUTHOR : Shelley TOPIC : Voting Modernization Bond Act of 2002.

TYPE OF BILL : Inactive Urgency Non-Appropriations 2/3 Vote Required Non-State-Mandated Local Program Fiscal Non-Tax Levy

BILL HISTORY

- 2001 Oct. 14 Chaptered by Secretary of State - Chapter 902, Statutes of 2001.
- Oct. 14 Approved by the Governor.
- Sept. 28 Enrolled and to the Governor at 2:30 p.m.
- Sept. 27 (Corrected September 27.)
- Sept. 26 (Corrected September 18.)

(Assembly floor action)

- Sept. 14 In Assembly. Concurrence in Senate amendments pending. Urgency clause adopted. Senate amendments concurred in. To enrollment. (Ayes 71. Noes 7. Page 4018.)

(Senate floor action)

- Sept. 14 Read third time. Urgency clause adopted. Passed and to Assembly. (Ayes 29. Noes 8. Page 2978.)
- Sept. 13 Read third time, amended, and returned to third reading.

(Senate action)

- Sept. 7 From committee: Amend, and do pass as amended. (Ayes 8. Noes 0.). Read second time and amended. Ordered to third reading.
- Aug. 20 In committee: Placed on Appropriations suspense file.
- July 12 From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 6. Noes 0.).
- July 9 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on E. & R.
- June 14 Referred to Com. on E. & R.
- June 7 In Senate. Read first time. To Com. on RLS. for assignment.

(Assembly action)

- June 6 Read third time, passed, and to Senate. (Ayes 71. Noes 4. Page 2236.)
- June 6 (Corrected June 5.)
- June 5 Read second time. To third reading.
- June 4 From committee: Amend, and do pass as amended. (Ayes 21. Noes 0.)
- (May 31). Read second time and amended. Ordered returned to second reading.
- May 29 Joint Rule 62(a), file notice waived. (Page 1856.)
- May 16 In committee: Set, first hearing. Referred to APPR. suspense file.
- May 2 Re-referred to Com. on APPR.
- Apr. 30 Read second time and amended.
- Apr. 26 From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 14. Noes 0.) (April 23)
- Feb. 13 Referred to Com. on E.,R. & C.A. 2000
- Dec. 5 From printer. May be heard in committee January 4.
- Dec. 4 Read first time. To print.

Section 19234 (e) and Section 19234.5 added Sept. 7--

(e) Any voting system purchased using bond funds after the date that this article becomes effective that does not require a voter to directly mark on the ballot must produce, at the time the voter votes his or her ballot or at the time the polls are closed, a paper version or representation of the voted ballot or of all the ballots cast on a unit of the voting system. The paper version shall not be provided to the voter but shall be retained by elections officials for use during the 1 percent manual recount or other recount or contest.

19234.5. The Legislature may amend subdivisions (c) and (d) of Section 19234 and Section 19235 by a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this article.

Above is the official history of the bill, and a copy of those amendments added to the bill on September 7 that reflect the product of a meeting with legislative staff to discuss several issues relative to AB 56 (Shelley).

During Senate Elections Committee hearings the question was raised about the audit trail for touch-screen voting systems. Some members of the committee expressed a desire to ensure that a "paper audit trail" was available. The Secretary of State publicly supported an amendment to the bill to address those concerns.

A meeting was held by legislative staff to discuss the specific issue. An explanation of the federal and state voting system certification process was provided to legislative staff in attendance. Several concerns were raised, including:

1. The difficulty in providing voters with a "receipt" that was a representation of the ballot they had cast because such a receipt might compromise ballot secrecy and because such a receipt created the potential for voter fraud (vote selling or vote swapping).
2. The amendment should not compromise the position of counties that had already deployed touch-screen equipment.
3. The audit trail requirement should not be construed so that the printed receipt became the *de facto* tally for elections because such an interpretation would defeat the efficiency and security of touch-screen systems.
4. It is conceivable that simultaneous production of receipts could be compromised by mechanical failure (printer error, paper jams, etc.) even though the vote tally was being properly recorded.

The bill, as amended on September 7, includes the language requiring a paper audit trail and the language limiting the Legislature's ability to amend some sections of the act. The bill was in print for one week before it was voted upon by the two houses of the Legislature. Both houses approved the bill on a bipartisan basis.

By its terms as enacted by the people, Prop. 41 can only be amended in subsections (c) and (d) of 19234. These amendable sections deal with the eligibility requirements for counties to receive funds and the declaration that fund monies may only pay for voting systems certified by the Secretary of State. Prescored punch card voting systems are specifically excluded.

Subsection (e) of 19234 which describes the acceptable characteristics of voting systems that may be purchased using bond funds may not be amended.

The acceptable characteristics of voting systems that may be purchased using Prop. 41 funds are:

1. Paper version or representation of the voter's voted ballot must be produced or;
2. Paper version or representation of all the votes cast on that unit of the voting system
3. Representation must be produced either at the time the voter votes or when the polls are closed
4. No paper version of a voted ballot will be provided to the voter
5. Any paper version will be retained by elections officials for use during the 1 percent manual recount or any other recount or contest

It is clear that the Legislature and voters had the full language and arguments related to Prop. 41 before them at the time votes were cast.

It is also clear that to add or read into any of these requirements after enactment will amount to impermissible amendments. In particular, the prohibition in 19234(e) against giving a voter a paper version of the voted ballot, if now ignored, would result in significant and impermissible revision of the Elections Code's ballot security provisions.