

BILL ANALYSIS

Senate Research Center

H.B. 56
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State Affairs
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, penalties relating to election fraud uses language referring to ballots. Unlike other voting systems that use paper ballots, the election results on Direct Record Electronic (DRE), or touch screen, voting machines do not have a physical ballot box because the information is stored electronically.

During the interim, the House Committee on Elections heard considerable testimony relating to fears about individuals tampering with DRE machines by hacking into the systems or planting hidden codes into the software. It is unclear that the offenses relating to tampering with ballot boxes would apply to such actions. In addition, although this type of tampering would require more forethought and effort than simply stuffing extra ballots into a box, the number of votes that could be affected is considerable. For these reasons, the penalty for tampering with a DRE should be stricter than the penalty for tampering with paper ballot voting systems.

As proposed, H.B. 56 creates a felony offense for specifically tampering with DRE voting machines to alter election results.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 33, Penal Code, by adding Section 33.05, as follows:

Sec. 33.05. TAMPERING WITH DIRECT RECORDING ELECTRONIC VOTING MACHINE. (a) Defines "direct recording electronic voting machine" and "measure."

(b) Provides that a person commits an offense upon accessing a computer, computer network, program, software, or system that is a part of a voting system that uses direct recording electronic voting machines, and by means of that access infringes on specific voting rights.

(c) Provides that an offense under this section does not require that the votes as affected by the person's actions described by Subsection (b) actually be the votes used in the official determination of the outcome of the election.

(d) Provides that an offense under this section is a felony in the first degree.

(e) Provides that notwithstanding Section 15.01(d), an offense under Section 15.01(a) is a felony in the third degree, if the offense the actor intends to commit is an offense under this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.