

111TH CONGRESS
2D SESSION

H. R. 5228

To amend the Help America Vote Act of 2002 to establish standards for the publication of the poll tapes used in elections for Federal office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2010

Mr. HOLT introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Help America Vote Act of 2002 to establish standards for the publication of the poll tapes used in elections for Federal office, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Poll Tape Trans-
5 parency Act of 2010”.

1 **SEC. 2. REQUIRING STATES TO MEET STANDARDS FOR**
2 **PUBLICATION OF POLL TAPES.**

3 (a) IN GENERAL.—Section 301(a) of the Help Amer-
4 ica Vote Act of 2002 (42 U.S.C. 15481(a)) is amended
5 by adding at the end the following new paragraph:

6 “(7) REQUIREMENTS FOR PUBLICATION OF
7 POLL TAPES.—

8 “(A) REQUIREMENTS.—Each State shall
9 meet the following requirements:

10 “(i) Upon the closing of the polls at
11 each polling place, the appropriate election
12 official, under the observation of the cer-
13 tified tabulation observers admitted to the
14 polling place under subparagraph (E) (if
15 any), shall announce the vote orally, post a
16 copy of the poll tape reflecting the totals
17 from each voting machine upon which
18 votes were cast in the election at the poll-
19 ing place, and prepare and post a state-
20 ment of the total number of individuals
21 who appeared at the polling place to cast
22 ballots, determined by reference to the
23 number of signatures in a sign-in book or
24 other similar independent count. Such offi-
25 cials shall ensure that each of the certified
26 tabulation observers admitted to the poll-

1 ing place has full access to observe the
2 process by which the poll tapes and state-
3 ment are produced and a reasonable period
4 of time to review the poll tapes and state-
5 ment before the polling place is closed, and
6 (if feasible) shall provide such observers
7 with identical duplicate copies of the poll
8 tapes and statement.

9 “(ii) As soon as practicable, but in no
10 event later than noon of the day following
11 the date of the election, the appropriate
12 election official shall display (at a promi-
13 nent location accessible to the public dur-
14 ing regular business hours and in or within
15 reasonable proximity to the polling place) a
16 copy of each poll tape and statement pre-
17 pared under clause (i), and the information
18 shall be displayed on the official public
19 websites of the applicable local election of-
20 ficial and chief State election official, to-
21 gether with the name of the designated
22 voting official who entered the information
23 and the date and time the information was
24 entered.

1 “(iii) Each website on which informa-
2 tion is posted under clause (ii) shall in-
3 clude information on the procedures by
4 which discrepancies shall be reported to
5 election officials. If any discrepancy exists
6 between the posted information and the
7 relevant poll tape or statement, the appro-
8 priate election official shall display infor-
9 mation on the discrepancy on the website
10 on which the information is posted under
11 clause (ii) not later than 24 hours after
12 the official is made aware of the discrep-
13 ancy, and shall maintain the information
14 on the discrepancy and its resolution (if
15 applicable) on such website during the en-
16 tire period for which results of the election
17 are typically maintained on such website.

18 “(iv) The appropriate election official
19 shall preserve archived copies of the poll
20 tapes and statements prepared under
21 clause (i) and reports of discrepancies filed
22 by certified tabulation observers for the pe-
23 riod of time during which records and pa-
24 pers are required to be retained and pre-
25 served pursuant to title III of the Civil

1 Rights Act of 1960 (42 U.S.C. 1974 et
2 seq.) or for the same duration for which
3 archived copies of other records of the elec-
4 tion are required to be preserved under ap-
5 plicable State law, whichever is longer.

6 “(B) TREATMENT OF BALLOTS CAST AT
7 EARLY VOTING SITES.—

8 “(i) APPLICATION.—The requirements
9 of this subparagraph shall apply with re-
10 spect to poll tapes and statements of the
11 number of voters who voted in person at
12 designated sites prior to the date of the
13 election.

14 “(ii) DAILY COUNT OF VOTERS.—At
15 the close of business on each day on which
16 ballots described in clause (i) may be cast
17 prior to the date of the election, the appro-
18 priate election official at each such site
19 shall—

20 “(I) under the observation of cer-
21 tified tabulation observers admitted to
22 the site under subparagraph (E) (if
23 any), prepare and post a statement of
24 the total number of individuals who
25 appeared at the site to cast ballots,

determined by reference to the number of signatures in a sign-in book or other similar independent count, and the total number of ballots cast (excluding information on the votes received by individual candidates), and shall ensure that each of the certified tabulation observers admitted to the site has full access to observe the process by which the statement is produced and a reasonable period of time to review the statement before the site is closed; and

“(II) display at the site during regular business hours for the duration of the early voting period a paper copy of the statement prepared under subclause (I).

“(iii) APPLICATION OF GENERAL REQUIREMENTS FOR POLL TAPES AND STATEMENTS.—Upon the closing of the polls on the date of the election, the appropriate election official at each designated site described in this subparagraph shall meet the requirements of subparagraph

1 (A) (including requirements relating to the
2 role of certified tabulation observers) in
3 the same manner as an election official at
4 a polling place.

5 “(C) TREATMENT OF ABSENTEE BAL-
6 LOTS.—

7 “(i) DAILY COUNT OF BALLOTS
8 MAILED AND RECEIVED.—At the close of
9 each business day on which a State mails
10 or accepts absentee ballots cast in an elec-
11 tion for Federal office prior to the date of
12 the election, the appropriate election offi-
13 cial shall—

14 “(I) under the observation of cer-
15 tified tabulation observers admitted
16 under subparagraph (E) to the site at
17 which the ballots are mailed and re-
18 ceived (if any), prepare and post a
19 statement of the total number of ab-
20 sentee ballots mailed and received by
21 the official during that day and a sep-
22 arate count of the number of absentee
23 ballots received but rejected (sepa-
24 rated into categories of the reasons
25 for rejection), and ensure that each of

1 the certified tabulation observers ad-
2 mitted to the site has full access to
3 observe the process by which the
4 statement is produced and a reason-
5 able period of time to review the
6 statement before the site is closed;
7 and

8 “(II) display at the site during
9 regular business hours for the dura-
10 tion of the period during which absen-
11 tee ballots are processed a paper copy
12 of the statement prepared under sub-
13 clause (I).

14 “(ii) APPLICATION OF GENERAL RE-
15 QUIREMENTS FOR POLL TAPES AND
16 STATEMENTS.—At the close of business on
17 the last day on which absentee ballots are
18 counted prior to the certification of the
19 election, the appropriate election official at
20 the site at which absentee ballots are re-
21 ceived and counted shall meet the require-
22 ments of subparagraph (A) (including re-
23 quirements relating to the role of certified
24 tabulation observers) in the same manner
25 as an election official at a polling place.

1 “(D) DAILY COUNT OF PROVISIONAL BAL-
2 LOTS.—At the close of business on the day on
3 which the appropriate election official deter-
4 mines whether or not provisional ballots cast in
5 an election for Federal office will be counted as
6 votes in the election (as described in section
7 302(a)(4)), the official shall—

8 “(i) under the observation of certified
9 tabulation observers admitted under sub-
10 paragraph (E) to the site at which the de-
11 termination is made (if any), prepare and
12 post a statement of the number of such
13 ballots for which a determination was
14 made, the number of ballots counted, and
15 the number of ballots rejected (separated
16 into categories of the reason for the rejec-
17 tion), and ensure that each of the certified
18 tabulation observers admitted to the site
19 has full access to observe the process by
20 which the statement is produced and a rea-
21 sonable period of time to review the state-
22 ment before the site is closed; and

23 “(ii) display at the site during regular
24 business hours for the duration of the pe-
25 riod during which provisional ballots are

1 processed a paper copy of the statement
2 prepared under clause (i).

3 “(E) ADMISSION OF CERTIFIED TABULA-
4 TION OBSERVERS.—

5 “(i) CERTIFIED TABULATION OB-
6 SERVER DEFINED.—In this paragraph, a
7 ‘certified tabulation observer’ is an indi-
8 vidual who is certified by an appropriate
9 election official as authorized to carry out
10 the responsibilities of a certified tabulation
11 observer under this paragraph.

12 “(ii) SELECTION.—In determining
13 which individuals to certify as tabulation
14 observers and admit to a polling place or
15 other location to serve as certified tabula-
16 tion observers with respect to an election
17 for Federal office, the election official shall
18 give preference to individuals who are af-
19 filiated with a candidate in the election, ex-
20 cept that—

21 “(I) the number of individuals
22 admitted who are affiliated with the
23 same candidate for Federal office may
24 not exceed one; and

1 “(II) the maximum number of in-
2 dividuals who may be admitted shall
3 equal the number of candidates in the
4 election plus 3, or such greater num-
5 ber as may be authorized under State
6 law.

7 “(iii) NO EFFECT ON ADMISSION OF
8 OTHER OBSERVERS.—Nothing in this sub-
9 paragraph may be construed to limit or
10 otherwise affect the authority of other indi-
11 viduals to enter and observe polling place
12 operations under any other law, including
13 international observers authorized under
14 any treaty or observers of the Federal Gov-
15 ernment authorized under the Voting
16 Rights Act of 1965.

17 “(F) NO EFFECT ON OTHER TABULATION
18 REQUIREMENTS.—Nothing in this Act may be
19 construed to supersede any requirement that an
20 election official at a polling place report vote to-
21 tals to a central tabulation facility and address
22 discrepancies the official finds in the aggrega-
23 tion of those totals with other vote totals.”.

24 (b) EFFECTIVE DATE.—Section 301(d) of such Act
25 (42 U.S.C. 15481(d)) is amended by striking “January

1 1, 2006” and inserting “January 1, 2006 (or, in the case
2 of the requirements of subsection (a)(7), shall meet such
3 requirements with respect to the first election for Federal
4 office held after the date of the enactment of the Poll Tape
5 Transparency Act of 2010 and each subsequent election
6 for Federal office)”.

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