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State must conform to federal election reform

What is the Legislature doing to prepare for fair elections in 2004? The new Help America Vote Act of 2002 (HAVA) changes the requirements for U.S. elections using electronic-voting equipment. Every voting unit now must produce a paper record for each vote cast. This leaves an audit trail and can be used for a recount.

The Legislature must revise statutes to conform to HAVA. But the bills under consideration leave out HAVA language about a paper record while adjusting every other issue for HAVA compliance. Why? We're told that the statutes already comply.

What's required is a paper record that can be read and understood by people so that a ''manual audit'' can be performed. Requirement of a manual audit is key. There can be no manual audit unless there is a paper record of each vote cast.

This reading is buttressed by the requirement that the paper record must become the official record for recount purposes. So there must be a paper record of each individual ballot cast.

Florida law doesn't focus on an auditable paper record of each ballot but on the production of precinct totals in paper form. Precinct totals, even in paper form, are insufficient to satisfy HAVA. The reason is simple: The paper trail that must be created is one that can be used for a recount.

Florida Statute 102.166 describes how manual recounts are to be conducted. There is no reference to precinct totals. Quite the contrary, it refers to counting individual ballots and to the individual choices made by each voter. It specifies the manner in which each ballot is to be read at the time of the manual recount.

The statute must be amended to comply with HAVA. ''Shall produce'' and ''is capable of'' are *not* the same.

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