

### 52.5 Testing and examination of voting equipment.

1. A person or corporation owning or being interested in an optical scan voting system may request that the state commissioner call upon the board of examiners to examine and test the system. Within seven days of receiving a request for examination and test, the state commissioner shall notify the board of examiners of the request in writing and set a time and place for the examination and test.

2. The state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the testing and examination of any optical scan voting system by the board of examiners. The rules shall prescribe the method to be used in determining whether the system is suitable for use within the state and performance standards for voting equipment in use within the state. The rules shall provide that all optical scan voting systems approved for use by the examiners after April 9, 2003, shall meet voting systems performance and test standards, as adopted by the federal election commission on April 30, 2002, and as deemed adopted by Pub. L. No. 107-252, § 222. The rules shall include standards for determining when recertification is necessary following modifications to the equipment or to the programs used in tabulating votes, and a procedure for rescinding certification if a system is found not to comply with performance standards adopted by the state commissioner.

3. The state commissioner may employ a competent person or persons to assist the examiners in their evaluation of the equipment and to advise the examiners as to the sufficiency of the equipment. Consultant fees shall be paid by the person who requested the certification. Following the examination and testing of the optical scan voting system, the examiners shall report to the state commissioner describing the testing and examination of the system and upon the capacity of the system to register the will of voters, its accuracy and efficiency, and with respect to its mechanical perfections and imperfections. Their report shall be filed in the office of the state commissioner and shall state whether in their opinion the kind of system so examined can be safely used by voters at elections under the conditions prescribed in this chapter. If the report states that the system can be so used, it shall be deemed approved by the examiners, and systems of its kind may be adopted for use at elections as provided in this section. Any form of system not so approved cannot be used at any election.

4. Before actual use by a county of a particular optical scan voting system which has been approved for use in this state, the state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the development of vote counting programs and all procedures used in actual counting of votes by means of that system.

[S13, §1137-a10; C24, 27, 31, 35, 39, §908; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.5]

86 Acts, ch 1224, §19; 89 Acts, ch 136, §50; 2004 Acts, ch 1083, §26, 37; 2007 Acts, ch 190, §29; 2009 Acts, ch 57, §50

Referred to in §52.6