

AN ACT

relating to testing of voting tabulation equipment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 127.091, 127.092, and 127.093, Election Code, are amended to read as follows:

Sec. 127.091. TEST OF TABULATING EQUIPMENT REQUIRED. The automatic tabulating equipment used for counting ballots in an election [~~at a central counting station~~] shall be tested as provided by this subchapter.

Sec. 127.092. TESTING AUTHORITIES. (a) The general custodian of election records and the testing board for the public test of logic and accuracy conducted under Section 129.023 shall prepare and conduct the first test of automatic tabulating equipment used at a central counting station and the test of automatic tabulating equipment used at a polling place.

(b) The programmer, tabulation supervisor, counting station manager, and presiding judge of the central counting station shall jointly prepare and conduct subsequent tests of the automatic tabulating equipment used at the station [~~the test jointly~~].

Sec. 127.093. TIMES FOR CONDUCTING TEST. (a) The automatic tabulating equipment used in a central counting station [~~test~~] shall be tested [~~conducted three times~~] for each election as provided by this subchapter.

(b) The first test of automatic tabulating equipment used in

1 a central counting station and the test of automatic tabulating
2 equipment used at a polling place shall be conducted in conjunction
3 with the public test of logic and accuracy conducted under Section
4 129.023 ~~[at least 48 hours before the automatic tabulating~~
5 ~~equipment is used to count ballots voted in the election]~~.

6 (c) The automatic tabulating equipment used in a central
7 counting station ~~[second test]~~ shall be tested ~~[conducted]~~
8 immediately before each time the counting of ballots with the
9 equipment begins.

10 (d) The automatic tabulating equipment used in a central
11 counting station ~~[third test]~~ shall be tested ~~[conducted]~~
12 immediately after each time the counting of ballots with the
13 equipment is completed.

14 SECTION 2. Section 127.094(b), Election Code, is amended to
15 read as follows:

16 (b) A group of test ballots shall be counted with the
17 equipment using the program prepared for processing the ballots
18 voted in the election. The test ballots must be printed on the same
19 stock as the official ballots for the election. The test ballots
20 used for the first test of automatic tabulating equipment used in a
21 central counting station and the test of automatic tabulating
22 equipment used at a polling place must be the test ballots generated
23 during the public test of logic and accuracy conducted under
24 Section 129.023. The test materials for subsequent tests of the
25 equipment used in a central counting station must be the electronic
26 media produced during the testing of automatic tabulating equipment
27 conducted in conjunction with the public test of logic and

1 accuracy.

2 SECTION 3. Section 127.096(a), Election Code, is amended to
3 read as follows:

4 (a) The general custodian of election records [~~the~~
5 ~~automatic tabulating equipment~~] shall conduct the first test of
6 automatic tabulating equipment used in a central counting station
7 and the test of automatic tabulating equipment used at a polling
8 place in conjunction with the test of logic and accuracy conducted
9 under Section 129.023 and shall provide [~~publish~~] notice of the
10 date, hour, and place of the test in the same manner as required for
11 the public test of logic and accuracy [~~conducted under Section~~
12 ~~127.093(b) in a newspaper, as provided by general law for official~~
13 ~~publications by political subdivisions, at least 48 hours before~~
14 ~~the date of the test~~].

15 SECTION 4. Section 127.099, Election Code, is amended by
16 amending Subsections (a) and (c) and adding Subsections (a-1),
17 (a-2), and (d) to read as follows:

18 (a) On completing the first [~~each~~] test of automatic
19 tabulating equipment used in a central counting station and the
20 test of automatic tabulating equipment used at a polling place, the
21 general custodian of election records [~~presiding judge~~] shall place
22 the test ballots and other test materials in a container provided
23 for that purpose and seal the container so it cannot be opened
24 without breaking the seal. The testing board [~~manager, tabulation~~
25 ~~supervisor, presiding judge,~~] and not more than two watchers, if
26 one or more watchers are present, shall sign the seal. The watchers
27 must be of opposing interests if such watchers are present.

(a-1) The general custodian of election records shall provide the test materials to the presiding judge of the central counting station before subsequent tests of the automatic tabulating equipment used at the central counting station are conducted under Sections 127.093(c) and (d).

(a-2) On completing subsequent tests of the automatic tabulating equipment used at the central counting station under Sections 127.093(c) and (d), the presiding judge shall place the test ballots and other test materials in a container provided for that purpose and seal the container so it cannot be opened without breaking the seal. The manager, tabulation supervisor, presiding judge, and not more than two watchers, if one or more watchers are present, shall sign the seal. The watchers must be of opposing interests if such watchers are present.

(c) The container may not be unsealed unless the contents are necessary to conduct a test under this subchapter, a criminal investigation, an election contest, a request for public inspection under Subsection (d), or any other official proceeding under this code. If the container is unsealed, the authority in charge of the proceeding shall reseal the contents when not in use.

(d) The test materials may not be made available for public inspection until the first day after the final canvass of the election is completed. The sealed container containing the test materials may be unsealed to allow for public inspection of the records and shall be resealed after the inspection of those records is completed.

SECTION 5. Section 127.100(a), Election Code, is amended to

1 read as follows:

2 (a) The general custodian of election records is the
3 custodian of the test materials following the completion of the
4 first test of automatic tabulating equipment used in a central
5 counting station and the test of automatic tabulating equipment
6 used at a polling place. After the test materials are delivered to
7 the presiding judge in accordance with Section 127.099(a-1), the
8 presiding judge is the custodian of the test materials until they
9 are delivered under Subsection (b).

10 SECTION 6. Section 129.021, Election Code, is amended to
11 read as follows:

12 Sec. 129.021. ACCEPTANCE TESTING. (a) In this section,
13 "hash validation" means a mathematical function that, when applied
14 to a file, creates a unique string of letters and numbers that may
15 be used to confirm that a voting system and its source code have not
16 been altered.

17 (b) Immediately after receiving a voting system from a
18 vendor, the general custodian of election records shall:

19 (1) verify that the system delivered is certified by
20 the secretary of state;

21 (2) perform a hardware diagnostic test on the system
22 as provided by Section 129.022(b);

23 (3) perform a public test of logic and accuracy on the
24 system as provided by Section 129.023; ~~and~~

25 (4) perform a hash validation on each ballot marking
26 device, each unit of automatic tabulating equipment, and each
27 tabulation computer to verify that the source code of the equipment

1 has not been altered; and

2 (5) perform any additional test that the secretary of
3 state may prescribe.

4 SECTION 7. Section 129.023, Election Code, is amended by
5 amending Subsections (b), (c), and (c-1) and adding Subsections
6 (b-3), (c-2), and (f-1) to read as follows:

7 (b) Not later than the 48th day before election day [~~48~~
8 ~~hours before voting begins on a voting system~~], the general
9 custodian of election records shall conduct a logic and accuracy
10 test. Public notice of the test must be published on the political
11 subdivision's [~~county's~~] Internet website, if the political
12 subdivision [~~county~~] maintains an Internet website, or on the
13 bulletin board used for posting notice of meetings of the political
14 subdivision's governing body [~~commissioners court~~] if the
15 political subdivision [~~county~~] does not maintain an Internet
16 website, at least 48 hours before the test begins, and the test must
17 be open to the public.

18 **(b-3) If the test cannot be conducted before the 48th day**
19 **before election day, then the general custodian shall conduct the**
20 **test as soon as practicable after that date and must notify the**
21 **secretary of state within 24 hours of the determination that the**
22 **deadline cannot be met.**

23 (c) The general custodian of election records shall adopt
24 procedures for testing that:

25 (1) direct the testing board to cast votes;

26 (2) verify that each contest position, as well as each
27 precinct and ballot style, on the ballot can be voted and is

1 accurately counted;

2 (3) include overvotes and undervotes for each race, if
3 applicable to the system being tested;

4 (4) include write-in votes, when applicable to the
5 election;

6 (5) include provisional votes, if applicable to the
7 system being tested;

8 (6) calculate the expected results from the test
9 ballots;

10 (7) ensure that each voting machine has any public
11 counter reset to zero and presented to the testing board for
12 verification before testing;

13 (8) require that, for each feature of the system that
14 allows disabled voters to cast a ballot, at least one vote be cast
15 and verified by a two-person testing board team using that feature;
16 ~~and~~

17 (9) require that, when all votes are cast, the general
18 custodian of election records and the testing board observe the
19 tabulation of all ballots and compare the actual results to the
20 expected results;

21 (10) ensure that each type of automatic tabulating
22 equipment, ballot marking device, and direct recording electronic
23 voting device used in the election is tested;

24 (11) include each type of ballot used in the election,
25 including mail ballot stock and ballots marked from ballot marking
26 devices, if any;

27 (12) require that tested ballots are marked and

1 labeled to ensure they are not used in an upcoming election; and

2 (13) require that, if the testing board determines
3 that the test is unsuccessful, the general custodian of election
4 records:

5 (A) identify the cause of the unsuccessful test
6 and prepare a written explanation;

7 (B) publish the written explanation online;

8 (C) retain the materials used in the unsuccessful
9 test; and

10 (D) conduct a retest that is open to the public
11 following the unsuccessful test.

12 (c-1) A test conducted under this section must also require
13 the general custodian of election records to demonstrate, using a
14 representative sample of each type of voting system equipment used
15 in the election, that the source code of the equipment has not been
16 altered.

17 (c-2) For purposes of this section, "representative sample"
18 means ten of each type of voting device or five percent of each type
19 of voting device to be used in the election, whichever number is
20 fewer.

21 (f-1) The secretary of state shall prescribe procedures and
22 training materials for the conduct of the test under this section.

23 SECTION 8. Subchapter B, Chapter 129, Election Code, is
24 amended by adding Section 129.0231 to read as follows:

25 Sec. 129.0231. TEST OF LOGIC AND ACCURACY FOR ELECTRONIC
26 POLLBOOK SYSTEM. (a) Not later than 48 hours before voting begins
27 in an election, the general custodian of election records shall

1 conduct a test of logic and accuracy of the electronic pollbook
2 system used in the election.

3 (b) Notice of the test must be published on the political
4 subdivision's Internet website, if the political subdivision
5 maintains an Internet website, or on the bulletin board used for
6 posting notice of meetings of the political subdivision's governing
7 body if the political subdivision does not maintain an Internet
8 website, at least 48 hours before the test begins.

9 (c) The general custodian of election records shall adopt
10 procedures for testing that verify that:

11 (1) the database of voters is correctly loaded onto
12 the system and devices;

13 (2) peripheral devices used with the system are
14 functioning correctly;

15 (3) ballot styles have been correctly assigned to
16 voters; and

17 (4) any ballots issued by the system and any
18 peripheral devices used with the system are correctly read by any
19 voting system used in the election.

20 (d) The secretary of state shall prescribe procedures and
21 training materials for the conduct of the test under this section.

22 SECTION 9. Section 129.024, Election Code, is amended by
23 amending Subsection (c) and adding Subsection (d) to read as
24 follows:

25 (c) The container may not be unsealed unless the contents
26 are necessary to conduct a test under this subchapter or a criminal
27 investigation, an election contest, a request for public inspection

1 under Subsection (d), or any other official proceeding under this
2 code. If the container is unsealed, the authority in charge of the
3 proceeding shall reseal the contents when not in use.

4 (d) The test materials are not available for public
5 inspection until the first day after the final canvass of the
6 election is completed. The sealed container containing the test
7 materials may be unsealed to allow for public inspection of the
8 records and shall be resealed after the inspection of those records
9 is completed.

10 SECTION 10. Section [127.096\(a-1\)](#), Election Code, is
11 repealed.

12 SECTION 11. This Act takes effect September 1, 2025.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 2166 passed the Senate on April 16, 2025, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 2166 passed the House on May 24, 2025, by the following vote: Yeas 131, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor