

ELECTION CODE

TITLE 8. VOTING SYSTEMS

CHAPTER 122. STATE SUPERVISION OVER VOTING SYSTEMS

SUBCHAPTER A. VOTING SYSTEM STANDARDS

Sec. 122.001. VOTING SYSTEM STANDARDS.

(a) A voting system may not be used in an election unless the system:

- (1) preserves the secrecy of the ballot;
- (2) is suitable for the purpose for which it is intended;
- (3) operates safely, efficiently, and accurately and complies with the voting system standards adopted by the Election Assistance Commission;
- (4) is safe from fraudulent or unauthorized manipulation;
- (5) permits voting on all offices and measures to be voted on at the election;
- (6) prevents counting votes on offices and measures on which the voter is not entitled to vote;
- (7) prevents counting votes by the same voter for more than one candidate for the same office or, in elections in which a voter is entitled to vote for more than one candidate for the same office, prevents counting votes for more than the number of candidates for which the voter is entitled to vote;
- (8) prevents counting a vote on the same office or measure more than once;
- (9) permits write-in voting; and
- (10) is capable of providing records from which the operation of the voting system may be audited.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 404 (H.B. 25), Sec. 8, eff. September 1, 2020.

(c) The secretary of state may prescribe additional standards for voting systems consistent with this title. The standards may apply to particular kinds of voting systems, to particular elements comprising a voting system, including

operation procedures, or to voting systems generally.

(d) Effective January 1, 2006, a voting system may not be used in an election if the system uses:

- (1) mechanical voting machines; or
- (2) a punch-card ballot or similar form of tabulating card.

(e) For an election for federal office in which a state or federal court order has extended the time for voting beyond the time allowed by Subchapter B, Chapter 41, a voting system must provide a separate count of the votes cast after the time allowed by that subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 2, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 30, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1315, Sec. 49, eff. Jan. 1, 2004.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 298 (H.B. 2900), Sec. 1, eff. June 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 404 (H.B. 25), Sec. 6, eff. September 1, 2020.

Acts 2017, 85th Leg., R.S., Ch. 404 (H.B. 25), Sec. 8, eff. September 1, 2020.

Sec. 122.002. INSPECTION OF VOTING SYSTEMS AND EQUIPMENT BY SECRETARY OF STATE. The secretary of state may inspect at any time, including the day of an election, a voting system or the voting system equipment used in an election to determine whether the system or equipment complies with applicable standards or deviates from the system or equipment approved by the secretary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 3, eff. Sept. 1, 1987.

Sec. 122.003. ACTION BY SECRETARY OF STATE. (a) If the secretary of state determines after inspecting a voting system or voting system equipment that the system or equipment does not comply with applicable standards or deviates from an approved system or equipment, the secretary by written order may:

(1) prohibit the use of the system or equipment or any part of the system or equipment by an authority that adopted the system or equipment for use in an election; or

(2) limit the use of the system or equipment or any part of the system or equipment to circumstances or conditions stated in the order.

(b) The secretary shall amend or rescind an order issued under this section if the secretary determines that the system or equipment has been modified to comply with applicable standards or to not deviate from an approved system or equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 3, eff. Sept. 1, 1987.

Sec. 122.004. PREPARATION OF SOFTWARE BY SECRETARY OF STATE. (a) The secretary of state may prepare any type of software for use with an electronic voting system.

(b) The software is subject to the standards and examination procedures applicable to voting systems.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 3, eff. Sept. 1, 1987.

Sec. 122.005. VENUE FOR OFFENSES. Venue for prosecution of an offense under this chapter is in the county in which the offense was committed.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 31, eff. Sept. 1, 1993.

SUBCHAPTER B. APPROVAL OF VOTING SYSTEM AND EQUIPMENT

Sec. 122.031. APPROVAL OF SYSTEM AND EQUIPMENT REQUIRED.

(a) Before a voting system or voting system equipment may be used in an election, the system and a unit of the equipment must be approved by the secretary of state as provided by this subchapter.

(b) The secretary of state may seek a temporary restraining order or a writ of injunction obtained through the attorney general to prevent the use of any part of a voting system or voting system equipment that has not been approved.

(c) A person commits an offense if the person executes a contract to sell, lease, or otherwise provide a voting system or

voting system equipment that the person knows has not been approved. An offense under this subsection is a Class A misdemeanor.

(d) This section does not prohibit a person from exhibiting a voting system or unit of voting system equipment that has not been approved.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 32, eff. Sept. 1, 1993.

Sec. 122.032. REQUIREMENTS FOR APPROVAL GENERALLY. (a) For a voting system or voting system equipment to be approved for use in elections, the voting system in which the equipment is designed to be used must comply with the standards prescribed by Subchapter A.

(b) The secretary of state may prescribe more specific requirements and standards, consistent with this code, for approval of particular kinds of voting system equipment or voting system equipment generally.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.033. ADDITIONAL REQUIREMENTS FOR APPROVAL OF VOTING MACHINE. In addition to other requirements for approval, a voting machine must be equipped with:

- (1) a security system capable of preventing operation of the machine;
- (2) registering counters that can be secured against access;
- (3) a public counter; and
- (4) a protective counter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. [2309](#)), Sec. 2.05, eff. January 1, 2006.

Sec. 122.0331. ADDITIONAL REQUIREMENTS FOR ELECTRONIC VOTING SYSTEM. (a) Copies of the program codes and the user and operator manuals and copies or units of all other software and any other information, specifications, or documentation required by the secretary of state relating to an approved electronic voting system and its equipment must be filed with the secretary.

(b) Materials described by Subsection (a) that are not on file with and approved by the secretary of state, including any updated or modified materials, may not be used in an election.

(c) The secretary of state shall periodically compare the materials on file with the materials actually used in elections to ensure compliance with this section.

(d) The program codes and all other software on file with the secretary of state under this section are not public information. The materials shall be made available to the attorney general or the general's designee in any investigation of election irregularities. The materials may be made available in a judicial proceeding on the request of the court or other tribunal but may be viewed in camera only.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.034. APPLICATION FOR APPROVAL AND FEE. (a) A person desiring approval of a voting system or voting system equipment must submit a written application for approval to the secretary of state.

(b) An applicant must include with the application an application fee.

(c) The secretary of state shall prescribe fees for the submission of applications under this section in amounts reasonably necessary to administer this subchapter and compensate examiners appointed by the secretary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 33, eff. Sept. 1, 1993.

Sec. 122.035. APPOINTMENT OF EXAMINERS. (a) On submission of an application for approval of a voting system or voting system

equipment, the secretary of state shall appoint four persons as examiners, one of whom must be a full-time employee of the secretary. The attorney general shall appoint two persons as examiners, one of whom must be a full-time employee of the general.

(b) Two of the secretary of state's appointees must have demonstrated ability and experience in mechanics or electronics appropriate to the system or equipment to be examined, and two of the secretary's appointees must have demonstrated knowledge of and experience in election law and procedure.

(c) Only one person employed by the secretary of state may be appointed.

(d) A person who has a pecuniary interest in the manufacturing or marketing of any part of a voting system or voting system equipment is ineligible for appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 34, eff. Sept. 1, 1993.

Sec. 122.036. EXAMINATION AND REPORT BY EXAMINERS. (a) The examiners shall examine the voting system or voting system equipment for which an application has been submitted at the time and in the manner directed by the secretary of state.

(b) After conducting the examination, each examiner shall prepare a written report on the examination as directed by the secretary and deliver the report to the secretary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.037. COMPENSATION OF EXAMINERS. (a) Each examiner appointed under this subchapter, other than an employee of the secretary of state or attorney general, is entitled to compensation for services rendered in connection with an application.

(b) The secretary of state shall set the amount of compensation for examiners appointed by the secretary and shall use the application fees collected under Section [122.034](#) to pay the compensation.

(c) The attorney general shall set the amount of compensation for an examiner appointed by the general and shall pay the compensation from funds available to the general.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 35, eff. Sept. 1, 1993.

Sec. 122.0371. PUBLIC HEARING REQUIRED. (a) After the delivery of the examiners' reports and before the determination of whether the voting system or voting system equipment for which an application has been submitted satisfies the applicable requirements for approval, the secretary of state shall conduct a public hearing to provide interested persons an opportunity to express their views for or against the approval of the voting system or voting system equipment being considered.

(b) Notice of the hearing is given in the manner provided by Chapter 551, Government Code.

(c) Persons attending the hearing may express their views for or against the approval of the voting system or voting system equipment either orally, in writing, or both.

(d) The hearing shall be conducted in accordance with rules adopted by the secretary of state.

Added by Acts 2005, 79th Leg., Ch. 273 (H.B. 2465), Sec. 1, eff. September 1, 2005.

Sec. 122.038. ACTION BY SECRETARY OF STATE. (a) After reviewing the examiners' reports and considering the views expressed at the public hearing, the secretary of state shall determine whether the voting system or voting system equipment for which an application has been submitted satisfies the applicable requirements for approval.

(b) The secretary may examine the system or equipment to aid in determining whether it satisfies the requirements for approval.

(c) If the system or equipment satisfies the applicable requirements for approval, the secretary by written order shall approve the system or equipment of that design for use in elections. Otherwise, the secretary shall deny the application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 273 (H.B. 2465), Sec. 2, eff. September 1, 2005.

Sec. 122.039. REPORT BY SECRETARY OF STATE. (a) The secretary of state shall prepare a written report on each application submitted under this subchapter. The report must state whether the system or equipment was approved and the reasons for approval or denial.

(b) The secretary shall attach the examiners' reports to the report prepared under this section and permanently retain the reports on file.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

SUBCHAPTER C. MODIFICATION IN DESIGN OF APPROVED SYSTEM OR EQUIPMENT

Sec. 122.061. APPROVAL OF MODIFIED DESIGN REQUIRED. Before a voting system or voting system equipment that is modified in design after its approval may be used in an election, the modified design must be approved by the secretary of state as provided by this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.062. REQUIREMENTS FOR APPROVAL. The requirements for approval of a modified design are the same as those prescribed by Subchapter B for the initial approval of the voting system or voting system equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.063. APPLICATION FOR APPROVAL. A person desiring approval of a modified design must submit a written application for

approval to the secretary of state.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.064. REVIEW OF APPLICATION. (a) The secretary of state shall review an application for approval of a modified design.

(b) The secretary may approve the modified design by written order if the design satisfies the applicable requirements for approval.

(c) If the secretary does not approve the modified design, the secretary by written order shall:

(1) invite the applicant to submit additional information in support of the application, submit the modified system or equipment itself, or both; or

(2) require an examination of the modified system or equipment by independent examiners.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.065. REVIEW AND EXAMINATION OF ADDITIONAL MATERIAL. (a) The secretary of state shall review additional information in support of an application and examine the modified system or equipment submitted.

(b) The secretary may approve the modified design by written order if the design satisfies the applicable requirements for approval.

(c) If the secretary does not approve the modified design, the secretary by written order shall require an examination of the modified system or equipment by independent examiners.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.066. EXAMINATION FEE. (a) The secretary of state shall prescribe an examination fee or fee schedule to compensate examiners appointed by the secretary under this subchapter.

(b) The fee for an examination may not exceed the fee for an

application for initial approval of a voting system or voting system equipment.

(c) If the secretary orders an independent examination of the modified system or equipment, the secretary may not appoint examiners until the secretary receives the examination fee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 36, eff. Sept. 1, 1993.

Sec. 122.067. APPOINTMENT OF EXAMINERS. (a) If the secretary of state requires an independent examination of the modified system or equipment, the secretary shall appoint four persons as examiners, one of whom must be a full-time employee of the secretary. The attorney general shall appoint two persons as examiners, one of whom must be a full-time employee of the general.

(b) To be eligible for appointment as an examiner under this section, a person must be eligible for appointment as an examiner for an application for initial approval of a system or equipment. Only one employee of the secretary of state may be appointed.

(c) Two of the secretary of state's appointees must have demonstrated ability and experience in mechanics or electronics appropriate to the system or equipment to be examined.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 37, eff. Sept. 1, 1993.

Sec. 122.068. EXAMINATION AND REPORT BY EXAMINERS. The examiners shall examine the modified system or equipment and prepare and deliver examination reports in the same manner as for an application for initial approval of a system or equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.069. COMPENSATION OF EXAMINERS. (a) Subject to Subsections (b) and (c), an examiner appointed by the secretary of state under this subchapter, other than the secretary's employee, is entitled to compensation in an amount set by the secretary.

(b) The compensation rate for each examiner appointed by the secretary of state for the same examination must be uniform.

(c) The total compensation paid to the examiners appointed by the secretary of state for the same examination may not exceed the examination fee.

(d) The secretary of state shall use the examination fees collected under Section [122.066](#) to pay the compensation to examiners appointed by the secretary.

(e) An examiner appointed by the attorney general under this subchapter, other than an employee of the general, is entitled to compensation in an amount set by the general. The attorney general shall pay the compensation from funds available to the general.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 38, eff. Sept. 1, 1993.

Sec. 122.0691. PUBLIC HEARING REQUIRED. (a) This section applies only if an examination of the modified design by independent examiners was conducted.

(b) After the delivery of the examiners' reports and before the determination of whether the modified design satisfies the applicable requirements for approval, the secretary of state shall conduct a public hearing in the same manner as for the initial approval of a system or equipment.

Added by Acts 2005, 79th Leg., Ch. 273 (H.B. [2465](#)), Sec. 3, eff. September 1, 2005.

Sec. 122.070. ACTION BY SECRETARY OF STATE. (a) After reviewing the examiners' reports and considering the views expressed at the public hearing, the secretary of state shall determine whether the modified design satisfies the applicable requirements for approval.

(b) The secretary may examine the modified system or equipment to aid in determining whether it satisfies the requirements for approval.

(c) If the modified design satisfies the applicable requirements for approval, the secretary by written order shall

approve the system or equipment of that design for use in elections. Otherwise, the secretary shall deny the application.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 273 (H.B. 2465), Sec. 4, eff. September 1, 2005.

Sec. 122.071. REPORT BY SECRETARY OF STATE. (a) The secretary of state shall prepare a written report on each application submitted under this subchapter. The report must state whether the modified design was approved and must include a description of and the reason for the action ordered.

(b) If an examination by independent examiners was conducted, the secretary shall attach the examiners' reports to the report prepared under this section.

(c) The secretary shall permanently retain reports prepared under this subchapter on file with the secretary's report on the application for initial approval of the system or equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

SUBCHAPTER D. REEXAMINATION OF VOTING SYSTEM OR EQUIPMENT

Sec. 122.091. REEXAMINATION OF APPROVED SYSTEM OR EQUIPMENT AUTHORIZED. (a) The secretary of state may reexamine a voting system or voting system equipment as provided by this subchapter at any time after the system or equipment is approved under Subchapter B or C.

(b) The secretary of state may suspend approval for use of a voting system or voting system equipment if the system or equipment is not submitted for reexamination under this subchapter on the request of the secretary.

(c) The secretary of state may prescribe fees in amounts reasonably necessary to administer this subchapter and compensate examiners appointed by the secretary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by

Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 39, eff. Sept. 1, 1993.

Sec. 122.0911. ASSISTANCE REQUIRED BY SECRETARY OF STATE.

(a) If the secretary of state determines that the assistance of a particular person is necessary for the proper and efficient reexamination of a voting system or voting system equipment under this subchapter, the secretary may require that person to provide the necessary assistance as provided by this section.

(b) The secretary of state shall deliver written notice to a person whose assistance is required not later than 72 hours before the date the reexamination is scheduled to occur. The notice must state:

(1) that the person is required to provide assistance under Section [122.0911](#), Election Code;

(2) the nature of the assistance that is required; and

(3) the date, hour, and place of the reexamination.

(c) A person who, after proper notice, fails to provide the assistance required by the secretary of state is civilly liable to the state for \$100 for each day that the person fails to comply. The secretary of state shall notify the attorney general to initiate suit to recover the penalty.

Added by Acts 1993, 73rd Leg., ch. 728, Sec. 40, eff. Sept. 1, 1993.

Sec. 122.092. APPOINTMENT OF EXAMINERS. (a) The secretary of state shall appoint four persons as examiners, one of whom must be a full-time employee of the secretary, to assist in a reexamination of an approved voting system or voting system equipment. The attorney general shall appoint two persons as examiners, one of whom must be a full-time employee of the general.

(b) Two of the secretary of state's appointees must have demonstrated knowledge of and experience in the operation of the system or equipment.

(c) Only one person employed by the secretary of state may be appointed.

(d) A person who has a pecuniary interest in the manufacturing or marketing of any part of a voting system or voting

system equipment is ineligible for appointment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 41, eff. Sept. 1, 1993.

Sec. 122.093. EXAMINATION AND REPORT BY EXAMINERS. (a) The examiners shall examine the system or equipment to be reexamined at the time and in the manner directed by the secretary of state.

(b) After conducting the examination, each examiner shall prepare a written report on the examination as directed by the secretary and deliver the report to the secretary.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.094. COMPENSATION OF EXAMINERS. (a) An examiner appointed under this subchapter, other than an employee of the secretary of state or attorney general, is entitled to compensation for services rendered in connection with a reexamination.

(b) The secretary of state shall set the amount of compensation for examiners appointed by the secretary and shall use the fees collected under Section [122.091](#) to pay the compensation.

(c) The attorney general shall set the amount of compensation for an examiner appointed by the general and shall pay the compensation from funds available to the general.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 42, eff. Sept. 1, 1993.

Sec. 122.0941. PUBLIC HEARING REQUIRED. After the delivery of the examiners' reports and before the determination of whether the reexamined voting system or voting system equipment satisfies the applicable requirements for approval, the secretary of state shall conduct a public hearing in the same manner as for the initial approval of a system or equipment.

Added by Acts 2005, 79th Leg., Ch. 273 (H.B. [2465](#)), Sec. 5, eff. September 1, 2005.

Sec. 122.095. ACTION BY SECRETARY OF STATE. (a) After reviewing the examiners' reports and considering the views expressed at the public hearing, the secretary of state shall determine whether the voting system or voting system equipment subject to reexamination satisfies the applicable requirements for approval of the system or equipment for use in elections.

(b) The secretary may examine the system or equipment to aid in determining whether it satisfies the requirements for approval.

(c) If the reexamined system or equipment does not satisfy the applicable requirements for approval, the secretary by written order shall:

- (1) suspend approval of the system or equipment;
- (2) suspend approval for future use of the system or equipment; or
- (3) give conditional approval of the system or equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 273 (H.B. [2465](#)), Sec. 6, eff. September 1, 2005.

Sec. 122.096. EFFECT OF SECRETARY OF STATE'S ACTION. (a) A voting system or voting system equipment for which approval is suspended may not be used in an election held after the date the suspension order is issued.

(b) A voting system or voting system equipment for which approval for future use is suspended may not be used in an election held after the date the suspension order is issued unless the system or equipment was adopted for use in the election before the date the suspension order is issued. In that case, the system or equipment may be used in that election only.

(c) A voting system or voting system equipment for which conditional approval is given may not be used in an election held after the date the conditional approval order is issued except in accordance with conditions prescribed by the conditional approval order.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.097. NOTICE OF SECRETARY OF STATE'S ACTION. Not later than the fifth day after the date an order taking action under Section 122.095(c) is issued, the secretary of state shall deliver a copy of the order to the presiding officer of each political subdivision that owns or leases a system or equipment subject to the order.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.098. SUBSEQUENT APPROVAL. If a voting system or voting system equipment subject to an order under Section 122.095(c) is subsequently approved under Subchapter B, the approval nullifies the order.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.

Sec. 122.099. REPORT BY SECRETARY OF STATE. (a) The secretary of state shall prepare a written report on each reexamination. The report must state whether the system or equipment satisfied the approval requirements and must include a description of and the reason for the action ordered.

(b) The secretary shall attach the examiners' reports to the report prepared under this section and permanently retain the reports on file with the secretary's report on the application for initial approval of the system or equipment.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 4, eff. Sept. 1, 1987.