

ELECTION CODE

TITLE 8. VOTING SYSTEMS

CHAPTER 127. PROCESSING ELECTRONIC VOTING SYSTEM RESULTS

SUBCHAPTER A. ESTABLISHMENT AND ORGANIZATION OF CENTRAL COUNTING
STATION

Sec. 127.001. ESTABLISHMENT OF CENTRAL COUNTING STATION.

(a) The authority adopting an electronic voting system for use in an election may establish, in accordance with this subchapter, one or more central counting stations for counting the ballots if the voting system is designed to have ballots counted at a central location.

(b) If the adopting authority does not establish a central counting station for the election, the authority shall designate one or more counting stations established by another authority.

(c) The central counting station must be located in the county in which the political subdivision served by the authority adopting the voting system is wholly or partly situated or in a county contiguous to that county.

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

Sec. 127.0015. CENTRAL COUNTING STATION OFFICERS: OATH AND IDENTIFICATION. (a) Election officers appointed under this subchapter shall repeat the following oath aloud:

"I swear (or affirm) that I will objectively work to be sure every eligible voter's vote is accepted and counted, and that only the ballots of those voters who violated the Texas Election Code will be rejected. I will make every effort to correctly reflect the voter's intent when it can be clearly determined. I will not work alone when ballots are present and will work only in the presence of a member of a political party different from my own. I will faithfully perform my duty as an officer of the election and guard the purity of the election."

(b) An officer who arrives after the oath is made shall repeat the oath aloud before performing any duties as an election officer.

(c) Following administration of the oath, each election officer shall be issued a form of identification, prescribed by the secretary of state, to be displayed by the officer during the officer's hours of service at the central counting station.

Added by Acts 2017, 85th Leg., R.S., Ch. 828 (H.B. 1735), Sec. 17, eff. September 1, 2017.

Sec. 127.002. COUNTING STATION MANAGER. (a) The authority establishing a central counting station shall appoint a manager of the station. Except as otherwise provided by this section, the eligibility requirements prescribed by this code for precinct election judges apply to a person appointed under this section.

(b) To be eligible for appointment, a person must:

(1) have knowledge and experience in the conduct of elections with the electronic voting system for which the counting station is established; and

(2) be a registered voter of the political subdivision served by the authority establishing the counting station, except:

(A) during the first year following the adoption of the voting system; or

(B) if the person is an employee of the political subdivision that adopts or owns the voting system.

(c) Employees of a political subdivision are not disqualified from appointment and, if appointed, may be paid additional compensation for their services.

(d) The general custodian of election records is eligible for appointment notwithstanding the custodian's status as a candidate or officeholder.

(e) The manager is in charge of the overall administration of the central counting station and the general supervision of the personnel working at the station.

(f) The manager is entitled to compensation in an amount fixed by the authority establishing the counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 492, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 48, eff. Sept. 1, 1993.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 334 (H.B. 2006), Sec. 1, eff. June 14, 2013.

Sec. 127.003. TABULATION SUPERVISOR. (a) The authority establishing a central counting station shall appoint a tabulation supervisor of the station. Except as otherwise provided by this section, the eligibility requirements prescribed by this code for precinct election judges apply to a person appointed under this section.

(b) To be eligible for appointment, a person must be:

(1) trained in the operation of the automatic tabulating equipment installed at the counting station; and

(2) a registered voter of the political subdivision served by the authority establishing the counting station or an employee of the political subdivision that adopts or owns the voting system.

(c) Employees of a political subdivision are not disqualified from appointment and, if appointed, may be paid additional compensation for their services.

(d) The tabulation supervisor is in charge of the operation of the automatic tabulating equipment at the counting station.

(e) The tabulation supervisor is entitled to compensation in an amount fixed by the authority establishing the counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 492, Sec. 2, eff. Sept. 1, 1987.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 703 (H.B. 1026), Sec. 1, eff. June 17, 2015.

Sec. 127.004. ASSISTANTS TO TABULATION SUPERVISOR. (a) The tabulation supervisor may appoint one or more assistants, each of whom must be approved by the authority establishing the central counting station.

(b) To be eligible for appointment, a person must:

(1) have the competence, training, and experience required for the proper performance of the work assigned; and

(2) in a county with a population of less than 60,000, be a registered voter of the political subdivision served by the authority establishing the counting station or an employee of the political subdivision that adopts or owns the voting system.

(c) Employees of the political subdivision are not disqualified from appointment and, if appointed, may be paid additional compensation for their services.

(d) An assistant shall assist the tabulation supervisor in the operation of the automatic tabulating equipment as directed by the tabulation supervisor.

(e) An assistant is entitled to compensation in an amount fixed by the authority establishing the counting station.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 492, Sec. 3, eff. Sept. 1, 1987.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 828 (H.B. [1735](#)), Sec. 18, eff. September 1, 2017.

Sec. 127.005. PRESIDING JUDGE OF COUNTING STATION. (a) The authority appointing the presiding judges to serve in an election shall appoint a presiding judge of each central counting station operating in the election.

(b) Except as otherwise provided by this section, the eligibility requirements prescribed by this code for precinct presiding judges apply to a presiding judge of a central counting station. To be eligible to serve as a judge under this section, a person must be a qualified voter of the political subdivision served by the authority adopting the voting system. The general custodian of election records and employees of the custodian are eligible to serve as a judge under this section notwithstanding the custodian's status as a candidate or officeholder.

(c) The presiding judge shall maintain order at the counting station and has the same authority as a precinct presiding judge in that respect and in the administration of oaths. The presiding judge may confer with and advise the manager or tabulation supervisor on any activity at the counting station.

(d) The presiding judge is entitled to compensation at the

same rate as a precinct presiding judge, except that the counting station judge is entitled to a minimum compensation of five hours' pay regardless of the amount of time worked.

(e) For an election in which election judges appointed under Section 32.002 serve, the presiding judge and an alternate presiding judge shall be appointed for each central counting station operating in the election in the same manner as a presiding judge and alternate presiding judge under Section 32.002.

(f) An alternate presiding judge appointed under Subsection (e) serves:

(1) as presiding judge for the counting station if the regularly appointed presiding judge cannot serve; or

(2) in another position established under this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 492, Sec. 4, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 49, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 967, Sec. 1, eff. Sept. 1, 2003.

Sec. 127.006. COUNTING STATION CLERKS. (a) Both the manager and the presiding judge may appoint clerks to serve at the central counting station.

(b) Except as otherwise provided by this section, the eligibility requirements prescribed by this code for precinct election clerks apply to clerks serving at a central counting station. To be eligible to serve as a clerk under this section, a person must be a qualified voter of the county in which the central counting station is located. The general custodian of election records, an employee of the custodian, or any other employee of a political subdivision is not ineligible to serve as a clerk under this section because the person is a qualified voter of a county other than the county in which the central counting station is located or because of the custodian's status as a candidate or officeholder.

(c) A clerk appointed by the manager serves under the manager and shall perform the functions directed by the manager. A clerk appointed by the presiding judge serves under the presiding

judge and shall perform the functions directed by the presiding judge.

(d) A clerk is entitled to compensation at the same rate as a precinct election clerk, except that a clerk who serves for the entire time a counting station is in operation is entitled to a minimum compensation of three hours' pay regardless of the amount of time worked.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 492, Sec. 5, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1349, Sec. 47, eff. Sept. 1, 1997.

Sec. 127.007. PLAN FOR COUNTING STATION OPERATION. (a) The manager shall establish and implement a written plan for the orderly operation of the central counting station.

(b) The plan required under this section must address the process for comparing the number of voters who signed the combination form with the number of votes cast for the entire election.

(c) The plan required under this section must be available to the public on request not later than 5 p.m. on the fifth day before the date of the election.

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 25, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 828 (H.B. [1735](#)), Sec. 19, eff. September 1, 2017.

SUBCHAPTER C. SEALED BALLOT BOXES

Sec. 127.061. SEALED BALLOT BOXES REQUIRED. Sealed ballot boxes shall be used to deliver electronic system ballots from the polling place to the central counting station in accordance with this subchapter.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2001, 77th Leg., ch. 1054, Sec. 6, eff. Sept. 1, 2001.

Sec. 127.063. DESIGN OF BALLOT BOX. A sealed ballot box used under this subchapter must be equipped with a lock to prevent opening the box without a key and designed and constructed so that:

(1) the ballots can be deposited and delivered without damage that will render them unfit for processing in automatic tabulating equipment;

(2) the box can be sealed to detect any unauthorized opening of the box; and

(3) the slot used by voters to deposit ballots can be sealed to prevent any unauthorized deposit in the box.

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

Sec. 127.064. SEALS FOR BALLOT BOXES. (a) A seal shall be provided for each ballot box used under this subchapter.

(b) The seals for the boxes must be serially numbered for each election.

(c) The authority responsible for distributing election supplies to the polling places shall prepare a record of the serial numbers of the seals and preserve the record for the period for preserving the precinct election records. The authority shall provide each central counting station with a copy of the record before ballots are delivered to the station for processing.

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

Sec. 127.065. SEALING BALLOT BOX; DELIVERY TO POLLING PLACE. (a) An adequate number of sealed ballot boxes shall be provided for each polling place at which sealed boxes are to be used.

(b) Before the ballot boxes are delivered to the polling places, the authority responsible for distributing election supplies to the polling places shall inspect and empty each box. The authority shall then lock the empty box and seal it so that the box cannot be opened without breaking the seal.

(c) Once sealed, the ballot boxes may not be opened except as provided by Section [127.068](#).

(d) After the ballot boxes are locked and sealed, the authority responsible for distributing election supplies shall

have the ballot boxes delivered to the polling places and have the keys delivered to the presiding judge of the central counting station.

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

Sec. 127.066. SEALING DEPOSIT SLOT; DELIVERY OF SEALED BALLOT BOX TO COUNTING STATION. (a) Immediately on completion of voting at a polling place using sealed ballot boxes or, if the presiding judge inactivates a sealed ballot box before completion of voting, immediately on inactivation, an election officer shall seal the deposit slot in each box so that nothing can be deposited through the slot without breaking the seal.

(b) The presiding judge, an election clerk, 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) After the box is sealed, it shall be delivered to the central counting station by two election officers. The officers shall deliver the box to the presiding judge of the central counting station or to the judge's designee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2003, 78th Leg., ch. 1316, Sec. 34, eff. Sept. 1, 2003.

Sec. 127.067. DISPOSITION OF ELECTION RECORDS. (a) An election officer shall place the precinct election records in the appropriate envelopes or other containers provided for that purpose.

(b) Except as provided by Subsection (c), the precinct election records shall be delivered to the presiding judge of the central counting station with the delivery of the last sealed ballot box.

(c) The appropriate election records shall be retained by the presiding judge or placed in ballot box no. 4, as applicable, in the same manner as for a polling place using regular paper ballots.

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

Sec. 127.068. RECEIVING SEALED BALLOT BOX AT COUNTING

STATION. (a) On receipt of a sealed ballot box, the presiding judge of the central counting station or the judge's designee shall give a signed receipt for the box to one of the delivering officers. The presiding judge at the polling place shall preserve the receipt for the period for preserving the precinct election records.

(b) Before opening the ballot box, the presiding judge of the counting station or the judge's designee shall inspect the box, the seal of the box, and the seal of the deposit slot to determine if they are intact and shall determine if the serial number on the seal of the box corresponds with the number indicated on the record of serial numbers at the counting station. If the box and both seals are intact and the serial numbers correspond, the judge or designee shall break the seals, unlock the lock, and open the box.

(c) If any irregularities are discovered, the presiding judge shall take appropriate action in accordance with procedures prescribed by the secretary of state.

(d) The presiding judge of the counting station shall preserve both seals for the period for preserving the precinct election records.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 91, eff. Sept. 1, 1997.

Sec. 127.069. SORTING BALLOTS. (a) After opening a sealed ballot box, the presiding judge of the central counting station shall sort the damaged ballots, the ballots containing write-in votes, and any other ballots requiring special handling and place them in the appropriate envelopes or other containers provided for that purpose.

(b) After the ballots are sorted, the presiding judge shall deliver them to the manager of the central counting station.

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

SUBCHAPTER D. TESTING TABULATING EQUIPMENT

Sec. 127.091. TEST OF TABULATING EQUIPMENT REQUIRED. The automatic tabulating equipment used for counting ballots at a central counting station shall be tested as provided by this

subchapter.

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

Sec. 127.092. TESTING AUTHORITIES. The programmer, tabulation supervisor, counting station manager, and presiding judge of the central counting station shall prepare and conduct the test jointly.

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

Sec. 127.093. TIMES FOR CONDUCTING TEST. (a) The test shall be conducted three times for each election.

(b) The first test shall be conducted at least 48 hours before the automatic tabulating equipment is used to count ballots voted in the election.

(c) The second test shall be conducted immediately before the counting of ballots with the equipment begins.

(d) The third test shall be conducted immediately after the counting of ballots with the equipment is completed.

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

Sec. 127.094. DESIGN OF TEST. (a) The test must be designed to determine whether the automatic tabulating equipment accurately counts ballots and otherwise functions properly.

(b) A group of test ballots shall be counted with the equipment using the program prepared for processing the ballots voted in the election. The test ballots must be printed on the same stock as the official ballots for the election.

(c) The group of test ballots must contain a predetermined number of valid votes for each candidate and for and against each proposition on the ballot for the election. The test group must also contain ballots with votes in excess of the allowable number and with other improper votes.

(d) The same test shall be administered each time the equipment is tested for the same election.

(e) The secretary of state may prescribe additional requirements for the test.

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

Sec. 127.095. DETERMINING SUCCESS OF TEST. (a) A test is successful if a perfect count of the test ballots is obtained and the automatic tabulating equipment otherwise functions properly during the counting of the test ballots.

(b) The testing authorities shall determine whether a test is successful.

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

Sec. 127.096. CONDUCT OF FIRST TEST. (a) The custodian of the automatic tabulating equipment shall publish notice of the date, hour, and place of the test conducted under Section [127.093\(b\)](#) in a newspaper, as provided by general law for official publications by political subdivisions, at least 48 hours before the date of the test.

(a-1) If the test is being conducted for a primary election, the custodian of the automatic tabulating equipment shall notify the county chair of the test at least 48 hours before the date of the test. The county chair shall confirm receipt of the notice.

(b) The test is open to the public.

(c) The automatic tabulating equipment may not be used to count ballots voted in the election until a test is successful.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 50, eff. Sept. 1, 1993.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 828 (H.B. [1735](#)), Sec. 20, eff. September 1, 2017.

Sec. 127.097. CONDUCT OF SECOND TEST. (a) The automatic tabulating equipment may not be used to count ballots voted in the election until a test conducted under Section [127.093\(c\)](#) is successful.

(b) If the initial test is unsuccessful, the presiding judge shall prepare a written record of the changes to the program, adjustments to the equipment, and other actions taken to achieve a successful test. The record shall be retained with the test materials.

(c) When a test is successful, the presiding judge shall certify in writing that a test was successful and the date and hour the test was completed. The certification shall be retained with the test materials.

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

Sec. 127.098. CONDUCT OF THIRD TEST; VOID BALLOT COUNT.

(a) If the initial test conducted under Section 127.093(d) is unsuccessful, the count of ballots voted in the election obtained with the automatic tabulating equipment is void.

(b) If the initial test is successful, the automatic count of ballots voted in the election is valid for the purpose of certifying the election returns prepared at the central counting station. The presiding judge shall certify in writing that the initial test was successful and the date and hour the test was completed. The certification shall be retained with the test materials.

(c) If the ballot count is void under Subsection (a), the testing authorities shall follow the procedure prescribed by Section 127.097. When a test is successful, the ballots to be counted automatically shall immediately be counted. Immediately on completing the automatic count, the equipment shall again be tested, and if the initial test is successful the automatic count is valid for the purpose of certifying the election returns. Otherwise, the automatic ballot count is void.

(d) The procedure prescribed by Subsection (c) shall be repeated until a valid automatic count is obtained or the testing authorities determine that obtaining a valid automatic count is impracticable. In that case, the ballots shall be counted manually.

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

Sec. 127.099. SECURITY OF TEST MATERIALS. (a) On

completing each test, 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.

(b) The test materials shall remain sealed for the period for preserving the precinct election records.

(c) The container may not be unsealed unless the contents are necessary to conduct a test under this subchapter, a criminal investigation, election contest, or 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.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 127.100. CUSTODY OF TEST MATERIALS. (a) The presiding judge is the custodian of the test materials until they are delivered under Subsection (b).

(b) The sealed container holding the test materials shall be delivered to the general custodian of election records with the delivery of the election returns prepared at the counting station.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

SUBCHAPTER E. PROCESSING RESULTS AT CENTRAL COUNTING STATION

Sec. 127.121. PROGRAMMER FOR TABULATING EQUIPMENT. (a) If the automatic tabulating equipment to be used for counting ballots at a central counting station requires the preparation of a program, the authority responsible for having the ballot prepared for the election shall appoint a programmer.

(b) Any person who has the competence required to prepare the program is eligible for appointment.
Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Sec. 127.122. APPROVAL OF PROGRAM. If a person other than the tabulation supervisor is appointed as the programmer, the program shall be submitted to the tabulation supervisor for approval not later than the 10th day before the date the automatic tabulating equipment for which the program is prepared is first used to count ballots voted in the election.

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

Sec. 127.123. SECURITY OF PROGRAM. (a) The tabulation supervisor shall protect the program prepared for the automatic tabulating equipment installed at the central counting station from tampering and unauthorized use, as prescribed by the secretary of state.

(b) After the automatic counting of ballots is completed, the program shall be sealed in the container for the secured test materials. The program shall remain in the sealed container for the same period as the test materials and may be unsealed only under the same conditions as the test materials.

(c) The secretary of state shall prescribe procedures for the security of programs for central counting station equipment for which compliance with this section is impracticable.

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

Sec. 127.1231. SECURITY OF AUTOMATIC TABULATING EQUIPMENT.

(a) Except as provided by Subsection (b), the general custodian of election records shall ensure that any computer terminals located outside the central counting station that are capable of accessing the automatic tabulating equipment during the tabulation are capable of inquiry functions only and shall ensure that no modem access to the tabulating equipment is available during the tabulation.

(b) The secretary of state may prescribe procedures for the use of a system to allow results to be transmitted by a modem to the central counting station from units of automatic tabulating equipment located at a precinct polling place or at a regional tabulating center serving several precincts. The system must provide for a secure transmission of data. Results may not be transmitted under this subsection until the polls close on election day.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 7, eff. Sept. 1, 1987.

Amended by Acts 1997, 75th Leg., ch. 1349, Sec. 48, eff. Sept. 1, 1997.

Sec. 127.1232. SECURITY OF VOTED BALLOTS. The general custodian of election records shall post a guard to ensure the security of ballot boxes containing voted ballots throughout the period of tabulation at the central counting station.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 7, eff. Sept. 1, 1987.

Sec. 127.124. EARLY PROCESSING OF BALLOTS. (a) The authority adopting an electronic voting system for use in an election in which ballots are processed at a central counting station may provide by resolution, order, or other official action that processing the electronic system ballots will begin while the polls are open for voting on election day.

(b) The authority shall state in the official action the intervals during the day at which the ballots are to be delivered from the polling places to the central counting station for processing.

(c) The boxes in which the ballots are delivered to the counting station may be returned to the polling places for use in subsequent deliveries. If a box to be reused is a sealed ballot box authorized by Subchapter C, the authority responsible for distributing election supplies to the polling places, or the authority's designee, shall lock and seal the box at the counting station in the same manner as for the initial locking and sealing of the box and then deliver it to the appropriate polling place.

(d) The precinct election records shall be delivered to the central counting station in the last ballot box delivered from the polling place to the counting station.

(e) The authority may restrict early ballot processing to ballots voted at particular polling places by designating the polling places in the official action providing for the early processing. The authority may restrict the early processing to activities preparatory to the counting of ballots by stating in the official action the activities that are to be performed before the closing of the polls.

(f) Early processing of ballots under this section does not affect the time at which the results of the election may be disclosed.

(g) If the counting of ballots begins before the polls close, the provisions applicable to absences from the polling place by election officers while the polls are open apply to the personnel serving at the central counting station. The presiding judge shall supervise the absences.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1997, 75th Leg., ch. 864, Sec. 92, eff. Sept. 1, 1997.

Sec. 127.125. PREPARING BALLOTS FOR AUTOMATIC COUNTING.

(a) The manager of a central counting station shall have the ballots prepared for automatic counting.

(b) The manager shall have the ballots examined to detect any irregularly marked ballots and to determine whether the ballots to be counted automatically are ready for counting and can be properly counted. The manager shall have each irregularly marked ballot duplicated to indicate the intent of the voter if the voter's intent is clearly ascertainable, unless other law prohibits counting the vote. After making the appropriate determinations and taking the appropriate actions, the manager shall approve the ballots for counting.

(c) After the ballots are approved for counting, the manager shall deliver them to the tabulation supervisor or to the supervisor's designee.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 2001, 77th Leg., ch. 851, Sec. 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1054, Sec. 7, eff. Sept. 1, 2001.

Sec. 127.126. DUPLICATING BALLOTS. (a) The manager of a central counting station may have ballots duplicated for automatic counting as provided by this section.

(b) The valid portion of a partially invalid ballot may be duplicated on another ballot so that the valid portion can be automatically counted.

(c) If an electronic system ballot is damaged to the extent it cannot be automatically counted, the ballot may be duplicated so it can be automatically counted.

(d) A procedure other than duplication may not be used to

process a ballot subject to this section unless the procedure is expressly authorized by the secretary of state.

(e) Each duplicate ballot must be clearly labeled "Duplicate" and must bear the serial number of the original ballot.

(f) The duplicate shall be substituted for the original ballot in the ballots prepared for automatic counting. The original shall be preserved with the other voted ballots for the same period.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 472, Sec. 38, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 491, Sec. 2, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 728, Sec. 51, eff. Sept. 1, 1993.

Sec. 127.127. OPERATING EQUIPMENT AND HANDLING BALLOTS RESTRICTED. A person other than the tabulation supervisor and the assistants to the tabulation supervisor may not operate the automatic tabulating equipment or handle the ballots that are automatically counted from the time the ballots are delivered to the tabulation supervisor for counting until the automatic counting is completed.

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

Sec. 127.128. BALLOTS TABULATED BY PRECINCT. The automatically counted ballots shall be separately tabulated according to election precinct.

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

Sec. 127.129. CORRECTION OF RESULTS AFTER EQUIPMENT MALFUNCTION. The secretary of state shall prescribe procedures for correcting results after the discovery of an equipment malfunction that caused the results to be incorrect.

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

Sec. 127.130. MANUAL COUNTING. (a) Electronic system ballots that are not to be counted automatically and the write-in votes not counted at the polling places shall be counted manually at the central counting station.

(b) If the automatic counting of electronic system ballots becomes impracticable for any reason, the manager may direct that the ballots be counted manually at the central counting station.

(c) The procedure for manual counting is the same as that for regular paper ballots to the extent practicable. The manager is responsible for the manual counting of ballots at the central counting station.

(c-1) In any manual count conducted under this code, an irregularly marked vote on a ballot on which a voter indicates a vote by making a mark on the ballot is considered in the same manner as provided by Section 65.009.

(d) Repealed by Acts 2005, 79th Leg., Ch. 1107, Sec. 2.21(1), eff. January 1, 2006.

(e) Repealed by Acts 2005, 79th Leg., Ch. 1107, Sec. 2.21(1), eff. January 1, 2006.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 52, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1315, Sec. 51, eff. Jan. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.21(1), eff. January 1, 2006.

Sec. 127.1301. TALLYING, TABULATING, AND REPORTING CENTRALLY COUNTED OPTICAL SCAN BALLOT UNDERVOTES AND OVERVOTES. In an election using centrally counted optical scan ballots, the undervotes and overvotes on those ballots shall be tallied, tabulated, and reported by race and by election precinct in the form and manner prescribed by the secretary of state.

Added by Acts 2001, 77th Leg., ch. 1054, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1107 (H.B. 2309), Sec. 2.14, eff. January 1, 2006.

Sec. 127.131. PREPARING RETURNS. (a) After the automatic counting of ballots for each precinct is completed, the presiding judge of the central counting station shall prepare the election returns for that precinct and sign the returns to certify their

accuracy.

(b) In addition to the results of the automatically counted votes, the returns must include the results of the manually counted votes.

(c) The same number of copies of the returns shall be prepared as for a precinct polling place using regular paper ballots.

(d) The returns may not be certified until a valid automatic count is obtained or a manual count is completed, as appropriate.

(e) If the automatic tabulating equipment produces a printout that contains all information required to appear on the election returns, the printout with the addition of the manually counted votes constitutes the return.

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

Sec. 127.1311. ANNOUNCING UNOFFICIAL RESULTS. (a) Except as provided by Subsection (b), unofficial election results shall be released as soon as they are available after the polls close.

(b) The presiding judge of the central counting station, in cooperation with the county clerk, may withhold the release of unofficial election results until the last voter has voted.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1002 (H.B. [2194](#)), Sec. 12, eff. September 1, 2011.

Sec. 127.132. DISPOSITION OF BALLOTS, RETURNS, AND OTHER RECORDS. (a) The presiding judge of a central counting station shall distribute the voted ballots, election returns, and other election records from the counting station to the appropriate authorities.

(b) The voted ballots, election returns, poll list, tally lists for manually counted votes, and other election records shall be delivered to the authorities who receive the corresponding records from precinct polling places using regular paper ballots.

(c) The election records delivered to the general custodian of election records may be delivered in any container approved by the secretary of state for that purpose.

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

SUBCHAPTER F. PROCESSING RESULTS IN SYSTEM WITHOUT CENTRALIZED
COUNTING

Sec. 127.151. APPLICABILITY OF SUBCHAPTER; PROCEDURES PRESCRIBED BY SECRETARY OF STATE. (a) This subchapter applies to the processing of election results in electronic voting systems that do not entail the counting of ballots at central locations established under Subchapter A.

(b) An electronic voting system used under this subchapter must require voters to deposit the ballots directly into a unit of automatic tabulating equipment. The tabulating equipment shall be programmed to return an irregularly marked ballot to the voter.

(c) The secretary of state shall prescribe any necessary procedures, in addition to those prescribed by this subchapter, for processing the election results.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986. Amended by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987; Acts 2001, 77th Leg., ch. 1054, Sec. 9, eff. Sept. 1, 2001.

Sec. 127.152. TEST OF TABULATING EQUIPMENT REQUIRED. (a) Each unit of automatic tabulating equipment shall be tested, using all applicable ballot formats, in accordance with the testing procedures prescribed by Subchapter D to the extent those procedures can be made applicable.

(b) The general custodian of election records shall conduct the first test. The presiding election judge shall conduct the second and third tests at the polling place. If the second and third tests are not conducted in accordance with this subsection, the automatic tabulating equipment shall be used to count the ballots at a central location in accordance with Subchapter A unless the secretary of state determines that a particular test at the polling place is not feasible for the automatic tabulating equipment.

(c) The general custodian of election records shall preserve the test materials for at least one year after election day

or for at least 22 months after election day for an election involving a federal office.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987.

Sec. 127.153. TEST REPEATED IF EQUIPMENT MALFUNCTIONS. If the tabulating of ballots must be restarted because of an equipment or system malfunction or any other reason, the tests required by Section 127.152 shall be repeated.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987.

Sec. 127.154. IDENTIFICATION NUMBERS REQUIRED FOR EQUIPMENT. (a) Each unit of automatic tabulating equipment must have a permanent identification number. Each part of that equipment that contains the ballot tabulation must also have a permanent identification number.

(b) Each of the identification numbers shall be recorded on the appropriate ballot and seal certificate.

(c) A ballot tabulation produced by automatic tabulating equipment that does not comply with Subsection (a) may not be used.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987.

Sec. 127.155. PRESIDING JUDGE TO SIGN TAPE. (a) The presiding judge shall sign any tape containing the ballot tabulation that is produced by the automatic tabulating equipment.

(b) The presiding judge shall retain a copy of the tape.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987.

Sec. 127.156. TABULATION AT CENTRAL COUNTING STATION IF DISCREPANCY EXISTS IN BALLOT TOTALS. If a discrepancy of more than three exists between the number of ballots recorded on the ballot and seal certificate and the number of ballots cast on the tape containing the ballot tabulation that is produced by the automatic tabulating equipment, the official tabulation of those ballots shall be conducted at a central counting station.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 8, eff. Sept. 1, 1987.

Sec. 127.157. PROCESSING IRREGULARLY MARKED BALLOTS. (a)

This section applies only to a voting system that allows voters to deposit the ballots directly into a unit of automatic tabulating equipment.

(b) While the polls are open or as soon as practicable after the polls close, the counted ballots shall be removed from the ballot box and examined for irregularly marked ballots. The ballot box may not be opened for the purpose of examining the ballots unless there are at least 10 ballots in the box.

(c) If an election officer determines that two or more ballots were improperly tabulated because of irregular marks, the irregularly marked ballots shall be separated from the ballots that were marked properly, and all of the ballots shall be delivered to a central counting station.

(d) At the central counting station, the irregularly marked ballots shall be duplicated, and the ballots shall be processed in accordance with Section [127.126](#). The duplicate ballots shall be automatically counted with the remainder of the ballots at the central counting station. The tabulation conducted at the central counting station is considered to be the official tabulation for those ballots.

(e) If only one ballot has been improperly tabulated because of an irregular mark, the ballot shall be placed in an envelope as prescribed by the secretary of state. The envelope must include the irregularly marked ballot and a form that identifies the nature and date of the election, ballot serial number, and applicable offices. The envelope shall be delivered to a central counting station. At the central counting station, the ballot shall be examined and adjustments shall be made to the totals certified by the election judge to indicate the intent of the voter. The election results for the affected precinct shall be manually entered into the election processing system, but the original election returns may not be altered. The envelope containing the ballot and form shall be placed in the ballot box with the regular voted ballots and shall be preserved with those ballots for the same period.

Added by Acts 1991, 72nd Leg., ch. 632, Sec. 1, eff. Sept. 1, 1991.

SUBCHAPTER H. ADDITIONAL COUNT OF ELECTRONIC VOTING SYSTEM BALLOTS

Sec. 127.201. PARTIAL COUNT OF ELECTRONIC VOTING SYSTEM BALLOTS BY GENERAL CUSTODIAN. (a) To ensure the accuracy of the tabulation of electronic voting system results, the general custodian of election records shall conduct a manual count of all the races in at least one percent of the election precincts or in three precincts, whichever is greater, in which the electronic voting system was used. The custodian shall select the precincts at random and shall begin the count not later than 72 hours after the polls close. The count shall be completed not later than the 21st day after election day. Subsection (b) supersedes this subsection to the extent of a conflict.

(b) In a general election for state and county officers, primary election, or election on a proposed amendment to the state constitution or other statewide measure submitted by the legislature, the secretary of state shall select, in accordance with rules adopted by the secretary, the precincts to be counted under Subsection (a). The secretary shall designate not more than three offices and not more than three propositions to be counted in the selected precincts. The secretary shall notify the general custodian of election records of the precincts, offices, and propositions selected under this subsection not earlier than the day after election day.

(c) On selection or notification, as applicable, of the precincts to be counted, the general custodian of election records shall post in the custodian's office a notice of the date, hour, and place of the count.

(d) Each candidate in the election is entitled to be present at the count and is entitled to have a representative present. A representative must deliver a certificate of appointment to the general custodian at the time the representative reports for service. The certificate must be in writing and must include:

- (1) the printed name and signature of the representative;
- (2) the election subject to the count; and
- (3) the printed name and signature of the candidate making the appointment.

(e) Not later than the third day after the date the count is completed, the general custodian of election records shall deliver a written report of the results of the count to the secretary of state.

(f) The secretary of state at any time may waive or reinstate the requirements of this section for a particular political subdivision.

(g) This section does not apply to the tabulation of electronic voting system results for a voting system that uses direct recording electronic voting machines.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 9, eff. Sept. 1, 1987.

Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 53, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1349, Sec. 49, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1164 (H.B. [2817](#)), Sec. 26, eff. September 1, 2011.

Sec. 127.202. COUNT OF ELECTRONIC VOTING SYSTEM BALLOTS BY SECRETARY OF STATE. (a) To ensure the accuracy of the tabulation of electronic voting system results, the secretary of state or the secretary's designee may conduct a manual or automatic count of any portion of any number of ballots from any precinct in which the electronic voting system was used.

(b) The count may be conducted at any time during the period for preserving the applicable precinct election records.

(c) The general custodian of election records is entitled to be present at the count.

Added by Acts 1987, 70th Leg., ch. 484, Sec. 9, eff. Sept. 1, 1987.