

**§ 3031.14. Returns**

(a) By the fourth day prior to each election, the county board of elections shall have the central automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and all questions. Public notice of the time and place of the test shall be given at least forty-eight hours prior to the test by newspaper publication in the county in accordance with section 106, such notice to be published once. The test shall be conducted by processing a preaudited group of district totals cards or ballots on which are recorded votes for each candidate and on each question. In such test a different number of valid votes shall be assigned to each candidate for an office and for and against each question. If any error is detected, the cause of it shall be ascertained and corrected and an errorless count shall be made and certified to by the county board of elections prior to election day. All test and program materials shall then be sealed by the county board of elections until their use on election day. The central automatic tabulating equipment shall pass the same test at the conclusion of the actual election count before the election returns are approved as official. On completion of the count, the programs, test materials, and district totals cards or ballots shall be sealed and retained according to the provisions contained in this act for the retention of paper ballots.

(b)(1) All proceedings at the central tabulation center shall be under the direction of the county board of elections or of such persons as it may designate and shall be conducted under the observation of the public insofar as is practical, but no persons except those authorized for the purpose shall touch any ballot or district totals card. All persons who are engaged in processing and counting the ballots and district totals cards shall be deputized and take an oath that they will faithfully perform their assigned duties.

(2) Each political party or political body represented on the official ballot may have one technically qualified person, authorized by the county chairman and deputized by the county board of elections, present during the testing of the central automatic tabulating equipment and the actual counting of the ballot or district totals cards. Such persons shall be allowed to make independent tests of the equipment prior to, during, and following the vote count: Provided, however, That such testing shall in no way interfere with the official tabulation of the ballots and district totals cards. In addition, each political party or political body shall be entitled to have observers at the central tabulation center, in a number, as determined by the county board of elections, sufficient to permit accurate observation of the receipt, handling, duplication, and processing of all ballots and district totals cards.

(3) If any ballots or district totals cards are damaged or defective so that they cannot properly be counted by the central automatic tabulating equipment, a true duplicate copy shall be made and substituted for any such damaged ballot or card. All such duplicate ballots or cards shall also be clearly labeled "Duplicate," and shall bear a serial number which shall be recorded on the damaged or defective ballot or card.

(c) The return printed by the central automatic tabulating equipment, to which have been added write-in votes as recorded on the district reporting form and absentee votes, shall, when certified by the county board of elections, constitute the official return of each election district. Upon completion of the count, the official returns shall be open to the public.

(d) If for any reason it becomes impracticable to count all or a part of the ballots or district totals cards with automatic tabulating equipment, the county board of elections may direct that such ballots or cards be counted manually, following as far as practicable the provisions of this act governing the counting of paper ballots.

(e) During the course of central tabulation of ballots or district totals cards, the county board of elections may unofficially report the progress of the count for each candidate and on any question. 1937, June 3, P.L. 1333, art. XI-A, § 1114-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

**§ 3031.15. Absentee ballots**

Absentee votes may be cast on paper ballots or on ballot cards. 1937, June 3, P.L. 1333, art. XI-A, § 1115-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

**§ 3031.16. Ballots and ballot labels; disposition**

(a) Upon completion of the count, all ballots, absentee ballots and district totals cards shall be securely packaged, suitably labeled and sealed, and delivered to the county board of elections. The board shall likewise package and seal a true copy of the ballot label used in each election district. Thereafter these packages are to be retained and disposed of in the same manner as paper ballots and related materials are disposed of under the provisions of this act.

(b) The county board of elections shall likewise package and retain all tabulating cards and other materials used in the preparation of the automatic tabulating equipment but may have access to these tabulating cards and other materials. It shall not alter or make changes to these materials but may make copies of them and make changes to the copies, and all such materials shall be preserved and

maintained by the board in accordance with the terms of section 309.<sup>1</sup>

1937, June 3, P.L. 1333, art. XI-A, § 1116-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

<sup>1</sup> 25 P.S. § 2649.

### § 3031.17. Statistical sample

The county board of elections, as part of the computation and canvass of returns, shall conduct a statistical recount of a random sample of ballots after each election using manual, mechanical or electronic devices of a type different than those used for the specific election. The sample shall include at least two (2) per centum of the votes cast or two thousand (2,000) votes whichever is the lesser. 1937, June 3, P.L. 1333, art. XI-A, § 1117-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

### § 3031.18. Recounts

Should a recount of votes be ordered as provided by law, the ballots shall be recounted in accordance with the provisions of Article XVII<sup>1</sup>. Manual, mechanical or electronic methods may be used as determined by the county board.

1937, June 3, P.L. 1333, art. XI-A, § 1118-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

<sup>1</sup> 25 P.S. § 2831 et seq.

### § 3031.19. Voting by ballot

If in any case the number of candidates nominated or seeking nomination for any office, or if a method of election for any candidate or office which is prescribed by law, renders the use of an electronic voting system impracticable, or if, for any other reason the use of an electronic voting system is not possible or practicable at a particular election, the county board of elections may arrange to have the voting at any such election and for any such offices conducted by paper ballots. In such cases, the ballots shall be printed for any such election or office and the election shall be conducted by the election officers herein provided for, and the ballots counted and the return thereof made in the manner required by law for such offices insofar as paper ballots are used.

1937, June 3, P.L. 1333, art. XI-A, § 1119-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

### § 3031.20. Unofficial ballot labels; repair and alternate use of paper ballots

(a) If ballot labels for an election district at which an electronic voting system is to be used, shall not be delivered to the election

officers of that district as required by section 1110-a,<sup>1</sup> the judge of election of such district shall cause other labels to be prepared, printed, or written, as nearly in the form of official ballot labels as practicable, and the election officers shall cause the labels so substituted, to be used at the election insofar as is possible in the same manner as the official labels. Such labels, so substituted, shall be known as unofficial ballot labels.

(b) If any electronic voting system or any component thereof being used in any election shall become inoperable during such election, it shall, if possible, be repaired or another machine substituted by the custodian or county board of elections as promptly as possible, for which purpose the county board may purchase as many extra systems or system components as it may deem necessary, but in case such repair or substitution cannot be made, paper ballots, either printed or written and of any suitable form, may be used for registering votes.

1937, June 3, P.L. 1333, art. XI-A, § 1120-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

<sup>1</sup> 25 P.S. § 3031.10.

### § 3031.21. Custody of electronic voting systems and keys

(a) The county board of elections shall designate a person or persons who shall have the custody of the county's electronic voting system and its components and of the keys therefor when the system is not in use at an election, and the board shall provide for his compensation and for the safe storage and care of the system and placement of its keys in a security vault.

(b) All electronic voting systems and their components, when not in use, shall be properly boxed or covered and stored in a suitable place or places.

1937, June 3, P.L. 1333, art. XI-A, § 1121-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

### § 3031.22. Construction

The provisions of this article shall constitute an additional method of voting and all provisions of this act shall be construed to be in full force and effect unless inconsistent with the provisions of this article.

1937, June 3, P.L. 1333, art. XI-A, § 1122-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

ballot container and reports may upon proper certification and signature instead be picked up at the polling places by two authorized election deputies of opposite parties.

(h) All reports and returns shall be signed by all district election officers.

(i) In the event that district tabulation of votes is not provided for by the voting system, it shall be the responsibility of the county board of elections to make available to the public at the central tabulating center, the election results for each election district. It shall be the further duty of the county board of elections to post such results in each election district no later than 5:00 P.M. of the second day following the election.

(j) By two o'clock A. M. on the day following the election, all of the following shall be returned to the county board:

(1) Envelopes.

(2) Supplies, including all uncast provisional ballots.

(3) Returns, including all provisional ballots and absentee ballots cast in the election district.

1937, June 3, P.L. 1333, art. XI-A, § 1113-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective. Amended 2004, Oct. 8, P.L. 807, No. 97, § 4, imd. effective.

### Historical and Statutory Notes

#### Act 2004-97 legislation

Act 2004-97, § 4, added subsec. (j).

### Cross References

Provisional ballots, see 25 P.S. § 3050.

### § 3031.18. Recounts

In an election district using an electronic voting system, should a recount of votes be ordered as provided by law, the ballots shall be recounted in accordance with section 1404(e).<sup>1</sup> If the recount is conducted under Article XVII:<sup>2</sup>

(1) If the election district uses an electronic voting system utilizing paper ballots, section 1701<sup>3</sup> shall apply.

(2) If the election district uses any other type of electronic voting system, section 1702<sup>4</sup> shall apply.

1937, June 3, P.L. 1333, art. XI-A, § 1113-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective. Amended 2004, Oct. 8, P.L. 807, No. 97, § 5, imd. effective.

<sup>1</sup> 25 P.S. § 3154.

<sup>2</sup> 25 P.S. § 3261 et seq.

<sup>3</sup> 25 P.S. § 3261.

<sup>4</sup> 25 P.S. § 3262.

### Historical and Statutory Notes

#### Act 2004-97 legislation

Act 2004-97, § 5, rewrote this section, which had read:

"Should a recount of votes be ordered as provided by law, the ballots shall be recounted in

accordance with the provisions of Article XVII. Manual, mechanical or electronic methods may be used as determined by the county board."

## ARTICLE XII. PREPARATION FOR AND CONDUCT OF PRIMARIES AND ELECTIONS

### § 3046. Duties of common pleas court on days of primaries and elections

The court of common pleas of each county of the Commonwealth or a judge or judges thereof, shall be in continuous session at the courthouse of said county, or, in judicial districts composed of more than one county, at the courthouse of the county in which