

§ 3031.6. Experimental use of electronic voting systems

The county board of elections of any county may provide for experimental use at any primary or election in one or more election districts of said county, of an electronic voting system, and the use of such system shall be as valid for all purposes as if the electronic voting system had been adopted in accordance with the provisions of this act.

1937, June 3, P.L. 1333, art. XI-A, § 1106-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.7. Requirements of electronic voting systems

No electronic voting system shall, upon any examination or reexamination, be approved by the Secretary of the Commonwealth, or by any examiner appointed by him, unless it shall be established that such system, at the time of such examination or reexamination:

(1) Provides for voting in absolute secrecy and prevents any person from seeing or knowing for whom any voter, except one who has received or is receiving assistance as prescribed by law, has voted or is voting.

(2) Provides facilities for voting for such candidates as may be nominated and upon such questions as may be submitted.

(3) Permits each voter, at other than primary elections, to vote a straight political party ticket by one mark or act and, by one mark or act, to vote for all the candidates of one political party for presidential electors and, by one mark or act, to vote for all the candidates of one political party for every office to be voted for, and every such mark or act shall be equivalent to and shall be counted as a vote for every candidate of the political party so marked including its candidates for presidential electors, except with respect to those offices as to which the voter has registered a vote for individual candidates of the same or another political party or political body, in which case the automatic tabulating equipment shall credit the vote for that office only for the candidate individually so selected, notwithstanding the fact that the voter may not have individually voted for the full number of candidates for that office for which he was entitled to vote.

(4) Permits each voter, at other than primary elections, to vote a ticket selected from the nominees of any and all political parties, from the nominees of any and all political bodies, and from any persons whose names are not in nomination and do not appear upon the official ballot.

(5) Permits each voter to vote for any person and any office for whom and for which he is lawfully entitled to vote, whether or not

the name of such person appears upon the ballot as a candidate for nomination or election.

(6) Permits each voter to vote for as many persons for any office as he is entitled to vote for and to vote for or against any question upon which he is entitled to vote and precludes each voter from voting or from having his vote tabulated for any candidate, or upon any question, for whom or upon which he is not entitled to vote.

(7) If it is of a type that registers the vote electronically, the voting system shall preclude each voter from voting for more persons for any office than he is entitled to vote for or upon any question more than once.

(8) Precludes each voter from voting or from having his vote tabulated more than once for any candidate for the same office or upon any question, except in districts and for offices where cumulative voting is authorized by law.

(9) Permits each voter at a primary election to vote only for the candidates seeking nomination by a political party in which such voter is registered and enrolled, and for any candidate for nonpartisan nomination, and for any question upon which he is entitled to vote.

(10) If it is of a type that registers the vote electronically, the voting system shall permit each voter to change his vote for any candidate or upon any question appearing on the official ballot up to the time that he takes the final step to register his vote and to have his vote computed. If it is of a type that uses paper ballots or ballot cards to register the vote and automatic tabulating equipment to compute such votes, the system shall provide that a voter who spoils his ballot may obtain another ballot; any ballot thus returned shall be immediately cancelled and at the close of the polls shall be enclosed in an envelope marked "Spoiled" which shall be sealed and returned to the county board.

(11) Is suitably designed for the purpose used, is constructed in a neat and workmanlike manner of durable material of good quality, is safely and efficiently useable in the conduct of elections and, with respect to the counting of ballots cast at each district, is suitably designed and equipped to be capable of absolute accuracy, which accuracy shall be demonstrated to the Secretary of the Commonwealth.

(12) Provides acceptable ballot security procedures and impoundment of ballots to prevent tampering with or substitution of any ballots or ballot cards.

(13) When properly operated, records correctly and computes and tabulates accurately every valid vote registered.

(14) Is safely transportable.

(15) Is so constructed that a voter may readily learn the method of operating it.

(16) If the voting system is of a type which provides for the computation and tabulation of votes at the district level, the district component of the automatic tabulating equipment shall include the following mechanisms or capabilities:

(i) A public counter, the register of which is visible from the outside of the automatic tabulating equipment component into which the ballots are entered, which shall show during any period of operation the total number of ballots entered for computation and tabulation.

(ii) A lock, or locks, by the use of which all operation of the tabulation element of the automatic tabulating equipment is absolutely prevented immediately after the polls are closed or where the tabulation of votes is completed.

(iii) It shall be so constructed and controlled that, during the progress of voting, it shall preclude every person from seeing or knowing the number of votes theretofore registered for any candidate or question; and it shall preclude every person from tampering with the tabulating element.

(iv) If the number of choices recorded for any office or on any question exceeds the number for which the voter is entitled to vote, it shall reject all choices recorded on the ballot for that office or question, provided, that if used during the period of voting it may also have the capacity to indicate to a voter that he has improperly voted for more candidates for any office than he is entitled to vote for, and in such case it shall have the capacity to permit the voter to mark a new ballot or to forego his opportunity to make such correction.

(v) It shall be equipped with an element which generates a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate position and each question and the public counter are all set to zero and with an element which generates a printed record at the finish of its operation of the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate whose name appears on the ballot, and the total number of votes cast for, or against, any question appearing on the ballot.

(17) If the voting system is of a type which provides for the computation and tabulation of all votes at a central counting center or if it provides for the tabulation of district totals at such a central

counting center, the central automatic tabulating equipment shall include the following mechanisms or capabilities:

(i) It shall be constructed so that every person is precluded from tampering with the tabulating element during the course of its operation.

(ii) If the number of choices for any office or on any question exceeds the number for which the voter is entitled to vote, it shall reject all choices recorded on the ballot for that office or question.

(iii) It shall have a means by which to verify that the counters for each candidate position and for each question are all set to zero and shall be able to generate a printed record of each election district showing the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate whose name appears on the ballot, and the total number of votes cast for, or against, any question appearing on the ballot. It may also be capable of generating cumulative election reports.

1937, June 3, P.L. 1333, art. XI-A, § 1107-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

§ 3031.8. Payment for machines

The county commissioners or such other authority as levies the taxes for county purposes of any county which adopts an electronic voting system shall, upon the purchase, lease or other procurement thereof, provide for payment therefor by the county. Bonds or other evidences of indebtedness may be issued in accordance with the provisions of the act of July 12, 1972 (P.L. 781, No. 185) known as the "Local Government Unit Debt Act,"¹ to meet all or any appropriate part of the cost of any such system.

1937, June 3, P.L. 1333, art. XI-A, § 1108-A, added 1980, July 11, P.L. 600, No. 128, § 4, imd. effective.

¹ 53 P.S. § 6780-1 et seq.

§ 3031.9. Forms

(a)(1) Ballot labels used in conjunction with ballot cards shall, as far as practicable, be in the same order or arrangement as provided for paper ballots or voting machine ballots, except that such information may be printed in vertical columns or in a number of separate pages which are placed on the voting device.

(2) The pages placed on the voting device shall be of sufficient number to include, following the listing of particular candidates, the names of candidates for any nonpartisan offices and any measures for which a voter may be qualified to vote on a given election day, provided further that for municipal, general or special elections, the

this Commonwealth by the secretary, the report of the secretary shall specify the capacity of the components of that system, the number of voters who may reasonably be accommodated by the voting devices and automatic tabulating equipment which comprise such system and the number of additional clerks, if any, that may be required based on the number of registered electors in any election district in which the voting system is to be used, such specifications being based upon the reports of the examiners and the secretary's own examination of the system. Any county which thereafter may adopt any such approved system shall provide the com-

ponents of such system in a number no less than that sufficient to accommodate the voters of that county or municipality in accordance with the minimum capacity standards so prescribed by the secretary."

; in subsec. (e), deleted "; nor any examiner appointed by him for the purposes prescribed by this section," following "Secretary of the Commonwealth"; and deleted subsec. (f), which read:

"(f) Each examiner appointed hereunder shall receive a compensation of one hundred and fifty dollars (\$150) for each type of electronic voting system examined by him."

§ 3031.6. Experimental use of electronic voting systems

(a) The county board of elections of any county may provide for experimental use at any primary or election in one or more election districts of said county, of an electronic voting system, and the use of such system shall be as valid for all purposes as if the electronic voting system had been adopted in accordance with the provisions of this act.

(b) The Secretary of the Commonwealth may approve the use of an experimental electronic voting system by the county board of elections of any county which complies with section 1306(a) ¹ for absentee voters as provided for in the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 59-410, 100 Stat. 924) if the system allows the elector to mark his electronic ballot in secrecy as provided for paper absentee ballots pursuant to section 1306(a). The system shall be exempt from the requirements of sections 1107-A, 1302, 1303, 1304, 1305 and 1306. ²

1937, June 3, P.L. 1333, art. XI-A, § 1106-A, added 1980, July 11, P.L. 600, No. 128, § 4, *ind. effective*; 2002, Dec. 9, P.L. 1246, No. 150, § 9, *ind. effective*.

¹ 25 P.S. § 3146.6.

² 25 P.S. §§ 3031.7, 3146.2, 3146.3, 3146.4, 3146.5, 3146.6.

Historical and Statutory Notes

Act 2002-150 legislation

Act 2002-150, § 9, designated the prior text of this section as subsec. (a) and added subsec. (b).

§ 3031.7. Requirements of electronic voting systems

Cross References

Experimental use of electronic voting, exemption from the requirements of this section, see 25 P.S. § 3031.6.

§ 3031.12. Election day procedures and the process of voting

United States Supreme Court

Freedom of political association, semiclosed primary election system, requirement that only registered party members and invited independents vote in party primary, see

Clingman v. Beaver, 2005, 125 S.Ct. 2029, 181 L.Ed.2d 920, on remand 139 Fed.Apps. 936, 2005 WL 1638756.