

1-1 By: Parker S.B. No. 2166
1-2 (In the Senate - Filed March 10, 2025; March 24, 2025, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 7, 2025, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 7, 2025, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Hughes	X		
1-9	Paxton	X		
1-10	Bettencourt	X		
1-11	Birdwell	X		
1-12	Hall	X		
1-13	Hinojosa of Nueces	X		
1-14	Middleton	X		
1-15	Parker	X		
1-16	Perry		X	
1-17	Schwertner		X	
1-18	Zaffirini	X		

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to testing of voting tabulation equipment.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Sections [127.091](#), [127.092](#), and [127.093](#), Election
1-24 Code, are amended to read as follows:

1-25 Sec. 127.091. TEST OF TABULATING EQUIPMENT REQUIRED. The
1-26 automatic tabulating equipment used for counting ballots in an
1-27 election ~~[at a central counting station]~~ shall be tested as
1-28 provided by this subchapter.

1-29 Sec. 127.092. TESTING AUTHORITIES. (a) The general
1-30 custodian of election records and the testing board for the public
1-31 test of logic and accuracy conducted under Section [129.023](#) shall
1-32 prepare and conduct the first test of automatic tabulating
1-33 equipment used at a central counting station and the test of
1-34 automatic tabulating equipment used at a polling place.

1-35 (b) The programmer, tabulation supervisor, counting station
1-36 manager, and presiding judge of the central counting station shall
1-37 jointly prepare and conduct subsequent tests of the automatic
1-38 tabulating equipment used at the station ~~[the test jointly]~~.

1-39 Sec. 127.093. TIMES FOR CONDUCTING TEST. (a) The automatic
1-40 tabulating equipment used in a central counting station ~~[test]~~
1-41 shall be tested ~~[conducted three times]~~ for each election as
1-42 provided by this subchapter.

1-43 (b) The first test of automatic tabulating equipment used in
1-44 a central counting station and the test of automatic tabulating
1-45 equipment used at a polling place shall be conducted in conjunction
1-46 with the public test of logic and accuracy conducted under Section
1-47 [129.023](#) ~~[at least 48 hours before the automatic tabulating~~
1-48 ~~equipment is used to count ballots voted in the election]~~.

1-49 (c) The automatic tabulating equipment used in a central
1-50 counting station ~~[second test]~~ shall be tested ~~[conducted]~~
1-51 immediately before each time the counting of ballots with the
1-52 equipment begins.

1-53 (d) The automatic tabulating equipment used in a central
1-54 counting station ~~[third test]~~ shall be tested ~~[conducted]~~
1-55 immediately after each time the counting of ballots with the
1-56 equipment is completed.

1-57 SECTION 2. Section [127.094](#)(b), Election Code, is amended to
1-58 read as follows:

1-59 (b) A group of test ballots shall be counted with the
1-60 equipment using the program prepared for processing the ballots
1-61 voted in the election. The test ballots must be printed on the same

stock as the official ballots for the election. The test ballots used for the first test of automatic tabulating equipment used in a central counting station and the test of automatic tabulating equipment used at a polling place must be the test ballots generated during the public test of logic and accuracy conducted under Section 129.023. The test materials for subsequent tests of the equipment used in a central counting station must be the electronic media produced during the testing of automatic tabulating equipment conducted in conjunction with the public test of logic and accuracy.

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

(a) The general custodian of election records [the automatic tabulating equipment] shall conduct the first test of automatic tabulating equipment used in a central counting station and the test of automatic tabulating equipment used at a polling place in conjunction with the test of logic and accuracy conducted under Section 129.023 and shall provide [publish] notice of the date, hour, and place of the test in the same manner as required for the public test of logic and accuracy [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].

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

(a) On completing the first [each] test of automatic tabulating equipment used in a central counting station and the test of automatic tabulating equipment used at a polling place, the general custodian of election records [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 testing board [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.

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

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

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

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

SECTION 5. Section 127.100(a), Election Code, is amended to read as follows:

(a) The general custodian of election records is the custodian of the test materials following the completion of the first test of automatic tabulating equipment used in a central counting station and the test of automatic tabulating equipment used at a polling place. After the test materials are delivered to

the presiding judge in accordance with Section 127.099(a-1), the presiding judge is the custodian of the test materials until they are delivered under Subsection (b).

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

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

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

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

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

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

(4) perform a hash validation on each ballot marking device, each unit of automatic tabulating equipment, and each tabulation computer to verify that the source code of the equipment has not been altered; and

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

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

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

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

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

(1) direct the testing board to cast votes;

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

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

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

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

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

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

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

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

(10) ensure that each type of automatic tabulating

equipment, ballot marking device, and direct recording electronic voting device used in the election is tested;

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

(12) require that tested ballots are marked and labeled to ensure they are not used in an upcoming election; and

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

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

(B) publish the written explanation online;

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

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

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

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

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

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

Sec. 129.0231. TEST OF LOGIC AND ACCURACY FOR ELECTRONIC POLLBOOK SYSTEM. (a) Not later than 48 hours before voting begins in an election, the general custodian of election records shall conduct a test of logic and accuracy of the electronic pollbook system used in the election.

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

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

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

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

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

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

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

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

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

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

S.B. No. 2166

5-1SECTION 10. Section 127.096(a-1), Election Code, is

5-2repealed.

5-3SECTION 11. This Act takes effect September 1, 2025.

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