

**08 NCAC 04 .0302            APPROVAL OF VOTING SYSTEMS**

- (a) Before approving a voting system for use in North Carolina, the State Board of Elections shall do all of the following:
- (1) Obtain a current financial statement from the proposed vendor and manufacturer's contact information (mail address, telephone and fax numbers, email address);
  - (2) Cause staff to review and appraise the voting system;
  - (3) Witness a demonstration of the voting system by the proposed vendor;
  - (4) Obtain a copy of Independent Testing Authority certification as authorized by National Association of State Elections Directors or Federal Agency;
  - (5) Ensure that a copy of the system's source code is held in escrow by a third party approved by the State Board of Elections for the purpose of taking custody of all source codes, including all revisions or modifications of source codes. Proprietary information is not subject to North Carolina Public Records laws;
  - (6) Any discussion of proprietary information by the State Board of Elections shall take place in Closed Session as authorized by the Open Meetings requirements of North Carolina law;
  - (7) Ensure performance of system complies with North Carolina laws and rules related to voting systems;
  - (8) Obtain a copy of the manufacturer's instructions and maintenance manual;
  - (9) Obtain a list of all jurisdictions currently using the voting system; and
  - (10) Review any other information made available to the Board.
- (b) Modifications or Enhancement of Voting Systems. A change to any voting system or unit, including software and hardware modification, shall be submitted in writing for the review of the Executive Director of the State Board of Elections. Following the review, the Executive Director shall determine whether the change is a modification of the voting system as certified by the State Board of Elections. If it is determined to be a modification, the voting system as modified shall be submitted to the State Board of Elections for approval. If the Executive Director shall determine the change is an enhancement that does not substantially alter the voting system as certified by the State Board of Elections, the Executive Director may approve the enhancement and the review of the State Board of Elections shall not be required.
- (c) Disapproval of Voting System. The State Board of Elections shall have the right to hear and act on complaints arising by petition or otherwise, on the failure or neglect of a voting system or vendor marketing a system to comply with any part of the election laws of the State of North Carolina or for any other satisfactory cause, including but not limited to, performance of the system in an election setting. Before exercising this power, the State Board of Elections shall notify the voting system vendor and/or county boards of elections affected and give opportunity to be heard at a hearing to be set by the State Board of Elections.

*History Note:     Authority G.S. 163-22; 163-165.7;  
                         Temporary Adoption Eff. April 15, 2002;  
                         Eff. August 1, 2004.*