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Notice of Intent - Department of State - Procurement and Certification of Voting Equipment

Tray Wood <tray.wood@sos.la.gov>

Fri, Nov 8, 2024 at 10:24 AM

To: apa.senatepresident@legis.la.gov, apa.housespeaker@legis.la.gov, apa.s-s&g@legis.la.gov, apa.h-hg@legis.la.gov, reg.submission@la.gov

Cc: Jennifer Bollinger <jennifer.bollinger@sos.la.gov>, Lani Boyd <lani.boyd@sos.la.gov>, Catherine Newsome <catherine.newsome@sos.la.gov>






Dear President Henry, Speaker DeVillier, Chairman Fields, Chairman Beaulieu, and Office of the Louisiana Register:

The Louisiana Department of State hereby submits the attached Notice of Intent with respect to a proposed rule for the procurement and certification of voting equipment, and an accompanying, approved Fiscal and Economic Impact Statement in accordance with La. R.S. 49:966. If you have any questions or need additional information, please contact me at (225) 922-0547 or via email.

Thank you,

Tray Wood
General Counsel
Secretary of State Nancy Landry
225-922-0547 (o)
225-932-5332 (f)

5 attachments

-  **Insertion Order - NOI (11.8.2024).pdf**
362K
-  **Signed NOI (Procurement & Certification of Voting Equipment) - 11.8.24.pdf**
339K
-  **Notice of Intent (11.8.24).docx**
28K
-  **Notice of Intent w strikethroughs (submitted 11.8).docx**
28K
-  **Approved & Signed FEIS (Procurement and Certification of Voting Equipment) - 11.8.24.pdf**
283K

NOTICE OF INTENT

Department of State

Procurement and Certification of Voting Equipment (LAC 31.III.Chapter 3)

Under the authority of R.S. 18:1353, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend Department of State regulations, LAC 31.III Chapter 3.

The revisions are necessary to comply with Act 480 of the Regular Session of the 2021 Louisiana Legislature. The proposed amendments update rules that are outdated or have been superseded by statute and remove provisions that simply restate statutes. They also add rules regarding standards and procedures for usability, accessibility, durability, accuracy, efficiency, and capacity of voting systems to be procured and used in Louisiana, as well as for the control and auditability of voter-verified paper records.

Chapter 3. Certification and Procurement of Voting Systems **Subchapter A. Competitive Sealed Bidding**

§301. Procurement and Use of Voting Systems in Louisiana

- A. All voting systems or system components for use in connection with voting or elections in Louisiana must be procured by the Secretary of State in accordance with R.S. 18:1362(A).
- B. Voting systems or system components offered for bid in Louisiana must be certified in accordance with the provisions of R.S. 18:1361(A) and Section 303 of this Chapter. Such certification must be completed prior to any award pursuant to any procurement for voting systems or system components for use in connection with voting or elections in Louisiana.
- C. All versions of voting systems and system components certified under previous rules and statutes and currently in use in Louisiana prior to the adoption of these rules shall be considered certified.
- D. Election supporting technologies, including voter registration portals and databases, election night reporting systems, electronic poll books, and ballot delivery systems, may be used in the state at the discretion of the secretary of state.

AUTHORITY NOTE: Promulgated in accordance 18:1353, R.S. 18:1361, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 19:176 (February 1993), amended by the Department of State, LR 51:

§303. Voting System Certification Standards and Procedures

- A. In accordance with La. R.S. 18:1361(A) of the Louisiana Election Code, the secretary of state will examine voting systems or system components for certification and use in the state as to usability, accessibility, durability, accuracy, efficiency, and capacity, and for the control and auditability of voter-verified paper records.

1. If the voting system or system component complies with the certification standards herein, that voting system or system component will be approved for use in this state and the secretary of state will issue a certificate of approval thereof.

2. Upon request of the maker or supplier, or at the direction of the secretary of state, the Department of State will set a date and time for the examination, which will include a system demonstration, review of documentation, and functionality testing.

3. Technical advisors and qualified independent experts selected by the Secretary of State pursuant to R.S. 18:1361(C) will assist in making the examination and will provide the Secretary of State with a report and recommendation for or against certification.

4. Each maker or supplier shall pay a one-time uniform fee for each application for certification. This fee will include all fees and expenses of independent experts and shall be paid prior to the examination by the person applying for certification.

5. Each maker or supplier shall provide documentation and demonstrations sufficient to show that the voting system or system component meets or exceeds the standards in Subsection B of this Section for certification and use in this State.

6. Upon written request of the maker or supplier, or at the direction of the secretary of state, the Department of State may examine for administrative certification any minor modification to a previously certified voting system that is in use in the State. The request shall contain sufficient information to identify the modifications to the previously certified voting system. The secretary of state retains sole discretion in determining whether the proposed minor modification may be examined by the Department of State for administrative certification without payment of a certification fee.

B. The Secretary of State sets the following standards for any new voting system to be tested and certified for use in Louisiana.

1. The voting system shall:

a. Comply with all applicable federal and state laws and administrative rules, including but not limited to R.S. 18:1366.

b. Be capable of producing a manually auditable voter verified paper record. For purposes of this Section, "manually auditable" means capable of being audited by humans by hand, without use of electronic devices.

c. Provide a combined report of early voting results and absentee results, with the capability to report results by voting method and by precinct.

d. Provide a combined report of all election day precinct results as one total.

e. Provide for customization of unofficial and official reports, including absentee voting, early voting, election day voting, and total vote counts.

f. Provide the ability to produce custom designed reports or tests as required by the Secretary of State. Provide that each portion of data is imported and assigned to the corresponding data field on the applicable components of the voting system, then propagated to the removable memory devices used at a voting location.

g. Create redundant backups of election definitions, ballot images, cast vote record, and necessary logs to eliminate loss of data due to the failure of a data storage device. These redundant backups must be recorded to more than one persistent storage system.

h. Prevent and detect tampering of hardware, software, election configuration, and election results during any period of the election cycle. It must also supply evidence of attempted and actual unauthorized access.

- i. Provide for the customizable import from the statewide voter registration system into the Election Management System (EMS) before programming begins as required by the Secretary of State.
 - j. Provide password protection and multi-factor user authentication on every device used for tabulation.
 2. The Election Management System (EMS) shall:
 - a. Provide that the import process can be done during election programming and does not require repetitive manual entry.
 - b. Be able to export a results file compatible with the statewide voter registration system. This results file shall have the ability to be encrypted and sent electronically by each parish to the statewide voter registration system through an existing private network.
 - c. Run on an operating system that falls under mainstream support and allow for critical security patches at request of the Secretary of State.
 - d. Be capable of uploading bulk audio files.
 3. Any ballot marking device or voter-facing vote capture device shall:
 - a. Secure secrecy of the ballot throughout the in-person voting process.
 - b. Be capable of printing multiple zero reports at the opening of polls and multiple results reports after polls are closed.
 - c. Provide functionality for voting for or against a question or proposition included on a ballot.
 - d. Provide functionality to allow a voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more. However, when a voter is allowed to cast a vote for multiple candidates in one race, the system must also count each vote cast for an individual candidate in the event the voter chooses to vote for fewer candidates than permitted by law.
 - e. Provide each voter an opportunity to modify their selections before the voter's ballot is cast only by first de-selecting the incorrect vote and then making the corrected selection.
 - f. Notify the voter of undervotes before his ballot is cast.
 - g. Prevent the voter from overvoting or casting a blank ballot.
 - h. Have the ability to exclude any contest from a given ballot style in which the voter is prohibited from voting because of residence address or political party registration.
 - i. Accurately register, record, and count all votes cast for each candidate and for or against each question.
 - j. Be capable of complying with La. R.S. 18:1259 for presidential general elections.
 - k. Contain a sound creating device which will audibly indicate that a voter has cast their ballot or a clear visual cue that the ballot has been cast.
 - l. Must prevent unauthorized applications from being installed and executed.
 - m. Be capable of printing for each voter the voter's selections to a voter verified paper record for the voter to view the printed selections before casting a ballot.
 - n. Be capable of physically securing, retaining, and preserving the voter-verified paper record.
 - o. Be configurable such that write-in voting is disabled and not visible to voters.

p. Be accessible for individuals with disabilities, including nonvisual accessibility for voters who are blind or visually impaired in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

q. Provide alternative language accessibility, if required at a future date.

r. Prevent printing of election results prior to the closing of polls.

s. Include securely closed cases for transportation, storage, and prevention of damage and tampering.

4. The tabulation software must:

a. Be capable of processing at least 200 contests, at least 250 candidates per contest, 1000 different ballot types, and 1000 precincts in each parish.

b. Support manual data entry of the election definition to define the ballot tabulation criteria for a specific election.

c. Be capable of producing pre-marked or hand-marked logic and accuracy test ballots and be able to complete a logic and accuracy test to ensure full system accuracy.

d. Be capable of manual entry of results.

e. Remove, during the early voting tally process, challenged or voided ballots cast on early voting machines as required by law and in a way that protects the secrecy of that ballot.

f. Be capable of scanning each ballot, creating a signed digital image file containing an image of both sides of the ballot, and a record indicating how the ballot was read by the software.

g. Be capable of producing the following on one report: summary totals for printing, accumulation of blank and over-votes for each contest (which must be available for optional printing on reports), and the percentage of votes cast for each selection in a contest.

h. Be capable of producing a full ballot processing audit trail, indicating for each precinct processed, the total number of each type of ballot and other relevant statistics.

i. Be capable of operating multiple tabulating devices without experiencing system degradation.

j. Be capable of re-scanning ballots and separately storing the ballot images for auditing, recounts, or other necessary election integrity measures.

5. An absentee ballot tabulation system shall utilize a document scanner and software capable of:

a. Scanning all ballots.

b. Reading marks on the ballot made with a pencil or with a blue or black ink pen.

c. Scanning both sides of the ballot in a single pass through the scanner.

d. Automatically feeding ballots through the scanner from an input tray that holds at least 100 ballot pages.

e. Reading at least 60 ballot pages per minute.

f. Automatically detecting the feeding of two or more ballot pages simultaneously.

g. Recognizing, flagging, and segregating for adjudication of blank ballots, ballots containing ambiguous marks by the voter, and ballots containing overvotes. The state must be able to dictate and adjust parameters for ambiguous marks.

h. Being easily transported and stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1353, R.S. 18:1361, R.S. 18:1366, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 19:176 (February 1993), amended by the Department of State, LR 51:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule via U.S. Mail, hand-delivery, or email. Written submissions must be directed to Tray Wood, General Counsel, legal@sos.la.gov, Department of State, P.O. Box 94125, Baton Rouge, Louisiana 70804-9125 and must be received no later than 4:30 p.m. on January 3, 2025. All written comments must be signed and dated.

Hearing

A hearing on the proposed rule will be held on January 3, 2025 at 10:00 A.M. at the Division of Administrative Law, located at 1020 Florida Street, Baton Rouge, Louisiana 70802. Interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Fiscal and Economic Impact Statement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may intermittently increase the workload of Department of State Elections Division staff and other election officials involved in voting system certification examinations, which may result in state or local governmental unit liability for payment of overtime or accrual of compensatory leave. These potential costs will be offset, however, by the fees paid by the voting system makers or suppliers requesting certification.

Pursuant to Act 480 for the 2021 RS, the proposed rule removes outdated language and updates the process for the certification and procurement of voting systems. The proposed rule change provides for the following:

- Removes and/or updates references to revised statute.
- Updates the procedures for the procurement of voting systems and system components.
- Provides that the use of election support technologies is at the discretion of the Secretary of State.
- Updates voting system certification standards and procedures.
- Requires the Secretary of State to examine voting systems or system components for certification and use in the state for usability, accessibility, durability, accuracy, efficiency, and capacity, and for the control and auditability of voter-verified paper records.
- Allows for makers or suppliers to request an examination of the systems, which will require a one-time fee from the maker or supplier to cover the expenses of independent experts.
- Codifies various requirements for new voting systems.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in an increase in fee collections by the Secretary of State to offset the costs of voting system examination. The fee amounts are indeterminable at this time, but will be uniform once expert contracts are finalized. The fees are intended to cover the necessary expenses to retain independent experts to assist in the voting system certification, as authorized by R.S. 18:1362. Such fees depend on several factors that can only be evaluated at the time requests for examination are received. Such factors include but are not limited to type of equipment to be tested,

testing duration, preparation of reports and recommendations, and travel and lodging expenses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

Voting system makers or suppliers applying for certification will be charged a certification fee. Although the certification fees are indeterminable at this time, they are intended to cover the necessary expenses to retain independent experts to assist in the voting system certification. Such fees depend on several factors that can only be evaluated at the time requests for certification are received, including but not limited to the type of equipment to be tested, testing duration, preparation of reports and recommendations, and travel and lodging expenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have any impacts on competition and employment.



Nancy Landry
Secretary of State

NOTICE OF INTENT

Department of State

Procurement and Certification of Voting Equipment (LAC 31.III.Chapter 3)

Under the authority of R.S. 18:1353, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend Department of State regulations, LAC 31.III.Chapter 3.

The revisions are necessary to comply with Act 480 of the Regular Session of the 2021 Louisiana Legislature. The proposed amendments update rules that are outdated or have been superseded by statute and remove provisions that simply restate statutes. They also add rules regarding standards and procedures for usability, accessibility, durability, accuracy, efficiency, and capacity of voting systems to be procured and used in Louisiana, as well as for the control and auditability of voter-verified paper records.

Chapter 3. Certification and Procurement of Voting Systems **Subchapter A. Competitive Sealed Bidding**

§301. Procurement and Use of Voting Systems in Louisiana

- A. ~~All voting machines used in the state of Louisiana shall be purchased by the Commissioner of Elections on the basis of public bids and in accordance with the Louisiana Procurement Code contained in Chapter 17 of Title 39 of the Louisiana Revised Statutes of 1959. All bids will be advertised in the official journal of the state of Louisiana in accordance with all applicable statutes and rules.~~ All voting systems or system components for use in connection with voting or elections in Louisiana must be procured by the Secretary of State in accordance with R.S. 18:1362(A).
- B. ~~Machines bid in Louisiana must be certified in accordance with the provisions of R.S. 18:1361(A).~~ Voting systems or system components offered for bid in Louisiana must be certified in accordance with the provisions of R.S. 18:1361(A) and Section 303 of this Chapter. Such certification must be completed prior to any award pursuant to any procurement for voting systems or system components for use in connection with voting or elections in Louisiana.
- C. ~~In accordance with R.S. 18:1361(B), bids on machines that have been certified for use in Louisiana will be considered for purchase and subsequent use.~~ All versions of voting systems and system components certified under previous rules and statutes and currently in use in Louisiana prior to the adoption of these rules shall be considered certified.
- D. ~~The bids will be opened in public session on the date announced in the bid offering.~~ Election supporting technologies, including voter registration portals and databases, election night reporting systems, electronic poll books, and ballot delivery systems, may be used in the state at the discretion of the secretary of state.

AUTHORITY NOTE: Promulgated in accordance 18:1353, R.S. 18:1361, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 19:176 (February 1993), amended by the Department of State, LR 51:

§303. Voting System Certification Standards and Procedures

A. ~~All mechanical voting machines currently in use in Louisiana and purchased prior to the adoption of these rules shall be considered certified.~~ In accordance with La. R.S. 18:1361(A) of the Louisiana Election Code, the secretary of state will examine voting systems or system components for certification and use in the state as to usability, accessibility, durability, accuracy, efficiency, and capacity, and for the control and auditability of voter-verified paper records.

1. If the voting system or system component complies with the certification standards herein, that voting system or system component will be approved for use in this state and the secretary of state will issue a certificate of approval thereof.

2. Upon request of the maker or supplier, or at the direction of the secretary of state, the Department of State will set a date and time for the examination, which will include a system demonstration, review of documentation, and functionality testing.

3. Technical advisors and qualified independent experts selected by the Secretary of State pursuant to R.S. 18:1361(C) will assist in making the examination and will provide the Secretary of State with a report and recommendation for or against certification.

4. Each maker or supplier shall pay a one-time uniform fee for each application for certification. This fee will include all fees and expenses of independent experts and shall be paid prior to the examination by the person applying for certification.

5. Each maker or supplier shall provide documentation and demonstrations sufficient to show that the voting system or system component meets or exceeds the standards in Subsection B of this Section for certification and use in this State.

6. Upon written request of the maker or supplier, or at the direction of the secretary of state, the Department of State may examine for administrative certification any minor modification to a previously certified voting system that is in use in the State. The request shall contain sufficient information to identify the modifications to the previously certified voting system. The secretary of state retains sole discretion in determining whether the proposed minor modification may be examined by the Department of State for administrative certification without payment of a certification fee.

B. ~~Voting equipment offered for sale in Louisiana shall be certified according to the procedures established in R.S. 18:1361.~~ The Secretary of State sets the following standards for any new voting system to be tested and certified for use in Louisiana.

1. The voting system shall:
a. Comply with all applicable federal and state laws and administrative rules, including but not limited to R.S. 18:1366.

b. Be capable of producing a manually auditable voter verified paper record. For purposes of this Section, "manually auditable" means capable of being audited by humans by hand, without use of electronic devices.

c. Provide a combined report of early voting results and absentee results, with the capability to report results by voting method and by precinct.

d. Provide a combined report of all election day precinct results as one total.

e. Provide for customization of unofficial and official reports, including absentee voting, early voting, election day voting, and total vote counts.

f. Provide the ability to produce custom designed reports or tests as required by the Secretary of State. Provide that each portion of data is imported and assigned to the

corresponding data field on the applicable components of the voting system, then propagated to the removable memory devices used at a voting location.

g. Create redundant backups of election definitions, ballot images, cast vote record, and necessary logs to eliminate loss of data due to the failure of a data storage device. These redundant backups must be recorded to more than one persistent storage system.

h. Prevent and detect tampering of hardware, software, election configuration, and election results during any period of the election cycle. It must also supply evidence of attempted and actual unauthorized access.

i. Provide for the customizable import from the statewide voter registration system into the Election Management System (EMS) before programming begins as required by the Secretary of State.

j. Provide password protection and multi-factor user authentication on every device used for tabulation.

2. The Election Management System (EMS) shall:

a. Provide that the import process can be done during election programming and does not require repetitive manual entry.

b. Be able to export a results file compatible with the statewide voter registration system. This results file shall have the ability to be encrypted and sent electronically by each parish to the statewide voter registration system through an existing private network.

c. Run on an operating system that falls under mainstream support and allow for critical security patches at request of the Secretary of State.

d. Be capable of uploading bulk audio files.

3. Any ballot marking device or voter-facing vote capture device shall:

a. Secure secrecy of the ballot throughout the in-person voting process.

b. Be capable of printing multiple zero reports at the opening of polls and multiple results reports after polls are closed.

c. Provide functionality for voting for or against a question or proposition included on a ballot.

d. Provide functionality to allow a voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more. However, when a voter is allowed to cast a vote for multiple candidates in one race, the system must also count each vote cast for an individual candidate in the event the voter chooses to vote for fewer candidates than permitted by law.

e. Provide each voter an opportunity to modify their selections before the voter's ballot is cast only by first de-selecting the incorrect vote and then making the corrected selection.

f. Notify the voter of undervotes before his ballot is cast.

g. Prevent the voter from overvoting or casting a blank ballot.

h. Have the ability to exclude any contest from a given ballot style in which the voter is prohibited from voting because of residence address or political party registration.

i. Accurately register, record, and count all votes cast for each candidate and for or against each question.

j. Be capable of complying with La. R.S. 18:1259 for presidential general elections.

k. Contain a sound creating device which will audibly indicate that a voter has cast their ballot or a clear visual cue that the ballot has been cast.

- l. Must prevent unauthorized applications from being installed and executed.
- m. Be capable of printing for each voter the voter's selections to a voter verified paper record for the voter to view the printed selections before casting a ballot.
- n. Be capable of physically securing, retaining, and preserving the voter-verified paper record.
- o. Be configurable such that write-in voting is disabled and not visible to voters.
- p. Be accessible for individuals with disabilities, including nonvisual accessibility for voters who are blind or visually impaired in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.
- q. Provide alternative language accessibility, if required at a future date.
- r. Prevent printing of election results prior to the closing of polls.
- s. Include securely closed cases for transportation, storage, and prevention of damage and tampering.

4. The tabulation software must:

- a. Be capable of processing at least 200 contests, at least 250 candidates per contest, 1000 different ballot types, and 1000 precincts in each parish.
- b. Support manual data entry of the election definition to define the ballot tabulation criteria for a specific election.
- c. Be capable of producing pre-marked or hand-marked logic and accuracy test ballots and be able to complete a logic and accuracy test to ensure full system accuracy.
- d. Be capable of manual entry of results.
- e. Remove, during the early voting tally process, challenged or voided ballots cast on early voting machines as required by law and in a way that protects the secrecy of that ballot.
- f. Be capable of scanning each ballot, creating a signed digital image file containing an image of both sides of the ballot, and a record indicating how the ballot was read by the software.
- g. Be capable of producing the following on one report: summary totals for printing, accumulation of blank and over-votes for each contest (which must be available for optional printing on reports), and the percentage of votes cast for each selection in a contest.
- h. Be capable of producing a full ballot processing audit trail, indicating for each precinct processed, the total number of each type of ballot and other relevant statistics.
- i. Be capable of operating multiple tabulating devices without experiencing system degradation.
- j. Be capable of re-scanning ballots and separately storing the ballot images for auditing, recounts, or other necessary election integrity measures.

5. An absentee ballot tabulation system shall utilize a document scanner and software capable of:

- a. Scanning all ballots.
- b. Reading marks on the ballot made with a pencil or with a blue or black ink pen.
- c. Scanning both sides of the ballot in a single pass through the scanner.
- d. Automatically feeding ballots through the scanner from an input tray that holds at least 100 ballot pages.

- e. Reading at least 60 ballot pages per minute.
- f. Automatically detecting the feeding of two or more ballot pages simultaneously.
- g. Recognizing, flagging, and segregating for adjudication of blank ballots, ballots containing ambiguous marks by the voter, and ballots containing overvotes. The state must be able to dictate and adjust parameters for ambiguous marks.
- h. Being easily transported and stored.

~~C. — The commissioner of the Department of Elections and Registration shall establish policies that shall set standards for all electronic voting equipment to be used in the state of Louisiana.~~

~~1. — The standards shall conform to the requirements of R.S. 18:1355 and R.S. 18:1399 and the requirements and needs of the Louisiana voting public.~~

~~2. — All certificates, together with any relevant reports, drawings, and photographs, for electronic equipment shall be public record.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1353, R.S. 18:1361, R.S. 18:1366, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Commissioner of Elections, LR 19:176 (February 1993), amended by the Department of State, LR 51:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

- 1. the stability of the family;
- 2. the authority and rights of persons regarding the education and supervision of their children;
- 3. the functioning of the family;
- 4. family earnings and family budget;
- 5. the behavior and personal responsibility of children;
- 6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

- 1. the effect on household income, assets, and financial security;
- 2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule via U.S. Mail, hand-delivery, or email. Written submissions must be directed to Tray Wood, General Counsel, legal@sos.la.gov, Department of State, P.O. Box 94125, Baton Rouge, Louisiana 70804-9125 and must be received no later than 4:30 p.m. on January 3, 2025. All written comments must be signed and dated.

Hearing

A hearing on the proposed rule will be held on January 3, 2025 at 10:00 A.M. at the Division of Administrative Law, located at 1020 Florida Street, Baton Rouge, Louisiana 70802. Interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Fiscal and Economic Impact Statement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may intermittently increase the workload of Department of State Elections Division staff and other election officials involved in voting system certification examinations, which may result in state or local governmental unit liability for payment of overtime or accrual of compensatory leave. These potential costs will be offset, however, by the fees paid by the voting system makers or suppliers requesting certification.

Pursuant to Act 480 for the 2021 RS, the proposed rule removes outdated language and updates the process for the certification and procurement of voting systems. The proposed

rule change provides for the following:

- Removes and/or updates references to revised statute.
- Updates the procedures for the procurement of voting systems and system components.
- Provides that the use of election support technologies is at the discretion of the Secretary of State.
- Updates voting system certification standards and procedures.
- Requires the Secretary of State to examine voting systems or system components for certification and use in the state for usability, accessibility, durability, accuracy, efficiency, and capacity, and for the control and auditability of voter-verified paper records.
- Allows for makers or suppliers to request an examination of the systems, which will require a one-time fee from the maker or supplier to cover the expenses of independent experts.
- Codifies various requirements for new voting systems.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in an increase in fee collections by the Secretary of State to offset the costs of voting system examination. The fee amounts are indeterminable at this time, but will be uniform once expert contracts are finalized. The fees are intended to cover the necessary expenses to retain independent experts to assist in the voting system certification, as authorized by R.S. 18:1362. Such fees depend on several factors that can only be evaluated at the time requests for examination are received. Such factors include but are not limited to type of equipment to be tested, testing duration, preparation of reports and recommendations, and travel and lodging expenses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

Voting system makers or suppliers applying for certification will be charged a certification fee. Although the certification fees are indeterminable at this time, they are intended to cover the necessary expenses to retain independent experts to assist in the voting system certification. Such fees depend on several factors that can only be evaluated at the time requests for certification are received, including but not limited to the type of equipment to be tested, testing duration, preparation of reports and recommendations, and travel and lodging expenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have any impacts on competition and employment.

Nancy Landry
Secretary of State

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Person Preparing Statement:	<u>Tray Wood</u>	Dept.:	<u>Secretary of State</u>
Phone:	<u>(225) 922-0547</u>	Office:	<u>Legal</u>
Return Address:	<u>8585 Archives Avenue</u>	Rule Title:	<u>Procurement and Certification of</u>
	<u>Baton Rouge, LA 70809</u>		<u>Voting Equipment</u>
		Date Rule Takes Effect:	<u>Upon promulgation</u>

SUMMARY
(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may intermittently increase the workload of Department of State Elections Division staff and other election officials involved in voting system certification examinations, which may result in state or local governmental unit liability for payment of overtime or accrual of compensatory leave. These potential costs will be offset, however, by the fees paid by the voting system makers or suppliers requesting certification.

Pursuant to Act 480 for the 2021 RS, the proposed rule removes outdated language and updates the process for the certification and procurement of voting systems. The proposed rule change provides for the following:

- Removes and/or updates references to revised statute.
- Updates the procedures for the procurement of voting systems and system components.
- Provides that the use of election support technologies is at the discretion of the Secretary of State.
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- Allows for makers or suppliers to request an examination of the systems, which will require a one-time fee from the maker or supplier to cover the expenses of independent experts.
- Codifies various requirements for new voting systems.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in an increase in fee collections by the Secretary of State to offset the costs of voting system examination. The fee amounts are indeterminable at this time, but will be uniform once expert contracts are finalized. The fees are intended to cover the necessary expenses to retain independent experts to assist in the voting system certification, as authorized by R.S. 18:1362. Such fees depend on several factors that can only be evaluated at the time requests for examination are received. Such factors include but are not limited to type of equipment to be tested, testing duration, preparation of reports and recommendations, and travel and lodging expenses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

Voting system makers or suppliers applying for certification will be charged a certification fee. Although the certification fees are indeterminable at this time, they are intended to cover the necessary expenses to retain independent experts to assist in the voting system certification. Such fees depend on several factors that can only be evaluated at the time requests for certification are received, including but not limited to the type of equipment to be tested, testing duration, preparation of reports and recommendations, and travel and lodging expenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have any impacts on competition and employment.

Shanda R. Jones
Signature of Head or Designee

Patricia Thomas, Deputy Fiscal Officer
Legislative Fiscal Officer or Designee

Shanda R. Jones, Undersecretary
Typed Name & Title of Agency Head or Designee

11.7.24
Date of Signature

11/07/2024
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

Pursuant to Act 480 for the 2021 RS, the proposed rule change removes outdated language and updates the process for the certification and procurement of voting systems. The proposed rule change provides for the following:

- Removes and/or updates references to revised statute.
- Updates the procedures for the procurement of voting systems and system components.
- Provides that the use of election support technologies is at the discretion of the Secretary of State.
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- Allows for makers or suppliers to request an examination of the systems, which will require a one-time fee from the maker or supplier to cover the expenses of independent experts.
- Codifies various requirements for new voting systems.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The revisions are necessary to comply with Act 480 of the Regular Session of the 2021 Legislature. See La. R.S. 18:1353(B).

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

There will be no increase in the expenditure of funds as a result of the proposed rule change.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ YES. If yes, attach documentation.

(b) X _____ NO. If no, provide justification as to why this rule change should be published at this time

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 25	FY 26	FY 27
PERSONAL SERVICES	SEE BELOW	SEE BELOW	SEE BELOW
OPERATING EXPENSES	\$0	\$0	\$0
PROFESSIONAL SERVICES	\$0	\$0	\$0
OTHER CHARGES	\$0	\$0	\$0
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
TOTAL	SEE BELOW	SEE BELOW	SEE BELOW
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed rule change may intermittently increase the workload of Department of State Elections Division staff and other election officials involved in voting system certification examinations, which may result in state or local governmental unit liability for payment of overtime or accrual of compensatory leave. These potential costs will be offset, however, by the fees paid by the voting system makers or suppliers requesting certification.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 25	FY 26	FY 27
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	SEE BELOW	SEE BELOW	SEE BELOW
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$0
OTHER (Specify)	\$0	\$0	\$0
TOTAL	SEE BELOW	SEE BELOW	SEE BELOW

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, the agency has sufficient funds to implement the proposed action due to the cost-neutral nature of the proposed rule change.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No impact on local government units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

No sources of funding of the local governmental units will be affected by the proposed rule change.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 25	FY 26	FY 27
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	SEE BELOW	SEE BELOW	SEE BELOW
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$0
LOCAL FUNDS	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0

*Specify the particular fund being impacted.

Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The proposed rule change may result in an increase in fee collections by the Secretary of State to offset the costs of voting system examination. The fee amounts are indeterminable at this time, but will be uniform once expert contracts are finalized. The fees are intended to cover the necessary expenses to retain independent experts to assist in the voting system certification, as authorized by R.S. 18:1362. Such fees depend on several factors that can only be evaluated at the time requests for examination are received. Such factors include but are not limited to type of equipment to be tested, testing duration, preparation of reports and recommendations, and travel and lodging expenses.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Voting system makers or suppliers applying for certification will be charged a certification fee. Although the certification fees are indeterminable at this time, they are intended to cover the necessary expenses to retain independent experts to assist in the voting system certification. Such fees depend on several factors that can only be evaluated at the time requests for certification are received, including but not limited to the type of equipment to be tested, testing duration, preparation of reports and recommendations, and travel and lodging expenses.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There is no impact on receipts and/or income resulting from the proposed action.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There is no impact on competition or employment in either the public or private sectors by the proposed action. The certification of voting systems by the secretary of state is a governmental procedure to aid in maintaining the integrity of the state election system.