§ 163-165.7. Voting systems: powers and duties of State Board.

(a) Only voting systems that have been certified by the State Board of Elections in accordance with the procedures set forth by the State Board of Elections and subject to the standards set forth in this section and that have not been subsequently decertified shall be permitted for use in elections in this State. Those certified voting systems shall be valid in any election held in the State or in any county, municipality, or other electoral district in the State. Subject to all other applicable rules adopted by the State Board of Elections and, with respect to federal elections, subject to all applicable federal regulations governing voting systems, paper ballots marked by the voter and counted by hand shall be deemed a certified voting system. The State Board of Elections shall certify optical scan voting systems, optical scan with ballot markers voting systems, and direct record electronic voting systems if any of those systems meet all applicable requirements of federal and State law. The State Board may certify voting systems only if they meet the requirements set forth in this section and only if they generate a paper ballot which provides a backup means of counting the vote that the voter casts. Those voting systems may include optical scan and direct record electronic (DRE) voting systems that produce a paper ballot. Among other requirements as set by the State Board of Elections, the certification requirements shall require at least all of the following elements:

(1) That the vendor post a performance bond or letter of credit to cover damages resulting from defects in the voting system, expenses associated with State or federal decertification of the voting system, and to protect against the vendor's insolvency or financial inability to make State or federally mandated modifications or updates to the voting system. Damages may include, among other items, any costs of conducting a new county or statewide election attributable to those defects. The bond or letter of credit shall be maintained in the amount determined by the State Board as sufficient for the cost of a new statewide election or in the amount of ten million dollars ($10,000,000), whichever is greater.

(2) That the voting system comply with all federal requirements for voting systems.

(3) That the voting system must have the capacity to include in voting district returns the votes cast by voters outside of the precinct associated with that voter's voter registration.

(4) With respect to electronic voting systems, that the voting system generate a paper ballot of each individual vote cast, which paper ballot shall be maintained in a secure fashion and shall serve as a backup record for purposes of any hand-to-eye count, hand-to-eye recount, or other audit. Electronic systems that employ optical scan technology to count paper ballots shall be deemed to satisfy this requirement.

(5) With respect to DRE voting systems, that the paper ballot generated by the system be viewable by the voter before the vote is cast electronically, and that the system permit the voter to correct any discrepancy between the electronic vote and the paper ballot before the vote is cast.

(6) With respect to all voting systems using electronic means, that the vendor provide access to all of any information required to be placed in escrow by a vendor pursuant to G.S. 163-165.9A for review and examination by the State Board of Elections; the Department of Information Technology; the State chairs of each political party recognized under G.S. 163-96; the purchasing county; and designees as provided in subdivision (9) of subsection (f) of this section.

(7) That the vendor must quote a statewide uniform price for each unit of the equipment.

(8) That the vendor must separately agree with the purchasing county that if it is granted a contract to provide software for an electronic voting system but fails to debug, modify, repair, or update the software as agreed or in the event of the vendor having bankruptcy filed for or against it, the source code described in G.S. 163-165.9A(a) shall be turned over to the purchasing county by the escrow agent chosen under G.S. 163-165.9A(a)(1) for the purposes of continuing use of the software for the period of the contract and for permitting access to the persons described in subdivision (6) of this subsection for the purpose of reviewing the source code.

As part of the certification requirements, the State Board of Elections shall address the mandatory terms of the contract for the purchase of the voting system and the maintenance and training related to that voting system.

(b) Federal Assistance. – The State Board may use guidelines, information, testing reports, certification, decertification, recertification, and any relevant data produced by the Election Assistance Commission, its Standards Board, its Board of Advisors, or the Technical Guidelines Development Committee as established in Title II of the Help America Vote Act of 2002 with regard to any action or investigation the State Board may take concerning a voting system. The State Board may use, for the purposes of voting system certification, laboratories accredited by the Election Assistance Commission under the provisions of section 231(2) of the Help America Vote Act of 2002.

(c) Only electronic poll books or ballot duplication systems that have been certified by the State Board in accordance with procedures and subject to standards adopted by the State Board, or which have been developed or maintained by the State Board, shall be permitted for use in elections in this State. Among other requirements as set by the State Board, the certification requirements shall require that a vendor meet at least all of the following elements:

(1) That the vendor post a bond or letter of credit to cover damages resulting from defects in the electronic poll book or ballot duplication system. Damages may include, among other items, any costs of conducting a new election attributable to those defects.

(2) That the vendor provide access to all of any information required to be placed in escrow by a vendor pursuant to G.S. 163-165.9A for review and examination by the State Board, the Department of Information Technology, the State chairs of each political party recognized under G.S. 163-90, the purchasing county, and designees as provided in subdivision (9) of subsection (f) of this section.

(3) That the vendor must quote a statewide uniform price for each unit of the equipment.

(4) That the vendor must separately agree with the purchasing county that if it is granted a contract to provide software for an electronic poll books or ballot duplication system but fails to debug, modify, repair, or update the software as agreed or, in the event of the vendor having bankruptcy filed for or against it, the source code described in G.S. 163-165.9A(a) shall be turned over to the purchasing county by the escrow agent chosen under G.S. 163-165.9A(a)(1) for the purposes of continuing use of the software for the period of the contract and for permitting access to the persons described in subdivision (2) of this subsection for the purpose of reviewing the source code.

(d) The State Board may also, upon notice and hearing, decertify types, makes, and models of voting systems. Upon decertifying a type, make, or model of voting system, the State

Board shall determine the process by which the decertified system is discontinued in any county. A county may appeal a decision by the State Board concerning the process by which the decertified system is discontinued in that county to the Superior Court of Wake County. The county has 30 days from the time it receives notice of the State Board's decision on the process by which the decertified system is discontinued in that county to make that appeal.

(e) Prior to certifying a voting system, the State Board of Elections shall review, or designate an independent expert to review, all source code made available by the vendor pursuant to this section and certify only those voting systems compliant with State and federal law. At a minimum, the State Board's review shall include a review of security, application vulnerability, application code, wireless security, security policy and processes, security/privacy program management, technology infrastructure and security controls, security organization and governance, and operational effectiveness, as applicable to that voting system. Any portion of the report containing specific information related to any trade secret as designated pursuant to G.S. 132-1.2 shall be confidential and shall be accessed only under the rules adopted pursuant to subdivision (9) of subsection (f) of this section. The State Board may hear and discuss the report of any such review under G.S. 143-318.11(a)(1).

(f) Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of certified voting systems, including all of the following:

(1) Procedures for county boards of elections to utilize when recommending the purchase of a certified voting system for use in that county.
(2) Form of official ballot labels to be used on voting systems.
(3) Operation and manner of voting on voting systems.
(4) Instruction of precinct officials in the use of voting systems.
(5) Instruction of voters in the use of voting systems.
(6) Assistance to voters using voting systems.
(7) Duties of custodians of voting systems.
(8) Examination and testing of voting systems in a public forum in the county before and after use in an election.
(9) Notwithstanding G.S. 132-1.2, procedures for the review and examination of any information placed in escrow by a vendor pursuant to G.S. 163-165.9A by only the following persons:
    a. State Board of Elections.
    b. Department of Information Technology.
    c. The State chairs of each political party recognized under G.S. 163-96.
    d. The purchasing county

    Each person listed in sub-subdivisions a. through d. of this subdivision may designate up to three persons as that person's agents to review and examine the information. No person shall designate under this subdivision a business competitor of the vendor whose proprietary information is being reviewed and examined. For purposes of this review and examination, any designees under this subdivision and the State party chairs shall be treated as public officials under G.S. 132-2.
(10) With respect to electronic voting systems, procedures to maintain the integrity of both the electronic vote count and the paper ballot. Those procedures shall at a minimum include procedures to protect against the alteration of the paper ballot after a machine vote has been recorded and procedures to prevent removal by the voter from the voting enclosure of any individually voted paper ballot or of any other device or item whose removal from the voting

enclosure could permit compromise of the integrity of either the machine count or the paper ballot.

(11) Compliance with section 301 of the Help America Vote Act of 2002.

(g) The State Board of Elections shall facilitate training and support of the voting systems utilized by the counties. The training may be conducted through the use of videoconferencing or other technology.

(h) Neither certification of electronic poll books, ballot duplication systems, or voting systems under this section shall constitute a license under Chapter 150B of the General Statutes.

(i) The State Board in writing may decertify or otherwise halt the use of electronic poll books in North Carolina. Any such action is appealable only to the Superior Court of Wake County.

(j) No voting system used in any election in this State shall be connected to a network, and any feature allowing connection to a network shall be disabled. Prohibited network connections include the internet, intranet, fax, telephone line, networks established via modem, or any other wired or wireless connection. (2001-460, s. 3; 2003-226, s. 11; 2005-323, s. 1(a)-(d); 2006-264, s. 76(a); 2007-391, s. 6(d); 2008-187, s. 33(b); 2009-541, s. 19; 2013-381, s. 30.3; 2015-103, ss. 6(b), 10, 11(a); 2015-241, s. 7A.4(gg); 2016-109, s. 9(b); 2017-6, s. 3; 2018-13, ss. 3.6A, 3.7(a), 3.8(a), 3.11(b); 2018-146, ss. 3.1(a), (b), 4.5(f); 2025-25, s. 29(3).)