

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Elections**
(DLS Control No. 15-273)

Overview and Legal and Fiscal Impact

These regulations remove references to obsolete voting system standards and the federal agency that issued them. The regulations also correct existing language that requires the local boards of elections to perform acceptance testing since the State now has a statewide voting system and the State Board of Elections performs acceptance testing for the voting system.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

State Board of Elections:

Voting Systems – Certification and General Requirements: Definitions; General Provisions: COMAR 33.09.01.01, .03

Legal Analysis

Background

The Election Assistance Commission is an independent agency of the United States government that was created by the Help America Vote Act of 2002 (HAVA). The commission serves as a national clearinghouse and resource of information regarding election administration. It is charged with administering payments to states and developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, and accrediting voting system test laboratories and certifying voting equipment. It is also charged with developing and maintaining a national mail voter registration form.

Summary of Regulations

The regulations remove obsolete references to previous voting system standards adopted by the Federal Elections Commission since this responsibility now falls under the Election Assistance Commission. The regulations also revise existing language in COMAR 33.09.01.03 that (incorrectly) requires local boards of elections to perform acceptance testing for voting systems in recognition of the fact that the State now has a statewide voting system and that the State Board performs acceptance testing.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The State Board cites §§ 2-102(b)(4), 2-202(b), and 9-102(b) of the Election Law Article as statutory authority for the regulations. Section 2-102(b)(4) grants the State board broad authority to adopt regulations to implement its powers and duties. Section 2-202(b) requires each local board of elections to oversee and administer elections in accordance with provisions of law and regulations adopted by the State board. Section 9-102(b) requires the State board to adopt regulations for the review, certification, and decertification of voting systems in the State.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The State Board of Elections advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The State Board of Elections advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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