

Advisory 2008-06

March 7, 2008

To: All County Boards of Elections
Re: Board of Voting Machine Examiners February 12, 2008 Meeting

On February 12, 2008, the Board of Voting Machine Examiners (the “BVME”) convened and made the following decisions relevant to county boards of elections:

- First, the BVME requested that the Secretary of State develop new state standards and guidelines for the approval and certification of voting equipment and software used in Ohio elections.
- Second, the BVME recommended deferring all interim requests for certification or continued certification of voting equipment or software until the new state certification standards and guidelines are implemented.
- Third, the BVME clarified existing Ohio law by determining that electronic poll books be examined and approved by the BVME and certified by the Secretary of State – similar to all other voting equipment and software – prior to being used in Ohio elections.

The purpose of this Advisory is to briefly summarize the BVME’s decisions.

Development of New Ohio State Certification Standards and Guidelines / Deferring Certification Requests Until the New Guidelines are Developed

During the February 12 meeting, the BVME heard testimony about the Secretary of State’s findings from Project EVEREST and recent changes in the federal certification process administered by the U.S. Election Assistance Commission (the “EAC”). After hearing the testimony, the BVME decided that Ohio’s procedures for certifying voting equipment used in Ohio elections be updated to reflect the knowledge gained from Project EVEREST, evolving e-voting technology, and the recent changes in federal standards. The BVME requested that the Secretary of State develop new state standards and guidelines.¹

The BVME also voted to defer any requests for initial or continued certification of voting equipment until the Secretary of State and the BVME have consulted and developed new state certification standards. Accordingly, county boards of elections, as well as any interested voting machine manufacturer or vendor, are advised that while the Secretary of State in consultation with the BVME develops the new state standards, the BVME will defer requests for certification of voting equipment or software, including electronic poll books until the new standards are implemented.

¹ R.C. 3506.05(H)(1) provides that “[t]he secretary of state, in consultation with the board of voting machine examiners, shall establish by rule, guidelines for the approval, certification, and continued certification of the voting machines, marking devices, and tabulating equipment to be used under Title XXXV of the Revised Code.”

Certification of Electronic Poll Books

The BVME also heard testimony about and observed an informal demonstration of an electronic poll book from Premier Elections Solutions. As explained in Secretary of State Advisory 2008-01, the BVME then determined that all electronic poll books – similar to other types of voting system software – must be approved by the BVME and certified by the Secretary of State prior to being used in Ohio elections.² The BVME suggested that Ohio’s new state certification guidelines include specific certification standards for electronic poll books.

If you have additional questions or concerns about this advisory, please contact your assigned Elections Counsel at (614) 466-2585 or by e-mail.

Sincerely,

Jennifer Brunner

² R.C. 3506.05(B) provides that “[n]o voting machine, marking device, automatic tabulating equipment, or software for the purpose of casting or tabulating votes or for communications among systems involved in the tabulation, storage, or casting of votes shall be purchased, leased, put in use, or continued to be used, . . . unless it, a manual of procedures governing its use, and training materials, service, and other support arrangements have been certified by the secretary of state . . . The secretary of state shall appoint a board of voting machine examiners to examine and approve equipment and its related manuals and support arrangements.”

Because electronic poll books include software for communicating among systems involved in the tabulation, storage, or casting of votes, the BVME clarified that the equipment must be examined and approved by the BVME – and certified by the Secretary of State – prior to being used in Ohio elections.