



Anne Dover
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January 14, 2022

Mr. Troy Horton
530 Crested Hawk Ridge
Canton, GA 30114

Ms. Ann O'Mara
190 Rhine Road SE
White, GA 30184

Dear Mr. Horton and Ms. O'Mara:

Thank you for your separate correspondence regarding the integrity of the election machines. Since you both address similar issues, we wanted to provide a comprehensive response to both of you. In general, we believe that the Secretary of State's office has the resources to investigate your concerns. We have submitted all of your correspondences to Blake Evans, State Elections Director. We would like to encourage you to do the same so that you can communicate directly with the government entity that would be investigating any concerns. The following bullet points provide specific answers to specific issues:

1. First, regarding your joint concerns about the Dominion machines and Mr. Horton's interest in Cherokee County obtaining different election equipment, state law provides a process to address these concerns. The law is found at O.C.G.A. § 21-2-379.24, and a copy is attached to this letter. To summarize, the county cannot purchase any machines that are not approved by the Secretary of State. Specifically:
 - a. Any 10, or more electors can request the Secretary of State to re-examine the Dominion machines. These electors would need to pay for the examination. (O.C.G.A. § 21-2-379.24(a)).
 - b. The Secretary of State must approve all devices used in an election. (O.C.G.A. § 21-2-379.24(c)).
 - c. Any company that sells election machines unapproved by the Secretary of State shall be subject to a \$100,000.00 fine. (O.C.G.A. § 21-2-279.24(d)).

2. Regarding the request for precinct level reconciliation of ballots cast: Poll managers from each polling location complete the following recap sheets: PollPads, Ballot Marking Devices, Ballot Recap, Provisional Ballots and Scanner/Ballot Boxes. These forms and election results (memory cards and tapes) are turned in on election night. Cherokee County Elections staff members will reconcile these recap sheets. After reconciliation, copies are retained by the Elections Office, and are provided to the Secretary of State. These are available at the public's request.
3. Regarding Mr. Horton's request for a "post-voter numerical accounting mark" on ballots ("Bates-stamping"): While we appreciate your concern in this area, we have determined that it will not be feasible to implement this suggestion for the following reason:
 - a. The requirements in the new election bill states that election workers keep working non-stop until the votes are counted. We are required to have the votes counted by 10:00 p.m. on election night. Thus, the imposition of any additional responsibilities on our workers that evening will jeopardize our ability to comply with this portion of the new law.
 - b. By using this method of Bates-stamping, we would be departing from the election code and State Election Board rules, which do not provide for this.
4. Regarding Mr. Horton's request for the Halderman Report, which is under seal in the Curling litigation in federal district court: Our attorney spoke with the Attorney General's office, and her response was that only the attorneys who are already representing parties in the case could see the report. Even if our attorney obtained permission to review the report, which is almost certainly unlikely, she could not disclose that information to the Board.
5. Regarding Mr. Horton's request for an investigation: As we stated above, we believe an investigation of your allegations will require an election security expert. Therefore, the Board's advice would be to send this report to the Secretary of State, as they have the resources and the experience.

Thank you again for communicating your concerns.

Sincerely,

Alan Shinall, Chairman

Mike Byrd, Vice Chairman

Rachel Kinsey, Secretary

Cindy Castello

Donald Sams

Alan Shinall
Mike Byrd
Rachel Kinsey

Cindy Castello
Donald Sams

§ 21-2-379.24. Examination requests; sale of unapproved devices
 GA ST § 21-2-379.24 West's Code of Georgia Annotated Title 21, Elections Effective: April 2, 2019 (Approx. 2 pages)

Document History (15) Citing References (4) Conflicts (0) Annotations (0) Annotations by KeyCite

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West's Code of Georgia Annotated
 Title 21. Elections (Refs & Annos)
 Chapter 2. Elections and Primaries Generally (Refs & Annos)
 Article 9. Voting Machines and Vote Recorders Generally
 Part 6. Electronic Ballot Markers

Proposed Legislation

Effective: April 2, 2019

Ga. Code Ann., § 21-2-379.24

§ 21-2-379.24. Examination requests; sale of unapproved devices

Currentness

(a) Any person or organization owning, manufacturing, or selling, or being interested in the manufacture or sale of, any electronic ballot marker may request that the Secretary of State examine the device. Any ten or more electors of this state may, at any time, request that the Secretary of State reexamine any such device previously examined and approved by him or her. Before any such examination or reexamination, the person, persons, or organization requesting such examination or reexamination shall pay to the Secretary of State the reasonable expenses of such examination or reexamination. The Secretary of State shall publish and maintain on his or her website the cost of such examination or reexamination. The Secretary of State may, at any time, in his or her discretion, reexamine any such device.

(b) The Secretary of State shall thereupon examine or reexamine such device and shall make and file in his or her office a report, attested by his or her signature and the seal of his or her office, stating whether, in his or her opinion, the kind of device so examined can be safely and accurately used by electors at primaries and elections as provided in this chapter. If this report states that the device can be so used, the device shall be deemed approved, and devices of its kind may be adopted for use at primaries and elections as provided in this chapter.

(c) Any device that is not so approved shall not be used at any primary or election and if, upon reexamination, a previously approved device appears to be no longer safe or accurate for use by electors at primaries or elections as provided in this chapter because of an inability to accurately record votes, the approval of the same shall immediately be revoked by the Secretary of State, and no such device shall thereafter be used or purchased for use in this state.

(d) Any vendor who completes a sale of an electronic ballot marker that has not been certified by the Secretary of State to a governmental body in this state shall be subject to a penalty of \$100,000.00, payable to the State of Georgia, plus reimbursement of all costs and expenses incurred by the governmental body in connection with the sale. The State Election Board shall have the authority to impose such penalty upon a finding that such a sale has occurred.

(e) When a device has been so approved, no improvement or change that does not impair its accuracy, efficiency, or capacity shall render necessary a reexamination or reapproval of such device, or of its kind.

(f) Neither the Secretary of State, nor any custodian, nor the governing authority of any county or municipality or a member of such governing authority nor any other person involved in the examination process shall have any pecuniary interest in any device or in the manufacture or sale thereof.

(g) Documents or information that, if made public, would endanger the security of any voting system used or being considered for use in this state, or any component thereof, including, but not limited to, electronic ballot markers, DREs, ballot scanners, pollbooks, and software or data bases used for voter registration, shall not be open for public inspection except upon order of a court of competent jurisdiction.

Credits

Laws 2019, Act 24, § 26, eff. April 2, 2019.

Ga. Code Ann., § 21-2-379.24, GA ST § 21-2-379.24

The statutes and Constitution are current through legislation passed at the 2021 Regular and 1st Special Sessions of the Georgia General Assembly. Some sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

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During the public comment session of the January 3, 2022, Cherokee County Board of Elections and Voter Registration meeting, a citizen presented the Board with a report identifying what he felt like were concerns regarding the November 2020, General Election. Please see the Board's written response to the citizen's concerns, attached. The Board will place this report on the agenda of the next scheduled board meeting on Monday, February 7, 2022, at 9:30 a.m. All board meetings are conducted at 400 East Main Street, Canton, GA 30114. The public is invited to attend.

There have been no previous requests to investigate claims about the November 2020, General Election. However, there was another citizen that spoke at the January Board of Commissioner's Meeting requesting that support be given to the elections department to review the concerns presented at the Board of Elections and Registration meeting.