

Date: 11/29/2021

Substantial rewording of Rule 1S-2.031 follows

#### 1S-2.031 Recounts

(1) **Procedures.** The Department of State, Division of Elections, is required to adopt detailed rules prescribing additional recount procedures for certified voting systems, which shall be uniform to the extent practicable. Form DS-DE XX1 (effective MM/YYYY), entitled “Recount Procedures Manual,” is hereby incorporated by reference and available at the following link: [insert link]. The form is also available by download from the Division of Elections’ rules webpage at: <http://dos.myflorida.com/elections/>, by requesting a copy by phone (850-245-6200 or by mail from the Division of Elections, R.A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399-0250.

(2) **Requirements for certification and use of an independent recount tabulation system for recounts.** The Department of State, Division of Elections, is required to adopt procedures for certification and use of automatic tabulating equipment that is not part of a voting system.

(a) **Certifying body.** Any person desiring to have an independent recount tabulation system approved for use in Florida shall submit a letter to the Bureau of Voting Systems Certification, Division of Elections, Department of State, requesting certification and providing the independent recount tabulation system’s technical data package.

(b) **Criteria.** The independent recount tabulation system must satisfy the following criteria prior to certification:

1. Be completely independent of any voting system certified in the State of Florida. The independent recount tabulation system must not contain hardware or software in common with a voting system certified for use in the State of Florida

2. Be capable of tabulating ballots produced by the primary voting system.

3. Comply with the certification standards for a central count tabulator and pursuant to s. 101.015, F.S.

4. Be fast enough to produce final, public recount results no later than the statutory deadline.

5. Be capable of operating without vendor support to use the system. If desired, however, a county may choose to use the independent recount tabulation system’s vendor support.

6. Be capable of examining marked ballots to determine a valid vote, no vote, and marginal mark.

7. Be capable of physically or digitally segregating unreadable ballots, and physically or digitally segregating overvoted or undervoted ballots pursuant to s. 102.166, F.S.

8. Be capable of displaying or reporting results only for those races that are being recounted.

9. Reflect that the recount results will be the same using all scanners approved for use with the independent recount tabulation system.

10. All examination and testing of the independent recount tabulation system shall occur in Tallahassee, Florida, at a location paid

for by the vendor, unless examination and testing can be conducted at the Bureau of Voting Systems Certification's physical location. If there are associated costs beyond this, the vendor shall reimburse the Department of State an amount equal to the actual costs incurred by the department in its testing and examination of the independent recount tabulation system. Reimbursable actual costs of testing include reasonable travel costs such as lodging, car rental, parking, gas, airfare, travel-related fees and in the case of meals, not to exceed the per diem rate established per s. 112.061(6), F.S.

(c) Notice. Notice of approval or denial will be provided within 45 days after all examination and testing of the independent recount tabulation system is completed.

(d) Authorized sale and use. After certification of an independent recount tabulation system, any changes to the system require the new system to be submitted to the Bureau of Voting Systems Certification for testing and certification prior to use in the state of Florida. No governing body shall purchase or cause to be purchased any independent recount tabulation system unless such equipment has been certified for use in this state by the Department of State. A vendor of automatic independent recount tabulation system may not provide an uncertified system, system component, or system upgrade to a local governing body or supervisor of elections for official use in this state.

Rulemaking Authority 20.10(3), 97.012(1), 102.141, 102.166(5) FS. Law Implemented 102.141, 102.166 FS. History—New 5-30-02, Amended 4-13-04, 11-3-05, 1-24-16, \_\_\_\_\_.