



**General Assembly of Tennessee
OFFICE OF LEGAL SERVICES**

**War Memorial Building
Nashville, Tennessee 37243-0059**

June 9, 2009

MEMORANDUM

TO: Representative Gary Moore

FROM: Sally Swaney

SUBJECT: Election Assistance Commission
Voluntary voting systems guidelines

After our discussion this morning concerning the language of § 2-20-104, I pulled up the Election Assistance Commission web site to verify the type of standards our statute required. The references on the web site use the following language when discussion the 2002 or the 2005 standards:

The 2002 standards are referred to as the "2002 Voting System Standards (VSS)".

The 2005 standards are referred to as the "2005 Voluntary Voting System Guidelines (VVSG)".

The requirements in § 2-20-104 require the "applicable voluntary voting systems guidelines". This language mirrors the language on the Election Assistance Commission web site referring to the 2005 Voluntary Voting System Guidelines.

Based on the language in our statute, it is my opinion that our requirements for electronic systems "in use on or after January 1, 2009...[must meet] the applicable voluntary voting systems guidelines", and such language refers to the 2005 Voluntary Voting System Guidelines.

Since the 2005 Voluntary Voting System Guidelines are not limited just to precinct-based optical scanners but also Direct Recording Electronic Voting Systems (DRE), the word "applicable" in our statute would appear to be referring to the precinct-based optical scanners and not DREs since our statute requires precinct-based optical scanners.

2002 Voting System Standards

The 2002 Voting System Standards (VSS) were developed by the Federal Election Commission. The VSS specify minimum functional requirements, performance characteristics, documentation requirements, and test evaluation criteria.

2005 VVSG

On December 13, 2005, the EAC unanimously adopted the 2005 Voluntary Voting System Guidelines (VVSG), which significantly increase security requirements for voting systems and expand access, including opportunities to vote privately and independently, for individuals with disabilities.

The voluntary guidelines provide a set of specifications and requirements against which voting systems can be tested to determine if the systems provide all of the basic functionality, accessibility and security capabilities required of these systems. In addition, the guidelines establish evaluation criteria for the national certification of voting systems.

The guidelines update and augment the 2002 VSS, as required by HAVA, to address advancements in election practices and computer technologies. These guidelines are voluntary. States may decide to adopt them entirely or in part prior to the effective date. Currently, at least 39 states use the national guidelines in their voting system certification process.