

5510.2010 ELECTIONS.

Subpart 1. **Showing of interest.** The commissioner shall not order an election unless there is at least a 30 percent showing of interest for the unit determined appropriate.

Subp. 2. **Location.** If the commissioner orders an election for any purpose, it shall be conducted by secret ballot either at a site of employment or by mail.

Subp. 3. **Order.** An election order shall be mailed to all parties at least ten calendar days prior to the date of the on-site election or the date of the mailing of ballots for a mail ballot election. The election order shall:

- A. identify the appropriate unit;
- B. establish the cutoff date for voter eligibility;
- C. include a list of the eligible voters;
- D. include a sample ballot;
- E. establish campaign and election rules;
- F. provide for the parties to appoint observers;
- G. identify the date, time, and location of an on-site election and provide for absentee ballots;
- H. identify the date of mailing ballots in a mail ballot election;
- I. include any other conditions which are necessary for the conduct of a fair election; and
- J. provide for posting by the employer of the election order and attachments.

Subp. 4. **Voter eligibility.** All employees within the appropriate unit who are employed on the cutoff date and are identified on a list established by the commissioner shall be eligible to vote in an election subject to this chapter.

Subp. 5. **Correction of voter eligibility list.**

A. The commissioner shall determine questions concerning the addition or deletion of names on the voter eligibility list.

B. Names shall not be added to the voter eligibility list after the close of the hearing on the election petition unless names were inadvertently omitted or the cutoff date for voter eligibility is changed because of an appeal or court order.

C. Names shall be deleted from the voter eligibility list based on:

(1) transfer, promotion, or demotion of an employee out of the unit which is not prohibited by an order maintaining the status quo;

(2) an appeal or court action which delays the conduct of the election or changes the cutoff date for voter eligibility; or

(3) voluntary or involuntary termination of an eligible voter who has not appealed the termination.

The deletion shall be made immediately prior to the opening of the polls or tabulation of the ballots.

D. A written request to correct the voter eligibility list must be received by the commissioner within seven calendar days after the date of the election order.

Subp. 6. **Right to vote.** Eligible voters shall be permitted to vote during their work hours without loss of pay.

Subp. 7. **Election ballot.**

A. A certification election ballot shall contain the following choices:

(1) the name of employee organizations which have submitted the required showing of interest; and

(2) no representation.

B. A representation election ballot shall contain the following choices:

(1) the name of the exclusive representative;

(2) the name of employee organizations which have submitted the required showing of interest; and

(3) no representation if the required showing of interest has been submitted in accordance with part 5510.0710, subpart 2.

C. A decertification election ballot shall contain the following choices:

(1) the name of the exclusive representative;

(2) the name of employee organizations which have submitted the required showing of interest; and

(3) no representation.

Subp. 8. **Absentee ballot.** Any eligible voter unable to be present at an on-site election may secure an absentee ballot by submitting an individual written request to the commissioner which must be received by the commissioner no later than specified in the election order. The written request must be dated and contain the name and home mailing address of the eligible voter, identification of the employer, signature of the eligible voter, bureau case number, and date of the election.

Upon receipt of a timely request for an absentee ballot, the commissioner shall mail a ballot, return envelope, and a letter of explanation to the voter.

Absentee ballots must be received by the commissioner in the return envelope no later than specified in the election order.

Subp. 9. **Election procedures.** An election shall be held on the premises where the voters are employed during hours the commissioner determines, unless the commissioner determines that the election shall be held at another location, by mail ballot, or by a combination of on-site and mail balloting.

The parties to an on-site election may designate one observer who is permitted to be present at each polling location during the casting of the ballots and their tabulation. The commissioner may allow attendance of more than one observer per party.

The parties to a mail ballot election may each designate one observer who is permitted to be present during the tabulation of the ballots. The commissioner may allow attendance of more than one observer per party.

The role of the observer is to identify employees eligible to vote and the observers are subject to orders of the commissioner.

Subp. 10. **Marking ballot.** The ballot shall be marked in accordance with the instructions on the ballot. A ballot which is defaced or identifies the voter shall be voided. When a voter inadvertently spoils a ballot, the voter shall immediately return the ballot to the commissioner who shall destroy the spoiled ballot and provide another ballot to the voter.

When a voter states that, because of physical disability or inability to read or write, the voter cannot mark the ballot the commissioner shall assist the voter privately in marking the ballot.

A voter who has been mailed an absentee ballot by the commissioner shall not be permitted to vote at the on-site election under any circumstances.

Subp. 11. **Status of scheduled election during appeal.** In the event of an appeal, the commissioner shall proceed with any pending election unless the commissioner determines that the nature of the appeal precludes a reasonable determination of the question of representation to be decided by the election. Any party wishing to stay an election pending resolution of an appeal shall notify the commissioner in writing within five days of the appeal setting forth the reasons why the question of representation cannot be resolved during the pendency of the appeal. The commissioner shall respond to the notification in writing within ten days.

Subp. 12. **Tabulation of ballots.** All ballots cast by eligible voters shall be tabulated by the commissioner in the presence of the election observers, if any, at the site designated in the election order.

Envelopes containing timely mail or absentee ballots shall be opened in the presence of the election observers, if any, and shall be placed in the ballot box and mixed with other ballots before they are tabulated.

The commissioner shall immediately rule on each ballot as to whether it is valid, void, or blank; and the ballots must be separated into those categories.

Blank or void ballots shall not be counted as votes cast for purposes of the election.

Mail ballots returned by employees whose names have been deleted from the eligibility list shall not be counted.

Subp. 13. **Tabulation of election results.** Upon the conclusion of the election, the commissioner shall prepare and sign a tabulation of election results. A copy of the tabulation of election results shall be furnished to each observer present. Following the completion of the tabulation, the commissioner shall retain all election ballots and materials for at least 60 calendar days.

Subp. 14. **Runoff election.** When a ballot contains more than two choices and none of the choices receives a majority of the valid votes cast, a runoff election shall be conducted between the choices receiving the greatest and second greatest number of votes. In a representation or decertification election, where the exclusive representative does not qualify for a runoff election, the election shall be considered a certification election for purposes of tie votes.

Subp. 15. **Tie vote.** A tie vote in an election containing no more than two choices shall result in the following:

A. Certification election; certification that no exclusive representative has been selected.

B. Representation election; certification that the exclusive representative remains certified.

C. Decertification election; certification that the exclusive representative remains certified.

Statutory Authority: *MS s 179A.04*

History: *9 SR 735; L 1987 c 186 s 15; 12 SR 2712; 23 SR 1564*

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