

1 Secretary of State

2

3 Adopted Permanent Rules Relating to Optical Scan Voting Systems

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5 Rules as Adopted

6 8220.0750 PREPARATION OF COMPUTER PROGRAMS.

7 Computer programs must be prepared so as to tabulate
8 accurately each voter's choices for all candidates, offices, and
9 measures for which the voter is lawfully entitled to vote in
10 conformity with the laws of Minnesota and parts 8220.0050 to
11 8230.4250.

12 Computer programs must include instructions requiring that
13 machine-readable precinct identification be required on all
14 ballot cards. Two identical header cards may precede the deck
15 of ballot cards of each precinct. The program may provide that
16 if two identical header cards do not appear in front of the
17 ballot cards of a precinct, no counting of ballots for that
18 precinct may take place.

19 A data processing card may follow the ballots of each
20 precinct instructing the computer that all ballots of the
21 precinct have been counted. The program may provide that if
22 header cards contain instructions to the computer that all
23 ballots of the preceding precinct have been counted, no separate
24 end card is needed.

25 The vote tabulation portion of the computer program must be
26 prepared as follows:

27 A. to H. [Unchanged.]

28 I. If the counting equipment can examine and return a
29 ballot card to the voter before counting it, the computer
30 program must check for and reject without counting any ballot
31 card with an overvote or, at a partisan primary, with votes cast
32 for candidates of more than one party. When the ballot card is
33 returned to a voter, an error message must indicate the type of
34 defect but not the specific office or question where the
35 defective condition was found.

1 J. When a write-in vote is indicated by a
2 machine-readable punch or mark, a punch or mark indicating a
3 write-in is a vote for the purpose of determining if an overvote
4 condition exists. Except where an overvote condition for the
5 office exists, the computer program must record that a write-in
6 has been indicated. The program must count and record valid
7 votes on the ballot for all other offices and questions before a
8 ballot with a write-in recorded is separated from ballots with
9 no write-ins recorded. The program must report, by office, the
10 total number of write-ins recorded.

11 8220.1250 DOCUMENTING TEST BALLOTS.

12 A documentation, record, chart, or listing must be prepared
13 indicating the punches or marks recorded in the test ballots and
14 whether the punches or marks are valid or invalid.

15 8220.1350 PRELIMINARY TESTING OF COMPUTER PROGRAMS.

16 Prior to the public accuracy test, the election
17 jurisdiction providing the computer programs shall test the
18 computers and programs to ascertain that they will correctly
19 count the votes for all offices and measures. The computer
20 programs must be tested on all precincts.

21 The election jurisdiction requesting the computer programs
22 shall compare the edit listing against the ballots of all
23 precincts to ascertain that the appropriate ballots are in each
24 precinct, and the ballot position numbers for each candidate and
25 proposal appearing on the ballot agree with those recorded on
26 the edit listing for each precinct. Each election jurisdiction
27 shall make a certificate as to the above matters and file it
28 with the county auditor.

29 The test must be conducted using the test deck or ballot
30 image prepared under the direction of the election jurisdiction,
31 and the results must be compared against the predetermined
32 results of the test deck or ballot image. For the purpose of
33 this test, the test deck may be reproduced onto standard data
34 processing cards.

35 All prom packs, memory packs, and similar devices

1 containing the election program must be secured with a metal
2 seal and a certificate must be prepared indicating the seal
3 number.

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5 Rules as Proposed (all new material)

6 8230.4350 OPTICAL SCAN VOTING SYSTEMS

7 Subpart 1. **Applicability.** This part applies to optical
8 scan voting systems, as defined in Minnesota Statutes, section
9 206.90, subdivision 1. Parts 8220.0050 to 8220.2850 apply to
10 the use of optical scan voting systems. To the extent possible,
11 parts 8220.3050 to 8230.4250 for use of punch-card voting
12 systems apply to the use of optical scan voting systems, unless
13 this part provides otherwise.

14 Subp. 2. **Ballot cards.** The name of the precinct and
15 machine-readable precinct identification must be printed on each
16 ballot card. Voting instructions must be printed at the top of
17 the ballot card on each side that includes ballot information.
18 The instructions must include an illustration of the proper mark
19 to be used to indicate a vote. Detachable stubs or consecutive
20 numbers are not required. Lines for the initials of at least
21 two election judges must be printed on one side of the ballot
22 card so that the judges' initials are visible when the ballot is
23 enclosed in a secrecy sleeve.

24 Ballot cards must meet or exceed the specifications the
25 equipment manufacturer has filed with the secretary of state.
26 The election official responsible for preparing the ballots must
27 supply to the ballot printer the manufacturer's recommended
28 standards and specifications for ballot printing.

29 The equipment manufacturer must file with the secretary of
30 state recommended procedures and standards for checking ballot
31 specifications. Upon receipt of the ballots the election
32 jurisdiction must immediately examine the ballot cards to
33 determine that they meet the required specifications. The
34 ballot cards must be packaged and stored in a manner to protect
35 against moisture.

1 Subp. 3. **Supplies.** Each precinct must be supplied with
2 secrecy sleeves that will shield voting marks from view while
3 the voter deposits the ballot into the ballot box. Ballot boxes
4 must be made of metal or high-impact plastic.

5 Ballot boxes used with counting equipment that reads the
6 ballot as it is inserted into the ballot box may be separate or
7 part of the equipment so long as the ballot is fed directly into
8 a locked or sealed ballot box. At a general election, the
9 ballot boxes must have two separate compartments into which the
10 equipment can feed ballots. One compartment must receive
11 ballots on which all votes have been counted and recorded, and
12 the other compartment must receive the ballots on which all
13 votes have been counted except for those offices for which a
14 write-in indication has been recorded. An auxiliary ballot box,
15 that may be separate or an additional compartment, must be
16 supplied to be used if the equipment fails to function and to
17 receive ballots that cannot be read by the equipment.

18 A writing instrument without an eraser that will produce
19 marks that can be accurately read by the automatic tabulating
20 equipment must be provided to each voter.

21 Subp. 4. **Testing.** Computer programs and counting
22 equipment must be tested as required by Minnesota election laws
23 and rules. In addition, as necessary to ensure accuracy of vote
24 counting, diagnostic test capabilities of the equipment and
25 additional test procedures recommended by the equipment
26 manufacturer must be used. The equipment manufacturer must file
27 with the secretary of state recommended test procedures and
28 instructions.

29 Subp. 5. **Precinct counting equipment.** Precinct counting
30 systems that read ballots as they are inserted into the ballot
31 box may not be used for a central counting center, except that
32 one ballot counter may be supplied for two precincts if one of
33 the precincts has fewer than 200 registered voters. Separate
34 prom packs must be used for each of the two precincts. Except
35 as provided in this subpart, at least one ballot counter must be
36 supplied to each precinct.

1 If the ballot counter will be used to count ballots of only
2 one precinct, machine-readable ballot configuration
3 identification may be printed on each ballot card in place of
4 the precinct name and identification required by subpart 2. A
5 ballot configuration means a unique ballot format prepared for
6 use in one or more precincts in which all ballot information,
7 including offices and questions to be voted on, candidate names,
8 and rotation sequence, is identical.

9 If the locked ballot box cannot be detached from the ballot
10 counter, the number of ballot counters supplied to the precinct
11 must be sufficient so that the number of ballots expected to be
12 counted on any counter will be at least ten percent less than
13 the maximum capacity of the ballot box. The maximum capacity
14 must be determined on the basis of the size of the ballot to be
15 voted at the election.

16 The auditor or clerk must test each prom pack individually
17 and, after testing, seal it with a numbered seal. Each ballot
18 counter must be tested to ensure that the components are
19 operating properly. The election judges shall verify that the
20 ballot counter at the precinct has the correct seal number and
21 certify the seal number on the summary statement.

22 Before opening the polls, the election judges shall
23 initialize the ballot counter in accordance with the
24 manufacturer's instructions. The judges shall verify that the
25 initial counts for the voting positions are zero, that the
26 public counter is set at zero, and that the ballot positions and
27 other ballot information for each candidate and proposal printed
28 on the initial tape agree with those on the ballot cards.

29 If the ballot counter is programmed to return to the voter
30 a ballot having defects, the rejected ballot must be treated as
31 a spoiled ballot and a new ballot must be issued to the voter
32 after the spoiled ballot has been deposited in the spoiled
33 ballot container. The election judges shall read the error
34 message to the voter and may explain the conditions that cause a
35 ballot to be rejected, but the judges shall not examine the
36 voted ballot unless the voter requests assistance as provided in

1 Minnesota Statutes, section 204C.15.

2 If the ballot counter is programmed to return to the voter
3 a ballot having defects, no means of overriding the rejection
4 may be used that do not meet the conditions in items A to C.

5 A. The override must be protected against being
6 inadvertently activated.

7 B. The override must not allow more than one ballot
8 to be processed each time it is operated.

9 C. A message, to be initialed by the election judges
10 who activated the override, must be printed on the results tape
11 each time the override is operated.

12 As soon as voting has ended, the election judges shall
13 process any ballots in the auxiliary ballot box and then secure
14 the ballot counter against receiving any more ballots. The
15 election judges shall produce a printed record of results and
16 sign the certificate that is part of the printed record.

17 At a general election, after the ballot counter has been
18 secured against receiving additional ballots, the election
19 judges shall open the write-in compartment and count and record
20 on the summary statement the valid write-in votes.

21 One unbroken tape that includes the initial zero report at
22 the opening of the polls, messages printed during the hours of
23 voting, and the first printout of results must be certified to
24 the county canvassing board. In the event of equipment failure,
25 the election judges and any technicians working on the equipment
26 shall make entries on the tape of initials and time of
27 occurrence to indicate the points at which the equipment failed
28 and was returned to service. If the tape has been broken, the
29 election judges shall seal the parts together and sign over the
30 seal so that it cannot be broken without disturbing the
31 continuity of the signatures. Additional copies of the record
32 of results must be certified as required by the election
33 jurisdiction.

34 Subp. 6. Absentee ballots. The election judges shall
35 examine the absentee ballots as they are removed from the ballot
36 envelope and separate any ballots with erasures, marked with a

1 carbonless writing instrument, or otherwise marked so they
2 cannot be read by the counting equipment. The separated
3 absentee ballots must be counted manually and the results added
4 to the printed record of results or duplicated for tabulating as
5 provided in part 8230.3850.

6 When printing instructions to be supplied with absentee
7 ballots, the election jurisdiction may change item (6) on the
8 instructions to absent voter in parts 8210.0500 and 8210.9920 to
9 include the proper method for marking and folding the optical
10 scan voting system ballot cards.

11 Subp. 7. **Ballots at counting center.** Except for ballots
12 that must be counted manually, ballots for a precinct must be
13 tabulated together. After tabulation of votes for candidates
14 whose names appear on the ballot at a general election, at least
15 two election judges of different political parties shall count
16 the valid write-in votes on ballots with a write-in indication.
17 The judges shall record the valid write-in votes on the summary
18 statement.