

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1421 Docket No. 05.0009.0747

DATE RECEIVED ~~12/09/87~~ 12/18/87 ADOPTED W/O HEARING X

REVIEW DATE ~~12/18/87~~ 12/29/87 EMERGENCY RULE _____

DUE DATE ~~12/23/87~~ 1/4/88 ?

REVISOR APPROVED _____

APPROVED _____ REVISOR DISAPPROVED _____

DISAPPROVED 12/30 FIELD W/SEC.STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies) ✓

~~Notice to Solicit Outside Information/Opinion~~

_____ ~~Date published in State Register~~

_____ ~~Comments~~

~~Petition for Adoption of a Rule~~

~~Board's Authorizing Resolution~~

✓ Proposed rule ✓

YES Revisor's Certificate ✓

✓ Notice of Intent to Adopt Rule not §2010.9915 format

206.57 Statutory Authority

Yes Small Business Statement

Yes Expenditure of public money statement

~~Yes~~ NO Signature

✓ Statement of Need and Reasonableness - skimpy in extreme

NO Small Business Statement —

N/A Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

10/20/87 Date (30) 25 days before adoption

✓ Publication in State Register

11/2/87 Date (30) 25 days before adoption

~~Resolution Adopting~~

✓ Findings of Fact, Conclusions & Order Adopting Not form 2010.9930

12/3/87 Date

~~Written requests, submissions or comments~~

✓ Declaration of attorney

Peter Ackerberg Name of SAAG representing agency

✓ Notice of Submission to Attorney General

✓ Affidavit of Mailing Notice to Attorney General

Original Review dates were changed because the Findings of Fact were not included in package.

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : January 4, 1988

TO : JOAN A. GROWE
Secretary of State
Attention: Jeffrey Sigurdson
Election Procedures Assistant

FROM : CHRISTIE B. ELLER CBE
Assistant Attorney General

PHONE :

SUBJECT : 6-6555

Secretary of State Rule Relating to Bonding of Vendors

The above-captioned rule has not been approved by the Attorney General for the following reasons:

1. The Notice of Intent to Adopt Rule does not follow the format of Minn. Rule pt. 2010.9915. By not following the format of that Rule, it does not contain certain of the elements of Notice required pursuant to Minn. Stat. § 14.22 including the required statement that "comment is encouraged." In addition, the form is not signed as required by Minn. Rule pt. 2010.0300E.

A new Notice of Intent to Adopt Rule must be published and mailed using the appropriate format.

2. The Statement of Need and Reasonableness does not comply with Minn. Rule pt. 2010.0700. That rule specifically states that "[a] general statement of statutory implementation where restating the proposed rule will not suffice." The Statement of Need and Reasonableness submitted together with this rule does not do more than provide a general statement of statutory implementation. In addition, the Statement of Need and Reasonableness does not contain a statement as required to Minn. Stat. § 14.115 documenting the Secretary of State's consideration of methods for reducing the impact of the rule on small business. In this regard I would note that the statements in the Notice of Intent with respect to small businesses would not be sufficient to justify why the rule has not impact on small businesses as they are conclusory without any evidence supporting the conclusion.

For the rule to be approved by the Attorney General, a Statement of Need and Reasonableness consistent with the requirements set forth in Minn. Rule pt. 2010.0700 must be prepared. For your information, I note that the Statement of Need and Reasonableness must be prepared prior to the publication and mailing of the revised Notice of Intent to Adopt Proposed Rules.

3. The Findings of Fact, Conclusions and Order are inconsistent with the form provided in Rule 2010.9930 in that they do not contain a recitation of the fact that the Statement of Need and Reasonableness was prepared in advance of the publication and mailing of the order. For the Rule to be approved by the Attorney General upon resubmission, the form should be revised consistent with the sample form in Minn. Rule pt. 2010.9930.

4. The proposed rule contains certain language which provides the Secretary of State with unbridled discretion which is not specifically authorized by the authorizing statute. The concern with such discretion is that it may allow the Secretary of State to apply the rule in an inconsistent or an unequal manner.

For the rules to be approved, the discretionary language should be deleted or specific criteria delineated upon which the Secretary of State will exercise the discretion.

(a) On page 3, lines 2 and 3, the phrase "all or part of the bond required in subpart 1 may be forfeited". As I have noted, this language should be revised to be made mandatory or a standard put in which will indicate the criteria which the Secretary will use in exercising discretion. It is unclear what is intended to be the standard. That is, does the Secretary of State intend that the bond shall be forfeited in all instances up to the extent of the damages or is there some other standard to be applied.

(b) On page 3, lines 4-6 provides that the Secretary "shall determine if all or part of the bond must be used to compensate the election jurisdiction for any actual costs incurred as a result of the improper program." There is no standard set forth as to when the Secretary will determine whether the bond shall be used.

(c) On page 3, line 10, the phrase "at the discretion of the Secretary of State" is used. Again, there is no standard set forth indicating how the Secretary of State shall exercise this discretion. The clause should be deleted and the action made mandatory or a standard be provided.

5. Page 2, line 17 of the proposed rule is unclear. I presume it is not intended that no machines or systems may be offered by any vendor for sale until the vendor who has had difficulty with the bond clears his difficulties. The rule could be clarified by the insertion of the phrase "by the vendor who has received a notice of intent to forfeit the bond or whose bond has been forfeited" after the phrase "any election" in line 18 on page 2.

After Agency action, the rule may be resubmitted to the Attorney General for review. Upon resubmission, the Agency must include all documents listed in Minn. Rule pt. 2010.0300. Also, please enclose a memorandum specifying that the rule is being resubmitted and refer to our file number 1421 so that we may obtain our initial file in this matter.

Finally, I highly recommend that the Secretary of State purchase a copy of the new Attorney General rule from the document center. The rule contains an updated list of the required documents and the new sample forms. Additionally, you may be interested in a new publication by Paul Marinac of the Revisor's Office which is a very useful guide to rulemaking. If you have any questions concerning the issues raised in this memorandum, please do not hesitate to contact me.

CBE:nah
cc: Duane Harves
Maryann Hruby
Craig E. Lindeke
Sr. Assistant Revisor
Peter Ackerberg

Secretary of State

Adopted Permanent Rules Relating to Bonding of Vendors

Rules as Adopted

8220.0650 APPROVAL OF MACHINES OR SYSTEMS.

Subpart 1. **Certification.** If, from the reports of the demonstration and testing, the secretary of state determines that the machine or system complies with Minnesota statutes and parts 8220.0050 to 8230.4250 and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the machine or system for use in Minnesota. The certification must be limited to specific hardware and software configurations and may not extend to models or configurations not examined. The certification may include stipulations or special procedures for use of the machine or system. No certification may be issued until the vendor has:

A. and B. [Unchanged.]

C. certified that the vendor will immediately notify the secretary of state of any modifications to the machine or system and will not offer for sale or provide for use in Minnesota any modified machine or system if the secretary of state advises the vendor that, in the opinion of the secretary, the modifications constitute a significant change requiring that the machine or system be reexamined;

D. deposited with the secretary of state a copy of all programs, documentation, and source code. If the vendor considers this data proprietary, the secretary of state shall maintain the integrity and security of the data; and

E. deposited with the secretary of state a bond in the amount of $5,000 conditioned on the vendor offering the machine or system for sale in the manner required by parts 8220.0050 to 8230.4450 and any conditions under which the machine or system is certified for use in Minnesota. The form of the bond must be acceptable to the secretary of state. Bonds

must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

Subp. 2. [Unchanged.]

Subp. 3. **Forfeiture of bond.** If the secretary of state determines that a vendor has offered for sale or use at an election a voting machine or system in a manner other than that required by parts 8220.0050 to 8230.4450 or any conditions under which the machine or system was certified, the bond required by subpart 1, item E, must be forfeited. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. No machine or system may be subsequently offered for sale or use at any election until the vendor has submitted an additional bond in the amount of $5,000. The secretary of state shall notify each official on the user list of any receipt, forfeiture, or restoration of these bonds.

8220.0800 PROGRAM PREPARATION BONDS.

Subpart 1. **Amount of bonds.** Each vendor preparing programs for use with an electronic voting system shall deposit a bond with the secretary of state in the amount of $5,000. The form of the bond must be acceptable to the secretary of state. Bonds must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

Subp. 2. **Forfeiture of bonds.** If the secretary of state determines that a program used with an electronic voting system was not prepared in the manner required by parts 8220.0050 to

8230.4450 and the written instructions of the official responsible for preparation of the ballots, all or part of the bond required in subpart 1 may be forfeited. The secretary of state shall determine if all or part of the bond must be used to compensate the election jurisdiction for any actual costs incurred as a result of the improper program. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. At the discretion of the secretary of state, the bond posted by the vendor as required by part 8220.0650 may also be used for compensation to the election jurisdiction. The secretary of state shall notify each official on the user list of any receipt, forfeiture, or restoration of these bonds.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Bonding of Vendors

AGENCY: Secretary of State

MINNESOTA RULES: Chapter 8220

The attached rules are approved for
filing with the Secretary of State

Craig E. Lindeke
Senior Assistant Revisor

Secretary of State

Adopted Permanent Rules Relating to Bonding of Vendors

Rules as Adopted

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Subpart 1. **Certification.** If, from the reports of the demonstration and testing, the secretary of state determines that the machine or system complies with Minnesota statutes and parts 8220.0050 to 8230.4250 and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the machine or system for use in Minnesota. The certification must be limited to specific hardware and software configurations and may not extend to models or configurations not examined. The certification may include stipulations or special procedures for use of the machine or system. No certification may be issued until the vendor has:

A. and B. [Unchanged.]

C. certified that the vendor will immediately notify the secretary of state of any modifications to the machine or system and will not offer for sale or provide for use in Minnesota any modified machine or system if the secretary of state advises the vendor that, in the opinion of the secretary, the modifications constitute a significant change requiring that the machine or system be reexamined;

D. deposited with the secretary of state a copy of all programs, documentation, and source code. If the vendor considers this data proprietary, the secretary of state shall maintain the integrity and security of the data; and

E. deposited with the secretary of state a bond in the amount of $5,000 conditioned on the vendor offering the machine or system for sale in the manner required by parts 8220.0050 to 8230.4450 and any conditions under which the machine or system is certified for use in Minnesota. The form of the bond must be acceptable to the secretary of state. Bonds

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Subp. 2. [Unchanged.]

Subp. 3. **Forfeiture of bond.** If the secretary of state determines that a vendor has offered for sale or use at an election a voting machine or system in a manner other than that required by parts 8220.0050 to 8230.4450 or any conditions under which the machine or system was certified, the bond required by subpart 1, item E, must be forfeited. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. No machine or system may be subsequently offered for sale or use at any election until the vendor has submitted an additional bond in the amount of $5,000. The secretary of state shall notify each official on the user list of any receipt, forfeiture, or restoration of these bonds.

8220.0800 PROGRAM PREPARATION BONDS.

Subpart 1. **Amount of bonds.** Each vendor preparing programs for use with an electronic voting system shall deposit a bond with the secretary of state in the amount of $5,000. The form of the bond must be acceptable to the secretary of state. Bonds must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

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8230.4450 and the written instructions of the official responsible for preparation of the ballots, all or part of the bond required in subpart 1 may be forfeited. The secretary of state shall determine if all or part of the bond must be used to compensate the election jurisdiction for any actual costs incurred as a result of the improper program. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. At the discretion of the secretary of state, the bond posted by the vendor as required by part 8220.0650 may also be used for compensation to the election jurisdiction. The secretary of state shall notify each official on the user list of any receipt, forfeiture, or restoration of these bonds.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Bonding of Vendors

AGENCY: Secretary of State

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The attached rules are approved for
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Craig E. Lindeke
Senior Assistant Revisor

Secretary of State

Adopted Permanent Rules Relating to Bonding of Vendors

Rules as Adopted

8220.0650 APPROVAL OF MACHINES OR SYSTEMS.

Subpart 1. **Certification.** If, from the reports of the demonstration and testing, the secretary of state determines that the machine or system complies with Minnesota statutes and parts 8220.0050 to 8230.4250 and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the machine or system for use in Minnesota. The certification must be limited to specific hardware and software configurations and may not extend to models or configurations not examined. The certification may include stipulations or special procedures for use of the machine or system. No certification may be issued until the vendor has:

A. and B. [Unchanged.]

C. certified that the vendor will immediately notify the secretary of state of any modifications to the machine or system and will not offer for sale or provide for use in Minnesota any modified machine or system if the secretary of state advises the vendor that, in the opinion of the secretary, the modifications constitute a significant change requiring that the machine or system be reexamined;

D. deposited with the secretary of state a copy of all programs, documentation, and source code. If the vendor considers this data proprietary, the secretary of state shall maintain the integrity and security of the data; and

E. deposited with the secretary of state a bond in the amount of $5,000 conditioned on the vendor offering the machine or system for sale in the manner required by parts 8220.0050 to 8230.4450 and any conditions under which the machine or system is certified for use in Minnesota. The form of the bond must be acceptable to the secretary of state. Bonds

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Subp. 2. [Unchanged.]

Subp. 3. **Forfeiture of bond.** If the secretary of state determines that a vendor has offered for sale or use at an election a voting machine or system in a manner other than that required by parts 8220.0050 to 8230.4450 or any conditions under which the machine or system was certified, the bond required by subpart 1, item E, must be forfeited. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. No machine or system may be subsequently offered for sale or use at any election until the vendor has submitted an additional bond in the amount of $5,000. The secretary of state shall notify each official on the user list of any receipt, forfeiture, or restoration of these bonds.

8220.0800 PROGRAM PREPARATION BONDS.

Subpart 1. **Amount of bonds.** Each vendor preparing programs for use with an electronic voting system shall deposit a bond with the secretary of state in the amount of $5,000. The form of the bond must be acceptable to the secretary of state. Bonds must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

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Secretary of State

Adopted Permanent Rules Relating to Bonding of Vendors

Rules as Adopted

8220.0650 APPROVAL OF MACHINES OR SYSTEMS.

Subpart 1. **Certification.** If, from the reports of the demonstration and testing, the secretary of state determines that the machine or system complies with Minnesota statutes and parts 8220.0050 to 8230.4250 and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the machine or system for use in Minnesota. The certification must be limited to specific hardware and software configurations and may not extend to models or configurations not examined. The certification may include stipulations or special procedures for use of the machine or system. No certification may be issued until the vendor has:

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D. deposited with the secretary of state a copy of all programs, documentation, and source code. If the vendor considers this data proprietary, the secretary of state shall maintain the integrity and security of the data; and

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8220.0800 PROGRAM PREPARATION BONDS.

Subpart 1. **Amount of bonds.** Each vendor preparing programs for use with an electronic voting system shall deposit a bond with the secretary of state in the amount of $5,000. The form of the bond must be acceptable to the secretary of state. Bonds must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

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Secretary of State

Proposed Permanent Rules Relating to Bonding of Vendors

Rules as Proposed

8220.0650 APPROVAL OF MACHINES OR SYSTEMS.

Subpart 1. **Certification.** If, from the reports of the demonstration and testing, the secretary of state determines that, the machine or system complies with Minnesota statutes and parts 8220.0050 to 8230.4250 and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the machine or system for use in Minnesota. The certification must be limited to specific hardware and software configurations and may not extend to models or configurations not examined. The certification may include stipulations or special procedures for use of the machine or system. No certification may be issued until the vendor has:

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D. deposited with the secretary of state a copy of all programs, documentation, and source code. If the vendor considers this data proprietary, the secretary of state shall maintain the integrity and security of the data; and

E. deposited with the secretary of state a bond in the amount of $5,000 conditioned on the vendor offering the machine or system for sale in the manner required by parts 8220.0050 to 8230.4450 and any conditions under which the machine or system is certified for use in Minnesota. The form of the bond must be acceptable to the secretary of state. Bonds

Approved by Revisor

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Subp. 2. [Unchanged.]

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8220.0800 PROGRAM PREPARATION BONDS.

Subpart 1. **Amount of bonds.** Each vendor preparing programs for use with an electronic voting system shall deposit a bond with the secretary of state in the amount of $5,000. The form of the bond must be acceptable to the secretary of state. Bonds must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

Subp. 2. **Forfeiture of bonds.** If the secretary of state determines that a program used with an electronic voting system was not prepared in the manner required by parts 8220.0050 to

Approved
by Revisor _____

8230.4450 and the written instructions of the official responsible for preparation of the ballots, all or part of the bond required in subpart 1 may be forfeited. The secretary of state shall determine if all or part of the bond must be used to compensate the election jurisdiction for any actual costs incurred as a result of the improper program. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. At the discretion of the secretary of state, the bond posted by the vendor as required by part 8220.0650 may also be used for compensation to the election jurisdiction. The secretary of state shall notify each official on the user list of any receipt, forfeiture, or restoration of these bonds.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Bonding of Vendors

AGENCY: Secretary of State

MINNESOTA RULES: Chapter 8220

The attached rules are approved for publication
in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Election Division

Proposed Rules Relating to Bonding of Vendors

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Secretary of State proposes to adopt the above-entitled rules without a public hearing. The Secretary has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Election Division and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the Secretary of State will proceed according to the provisions of Minnesota Statutes, sections 14.13 to 14.18.

Person who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Jeffrey Sigurdson
Election Procedures Assistant

180 State Office Building

St. Paul, MN 55155-1299

(612)296-2805

Authority for the adoption of these rules is contained in Minnesota Statutes, section 206.57. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Election Division upon request.

The Elections Division has considered the effect on small businesses, as required by Minnesota Statutes 14.115 (1986) and has determined that the effect will be minimal as the bonding requirement apply only to those businesses that sell or support voting equipment or programs in Minnesota. Further the Elections Division believes that small businesses will benefit from reduced bonding requirements in that the bonding with the state will eliminate the need to bond with each county the business has dealings with. Also pursuant to Minnesota Statutes, section 14.11 "Special Notice of Rulemaking", the adoption of these rules will not have any impact upon agricultural land nor will the adoption of these rules result in additional spending by local public bodies in excess of $100,000 per year, for the first two years following the adoption of these rules.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Person who wish to be advised of the submission of this

material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Election Division.

The rules proposed for adoption are as follows:

C8710.38

In the matter of the Proposed Rules
of the Secretary of State Governing
the Bonding of Vendors.

STATEMENT OF NEED AND REASONABLENESS

The need to adopt parts 8220.0650 and 8220.0800 arise from the requirements of C 362 Laws of 1986 which mandate the Secretary of State to bond vendors of voting machines or programs for votings in the state of Minnesota.

1. Part 8220.0650 will implement the requirements of Laws of 1986 C 362 s 7 for vendors of voting machines or electronic voting systems to deposit a bond with the Secretary of State as part of the process for certification of those machines or systems for use in Minnesota elections, as provided in section 206.57. The amendment is based on recommendations of the Secretary of State's Advisory Task Force on Punch Card Voting.

2. Part 8220.0800 will implement the requirement of laws of 1986 C 362 s 9 which provides that each vendor who prepares a program for an electronic voting system shall deposit a bond with the Secretary of State. The part is based on recommendations of the State of State's Advisory Task Force on Punch Card Voting.

C8710.42

STATE OF MINNESOTA

Secretary of State

In the Matter of the Proposed Adoption of Rules of the Secretary of State Relating to Bonding of Vendors.

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 20th day of October, 1987 that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all person who have registered their names with the Secretary of State for that purpose and be published in the State Register.

STATE OF MINNESOTA

Secretary of State

C8710.46

In the Matter of the Proposed Adoption
of the Rules of the State Governing
Bonding of Vendors.

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Williamilia Behrends being first duly sworn deposes and says:

That on the 20th day of October, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Secretary of State for the purpose of receiving notice of the proposed adoption of rules by the Secretary of State.

C8710.44

JOSEPH MANSKY
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES JUNE 12, 1991

Joseph Mansky

board shall pay to the spouse for ten years, for the benefit of the spouse and children, two-thirds of the claimant's wage and two-thirds the value of the claimant's household labor. If no child remains dependent for ten years, the board shall pay to the spouse one-half the claimant's wage and one-half the value of the claimant's household labor in the years remaining after the last child is no longer dependent. If a child is dependent for more than ten years, the board shall pay to the spouse, for the benefit of the child, one-half of the claimant's wage and one-half the value of the claimant's household labor.

Subp. 4. **Dependent children, no spouse.** If the claimant leaves a dependent child and no spouse, the board shall pay to the guardian of the child 55 percent of the claimant's wage and 55 percent of the value of the claimant's household labor; and for two or more children, the board shall pay to the guardian of the children two-thirds of the claimant's wage and two-thirds the value of the claimant's household labor until the last child is no longer dependent.

7190.1026 ELIGIBLE ALLOWANCES FOR ESTABLISHED DEPENDENTS.

Subpart 1. **Parents.** If the claimant leaves both parents wholly dependent on the deceased, the board shall pay to both parents jointly for ten years, 45 percent of the claimant's wage. If only one parent survives, the board shall pay to that parent for ten years 35 percent of the claimant's wage. If the claimant lived in the same household as both parents immediately before death, the board shall pay for ten years, 45 percent of the value of the claimant's household labor to both parents jointly. If the claimant lived in the household of one parent immediately before death, the board shall pay 35 percent of the value of the claimant's household labor to that parent for ten years.

Subp. 2. **Other established dependents.** If the claimant leaves a child, grandparent, grandchild, sibling, or parent-in-law wholly dependent, the board shall pay to that dependent for ten years, 30 percent of the claimant's wage. If the claimant leaves more than one of them, the board shall pay 35 percent of the claimant's wage divided among them in equal shares.

Subp. 3. **Partial support.** If an established dependent regularly received only partial financial support from the claimant, the board shall adjust the eligible allowance in subparts 5 and 6 according to the following formula:

$b = A \times c/w$

where: b is the benefit to be awarded;
A is the eligible allowance to the dependent;
c is the amount of weekly contribution to the dependent by the claimant; and
w is the wage of the claimant.

Subp. 4. **Cessation of compensation.** The board shall cease compensation upon the death of any dependent or upon marriage of any dependent other than the spouse. The cessation of compensation to any dependent does not affect the compensation paid to any other dependent.

Department of Public Safety

Driver and Vehicle Services Division

Withdrawal of Previously Proposed Permanent Rules Relating to Driver License Revocation

Notice of Withdrawal of Rules

Notice is hereby given that the proposed rules relating to driver license revocation as published in the *State Register* on September 7, 1987 at pages 409 and 410 (CITE 125.R.409) are withdrawn.

Secretary of State

Proposed Permanent Rules Relating to Bonding of Vendors

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Secretary of State proposes to adopt the above-entitled rules without a public hearing. The Secretary

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes*, sections 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Election Division and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the Secretary of State will proceed according to the provisions of *Minnesota Statutes*, sections 14.13 to 14.18.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Jeffrey Sigurdson
Election Procedures Assistant
180 State Office Building
St. Paul, MN 55155-1299
(612) 296-2805

Authority for the adoption of these rules is contained in *Minnesota Statutes*, section 206.57. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Election Division upon request.

The Elections Division has considered the effect on small businesses, as required by *Minnesota Statutes* 14.115 (1986) and has determined that the effect will be minimal as the bonding requirement apply only to those businesses that sell or support voting equipment or programs in Minnesota. Further the Elections Division believes that small businesses will benefit from reduced bonding requirements in that the bonding with the state will eliminate the need to bond with each county the business has dealings with. Also pursuant to *Minnesota Statutes*, section 14.11 "Special Notice of Rulemaking", the adoption of these rules will not have any impact upon agricultural land nor will the adoption of these rules result in additional spending by local public bodies in excess of $100,000 per year, for the first two years following the adoption of these rules.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Election Division.

The rules proposed for adoption are as follows:

Rules as Proposed

8220.0650 APPROVAL OF MACHINES OR SYSTEMS.

Subpart 1. **Certification.** If, from the reports of the demonstration and testing, the secretary of state determines that the machine or system complies with Minnesota statutes and parts 8220.0050 to 8230.4250 and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the machine or system for use in Minnesota. The certification must be limited to specific hardware and software configurations and may not extend to models or configurations not examined. The certification may include stipulations or special procedures for use of the machine or system. No certification may be issued until the vendor has:

A. and B. [Unchanged.]

C. certified that the vendor will immediately notify the secretary of state of any modifications to the machine or system and will not offer for sale or provide for use in Minnesota any modified machine or system if the secretary of state advises the vendor that, in the opinion of the secretary, the modifications constitute a significant change requiring that the machine or system be reexamined; ~~and~~

D. deposited with the secretary of state a copy of all programs, documentation, and source code. If the vendor considers this data proprietary, the secretary of state shall maintain the integrity and security of the data; and

E. deposited with the secretary of state a bond in the amount of $5,000 conditioned on the vendor offering the machine or system for sale in the manner required by parts 8220.0050 to 8230.4450 and any conditions under which the machine or system is certified for use in Minnesota. The form of the bond must be acceptable to the secretary of state. Bonds must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

Subp. 2. [Unchanged.]

Subp. 3. **Forfeiture of bond.** If the secretary of state determines that a vendor has offered for sale or use at an election a voting machine or system in a manner other than that required by parts 8220.0050 to 8230.4450 or any conditions under which the machine or system was certified, the bond required by subpart 1, item E, must be forfeited. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. No machine or system may be subsequently offered for sale or use at any election until the vendor has submitted an additional bond in the amount of $5,000. The secretary of state shall notify each official on the user list of any receipt, forfeiture, or restoration of these bonds.

8220.0800 PROGRAM PREPARATION BONDS.

Subpart 1. **Amount of bonds.** Each vendor preparing programs for use with an electronic voting system shall deposit a bond with the secretary of state in the amount of $5,000. The form of the bond must be acceptable to the secretary of state. Bonds must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

Subp. 2. **Forfeiture of bonds.** If the secretary of state determines that a program used with an electronic voting system was not prepared in the manner required by parts 8220.0050 to 8230.4450 and the written instructions of the official responsible for preparation of the ballots, all or part of the bond required in subpart 1 may be forfeited. The secretary of state shall determine if all or part of the bond must be used to compensate the election jurisdiction for any actual costs incurred as a result of the improper program. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. At the discretion of the secretary of state, the bond posted by the vendor as required by part 8220.0650 may also be used for compensation to the election jurisdiction. The secretary of state shall notify each official on the user list of any receipt, forfeiture, or restoration of these bonds.

Secretary of State

Proposed Permanent Rules Relating to Mail Ballots

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Secretary of State proposes to adopt the above-entitled rules without a public hearing. The Secretary has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes*, sections 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Election Division and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the Secretary of State will proceed according to the provisions of *Minnesota Statutes*, section 14.13 to 14.18.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Grace Haukoos
Election Division Director
180 State Office Building
St. Paul, MN 55155-1299
(612) 296-9217

Authority for the adoption of these rules is contained in *Minnesota Statutes*, section 206.57. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Election Division upon request.

You are advised, pursuant to *Minnesota Statutes*, section 14.115 "Small business consideration in rulemaking", that the proposed

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

In the Matter of the Proposed Adoption
of Rules of the Secretary of State
Relating to Bonding of Vendors.

FINDINGS OF FACT
CONCLUSIONS, AND ORDER ADOPTING
RULE WITHOUT PUBLIC HEARING

Notice of the Secretary's intent to adopt the above-entitled rules without a public hearing was published in the State Register on November 2, 1987 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.14, subdivision 1 on October 20, 1987. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that the rules identified as parts 8220.0650, and 8220.0800 are adopted this 3rd day of December, 1987 pursuant to authority vested in me by Minnesota Statutes, section 206.57.

Joan Anderson Growe
Secretary of State

C8712.71

In the Matter of the Adoption
of the Rules of the Secretary of State
Relating to Bonding of Vendors

DECLARATION
OF COUNSEL

I, PETER M. ACKERBERG, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010, have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0747.

Dated: December 14, 1987.

Peter M. Ackerberg

PETER M. ACKERBERG
Special Assistant Attorney General

In the Matter of the Proposed Adoption
of the Rules of the Secretary of State
Governing Bonding of Vendors.

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

SANDRA OLSON, being first duly sworn deposes and says:

That on the 3rd day of December, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to Attorney General by depositing in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have registered their names with the Secretary of State for that purpose.

Sandra Olson

C8712.09

JOSEPH MANEY
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES JUNE 12, 1991

Joseph Maney

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Secretary of State Relating to Bonding of Vendors.

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a, that their names be placed on file with and maintained for the purpose of receiving notice of the submission of rules by the Secretary of State to the Attorney General is accurate and complete as of 8:00 A.M., this 3rd day of December, 1987.

Election Procedures Assistant

C8712.10

JOSEPH MANSKY
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES JUNE 12, 1991

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Secretary of State

Proposed Rules Relating to Use of Bonding of Vendors

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a, that their names be placed on file with and maintained for the purpose of receiving notice of of the proposed adoption of rules by the Secretary of State is accurate and complete as of 1:00 A.M., this 20th day of October, 1987.

Jeffrey Sigurdson

Election Procedures Assistant

C8710.61

JOSEPH MANSKY
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES JUNE 12, 1991

Joseph Mansky

STATE OF MINNESOTA

SECRETARY OF STATE

In the Matter of the Proposed Adoption
of Rules of the Secretary of State
Relating to Bonding of Vendors

NOTICE OF SUBMISSION TO THE
ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.05 to 14.36:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, December 3, 1987, for review as to form and legality. Pursuant to part 2000.0700, subpart 2, the Attorney General will not approve the rules for eight calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, 515 Transportation Bldg., St. Paul, MN 55155, telephone (612)296-8954. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

No changes were made after publication of the proposed rule in the State Register.

C8712.08

STATE OF MINNESOTA

In the Matter of the Proposed Adoption
of Rules of the Secretary of State
Relating to Bonding of Vendors.

ORDER ADOPTING RULES

Notice of the Secretary's intent to adopt the above-entitled rules without a public hearing was published in the State Register on November 2, 1987 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.14, subdivision 1 on October 20, 1987. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that the rules identified as parts 8220.0650, and 8220.0800 are adopted this 3rd day of December, 1987 pursuant to authority vested in me by Minnesota Statutes, section 206.57.

Joan A. Growe

Secretary of State

C8712.07

Speed Letter® 44-902 GrayLine SNAP-A-WAY FORM

Speed Letter®

To Rita Desmond
1100 Bremer Tower

From Peter Ackerberg
515 Transportation Bldg

Subject Secretary of State Rules

—No. 9 & 10 FOLD

MESSAGE

Enclosed are missing documents for Bonding of Vendors Rule: a) Findings of Fact; b) Declaration of Counsel; c) 4 copies of proposed rule with certificate.

Also enclosed for your review are materials for a Secretary of State rule relating to the use of mail ballots. Please contact me if you have any questions

Date 12-16-87 Signed Peter Ackerberg

RECEIVED
ATTORNEY GENERAL'S OFFICE
TRANSPORTATION BLDG.
ST. PAUL, MINNESOTA

REPLY

—No 9 FOLD

—No. 10 FOLD

Date Signed

WilsonJones
GRAYLINE FORM 44-902 3-PART
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RECIPIENT—RETAIN WHITE COPY, RETURN PINK COPY
1084

Missing

Proposed Rule w/ Certificate
Findings of fact
Declaration of Atty

Recd 12/18/87

Called Peter (6-2586)

Must Restart Review

12/18/87 Recd above docs

Notice of Intent
2010.0200 E. (3) + (6) are not mentioned
Not signed

Authority
206.57 - OK subd 1

Rule
Not all new material - See Proposed
I did not read the rule.

check statute

revisor approval? looks correct

SONAR - skimmy no small business
old forms for order & findings

p1 line 35 acceptable to Sec of State not a standard

p2 line 17 Nor machine - probably means by that vendor but doesnt say so

p2 line 26 acceptable to Sec of State w/o standard

p3 line 2-3 - all or part "may" - line - 4 shall determine

p p3 ~~[illegible]~~ line 10 at discretion may - no standard

JOAN ANDERSON GROWE
Secretary of State
ELAINE VOSS
Deputy Secretary of State

State of Minnesota

OFFICE OF THE SECRETARY OF STATE

St. Paul 55155

December 2, 1987

180 STATE OFFICE BUILDING
Corporation Division: 612/296-2803
UCC Division: 612/296-2434
Election Division: 612/296-2805
Office of the Secretary: 612/296-3266
Office of Deputy Secy.: 612/296-2309

TO: Peter Ackerberg
Office of the Attorney General
515 Transportation Bldg.

FROM: Jeffrey Sigurdson
Election Procedures Assistant

SUBJECT: SUBMISSION OF RULES TO ATTORNEY GENERAL

RECEIVED
DEC 04 1987
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

The Secretary of State proposed rules relating to the bonding of vendors in the State Register of Monday November 2, 1987. No comments were received during the 30 day comment period and no changes have been made in the rule as proposed.

Enclosed are materials for your review:

1. Copy of Notice of Intent to Adopt Rules as published in the State Register.
2. Copy of Proposed Permanent Rule Relating to Optical Scan Voting systems.
3. State of Need and Reasonableness.
4. Order Adopting Rule.
5. Copies of Affidavits of Mailing.

Please advise if your office needs additional material.

C8712.06

Findings of Fact not received

Speed Letter® 44-902 GrayLine® SNAP-A-WAY® FORM

Speed Letter®

To Rita Desmond
AG - Adm Div

From Peter Ackerberg
515 Transp. Bldg.

Subject

—No. 9 & 10 FOLD

MESSAGE

Enclosed are proposed rules of the Secretary of State submitted to your office for review. Please contact me if you have any questions.

RECEIVED
ATTORNEY GENERAL'S OFFICE
DEC 09 1987
ADMINISTRATION BLDG
90 SHERBURNE AVENUE
ST. PAUL, MN 55155

Date 12/4/87 Signed PMA

REPLY

—No. 9 FOLD

—No. 10 FOLD

Date Signed

WilsonJones
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