

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Elle 10a

ULE REVIEW CHECKLIST

File No. 1465
DATE RECEIVED 3/30/88
REVIEW DATE 4/8/88
DUE DATE 4/13/88

APPROVED 4/12/88
DISAPPROVED
WITHDRAWN

Docket No. 05-0009-0747
ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED
REVISOR DISAPPROVED
FIELD W/SEC.STATE
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

206.57 Statutory Authority

yes Small Business Statement

~~N/A~~ NO Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness

~~NO~~ yes Small Business Statement (Stmt on agriculture land)

NO Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

2/8/88 Date (30)/25 days before adoption

✓ Publication in State Register

2/22/88 Date (30)/25 days before adoption

~~Resolution Adopting~~

✓ Findings of Fact, Conclusions & Order Adopting

3/25/88 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~~

CBE

ATTORNEY GENERAL

April 18, 1988

JEFF SIGURDSON
Election Division
Secretary of State

CHRISTIE B. ELLER
Assistant Attorney General

6-9421

In the Matter of the Adopted Rule Relating to Bonding of Vendors

The above-referenced rule has been approved as to its legality by the Attorney General on April 12, 1988.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must establish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

CBE:nah
Enclosures

cc: Maryanne Hruby
Duane Harves

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 and execution 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 an election by the vendor who has received a notice of intent to forfeit the bond or whose bond has been forfeited, 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 a 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, the bond must be forfeited to the extent necessary to cover actual expenses resulting from the failure of the program. The secretary of state shall determine within 45 days after receiving notification of the failure of a program and a request for reimbursement of expenses resulting from the failure of the program from the appropriate election officials, what actual costs were incurred as a result of the program failure. 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. If required to meet actual expenses in excess of the amount of the bond posted under subpart 1, the secretary of state shall use, to the extent necessary, any bond posted by the vendor under part 8220.0650 as 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.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

APR 18 1988

Joan Anderson Growe
Secretary of State

$120 fee

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:

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 and execution of the bond must be acceptable to the secretary of

Approved by Revisor

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, the bond must be forfeited to the extent necessary to cover actual expenses resulting from the failure of the program. The secretary of state shall determine within 45 days after receiving notification of the failure of a program and a request for reimbursement of expenses resulting from the failure of the program from the appropriate election officials, what actual costs were incurred as a result of the program failure. 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. If required to meet actual expenses in excess of the amount of the bond posted under subpart 1, the secretary of state shall use, to the extent necessary, any bond posted by the vendor under part 8220.0650 as 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

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

NOTICE OF
INTENT TO
ADOPT A RULE
WITHOUT A
PUBLIC HEARING

Notice is hereby given that the Secretary of State intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28.[1] The statutory authority to adopt the rules is Minnesota Statutes, section 206.57, subd. 1.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged.[2] Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.[3]

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25[4] or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address,[6] and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.[7]

Comments or written requests for a public hearing must be submitted to:[5]

C8801.93

Jeff Sigurdson
Election Division
180 State Office Building
St. Paul, MN 55155
(612)296-6011

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed. A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Election Division upon request.

You are hereby advised, pursuant to Minnesota Statute 14.115, that the proposed rules will have a probable quantitative and qualitative impact on small businesses that provide voting and vote tabulation equipment or programs related to such equipment for sale or lease in the state of Minnesota. The probable qualitative effect of these rules will be to (1) provide the mechanism for small business vendors of these products to post a bond with the secretary of state as required by Minnesota Statutes 206.57 and 206.82 and (2) forfet all or part of the bond if the vendor offers these products in a manner other than required by Minnesota Statutes and Rules. In addition notice of any such forfeiture by any vendor will be sent to public vendees in Minnesota.

The probable quantitative effect will be to impose an additional expense to small business vendors of these products to the extent that the bond requirement imposes additional expenses. Such additional expense may be off set to the extent that public vendees of these products remove their bonding requirements in light of the new requirement to post a bond with the secretary of state.

Also, pursuant to Minnesota Statutes, section 14.11, 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, in either of the two years immediately following the adoption of these rules.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to the Election Division.

Feb. 5, 1988

Joan Anderson Growe
Secretary of State

C8801.94

STATEMENT OF NEED AND REASONABLENESS

The need to adopt parts 8220.0650 and 8220.0800 arise from the requirements of Minnesota Statutes 206.57, subd. 4 and 206.82, subd. 3; which requires the Secretary of State to bond vendors of voting systems or programs for use in Minnesota elections. The actual form of the rules are based on recommendations of the Secretary of State's Advisory Task Force on Punch Card Voting. Those recommendations relate to the rules in the following fashion:

1. Part 8220.0650, subpart 2, section E and subpart 3. The Secretary of State's Advisory Task Force on Punch Card Voting found that the accurate and lawful counting of ballots cannot be accomplished unless the voting systems are in compliance with Minnesota election law. To insure that the vendors of voting systems are knowledgeable of the applicable election laws on voting systems, the task force recommended bonding of vendors of voting systems. Printers of election ballots post a bond to insure conformity with election law and instructions provided. A similar bonding provision for vendors of voting systems was found appropriate by the Task Force.

   The Task Force recommended posting the bond with the secretary of state. The Task Force found that this would be easier for the vendor than bonding with each individual election jurisdiction in which the vendor may do business. To insure that all appropriate election officials are informed concerning the status of voting systems, the secretary of state is responsible for notifying persons on the user list of any receipt, forfeiture or restoration of bonds. This is reasonable to keep local election officials updated on which voting systems are capable of meeting Minnesota election law and which should not be bought or used in their current form.

2. Part 8220.0800 is needed to establish a bonding procedure for the preparation of programs used with electronic voting systems. The need for this part is to insure that otherwise accurate voting systems will not be rendered inaccurate by programs that are not prepared in compliance with Minnesota election law and the instructions of the election jurisdiction.

   The program bond is a recommendation of the Advisory Task Force on Punch Card Voting. Bonding was chosen by the task force as the means of gaining compliance in the preparation of programs using the same rational as stated in number 1 for bonding of voting systems.

   As required by Minnesota Statutes 14.115, the Election Division has considered the effect of this rule on small businesses. Following the format of 14.115, subp. 2, the following five methods for reducing impact on small businesses were considered:

   (a) Establishing a lower bonding requirement for small businesses is beyond the statutory authority given to the secretary of state in Minnesota Statutes 206.57. Further, less stringent bonding requirements for small businesses would lower the integrity and security of the election process.

   (b) The Election Division considered less restrictive time periods for compliance with Rules 8220.0650, and 8220.0800 but believes that the time frames established are sufficient to allow a vendor to explain a program failure and defend against a bond forfeiture.

(c) Rules 8220.0650 and 8220.0800 will establish a consolidation of compliance requirements for small businesses as the bonding requirment will be centralized at the secretary of state. This will result in lower actual bonding cost and administrative costs to the vendor than bonding with each individual election jurisdiction to which the vendor may sell or lease equipment.

(d) Rules 8220.0650 and 8220.0800 do not establish design or operational standards.

(e) The ability of the secretary of state to insure that voting systems and programs used in Minnesota elections comply with Minnesota election law would be undermined if small businesses were excluded from the bonding procedures set in rules 8220.0650 and 8220.0800.

Also pursuant to Minnesota Statutes, section 14.11, there is no impact on 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.

C8801.65

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)

Sandra Olson, being first duly sworn deposes and says:

That on the 8th day of February, 1988 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.

Sandra Olson

C8710.44

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

Joseph Mansky

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

NOTICE OF
INTENT TO
ADOPT A RULE
WITHOUT A
PUBLIC HEARING

Notice is hereby given that the Secretary of State intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rules is Minnesota Statutes, section 206.57, subd. 1.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

C8801.93

Jeff Sigurdson
Election Division
180 State Office Building
St. Paul, MN 55155
(612)296-6011

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed. A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Election Division upon request.

You are hereby advised, pursuant to Minnesota Statute 14.115, that the proposed rules will have a probable quantitative and qualitative impact on small businesses that provide voting and vote tabulation equipment or programs related to such equipment for sale or lease in the state of Minnesota. The probable qualitative effect of these rules will be to (1) provide the mechanism for small business vendors of these products to post a bond with the secretary of state as required by Minnesota Statutes 206.57 and 206.82 and (2) forfet all or part of the bond if the vendor offers these products in a manner other than required by Minnesota Statutes and Rules. In addition notice of any such forfeiture by any vendor will be sent to public vendees in Minnesota.

The probable quantitative effect will be to impose an additional expense to small business vendors of these products to the extent that the bond requirement imposes additional expenses. Such additional expense may be off set to the extent that public vendees of these products remove their bonding requirements in light of the new requirement to post a bond with the secretary of state.

Also, pursuant to Minnesota Statutes, section 14.11, 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, in either of the two years immediately following the adoption of these rules.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to the Election Division.

Feb. 5, 1988

Joan Anderson Growe
Secretary of State

C8801.94

Subp. 6. **Altercations.** No person shall provoke or engage in a physical altercation while on the grounds of an association.

Subp. 7. to 9. [Unchanged.]

Subp. 10. **Financial responsibility.** No licensee shall willfully or deliberately refuse to pay any money when due for any service, supplies, or fees connected with his or her activities as a licensee, nor shall he or she falsely deny any such amount due or the validity of the claim therefor with the purpose of hindering or defrauding the person to whom ~~such~~ the indebtedness is due. All financial responsibility complaints against a licensee shall be made in writing, signed by the complainant, and accompanied by (a) a judgment from a court of competent jurisdiction; or (b) a check, issued by the licensee or by a business entity owned or controlled by the licensee, which indicates on its face that the bank upon which the check is drawn has refused payment due to insufficient funds, alteration, forgery, or because the check was written on a closed or nonexistant account.

Subp. 11. to 18. [Unchanged.]

Subp. 19. **Abusive language.** No person shall use profane, abusive, or indecent language to a racing official.

REPEALER. Minnesota Rules, parts 7895.0100, subpart 7; 7895.0110, subpart 7; 7895.0125, subparts 4, 5, and 6; 7895.0250, subpart 7; 7895.0275, subparts 3, 4, and 5; and 7895.0350, subparts 4, 5, and 6; are repealed.

Secretary of State

Proposed Permanent Rules Relating to Bonding of Vendors

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the Secretary of State intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes*, section 206.57, subd. 1.

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Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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You are hereby advised, pursuant to *Minnesota Statute* 14.115, that the proposed rules will have a probable quantitative and qualitative impact on small businesses that provide voting and vote tabulation equipment or programs related to such equipment for sale or lease in the state of Minnesota. The probable qualitative effect of these rules will be to (1) provide the mechanism for small business vendors of these products to post a bond with the secretary of state as required by *Minnesota Statutes* 206.57 and 206.82 and (2) forfeit all or part of the bond if the vendor offers these products in a manner other than required by *Minnesota Statutes* and *Rules*. In addition notice of any such forfeiture by any vendor will be sent to public vendees in Minnesota.

The probable quantitative effect will be to impose an additional expense to small business vendors of these products to the extent that the bond requirement imposes additional expenses. Such additional expense may be off set to the extent that public vendees of these products remove their bonding requirements in light of the new requirement to post a bond with the secretary of state.

Also, pursuant to *Minnesota Statutes*, section 14.11, 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, in either of the two years immediately following the adoption of these rules.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule, must submit the written request to the Election Division.

Dated: 5 February 1988

Joan Anderson Growe
Secretary of State

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 and execution 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 an election by the vendor who has received a notice of intent to forfeit the bond or whose bond has been forfeited, 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 a 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.

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.

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, the bond must be forfeited to the extent necessary to cover actual expenses resulting from the failure of the program. The secretary of state shall determine within 45 days after receiving notification of the failure of a program and a request for reimbursement of expenses resulting from the failure of the program from the appropriate election officials, what actual costs were incurred as a result of the program failure. 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. If required to meet actual expenses in excess of the amount of the bond posted under subpart 1, the secretary of state shall use, to the extent necessary, any bond posted by the vendor under part 8220.0650 as 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.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Board of Animal Health

Adopted Permanent Rules Relating to Importation of Swine into Minnesota (1700.2590 to 1700.3010); Pseudorabies Control (1705.2400 to 1705.2520); Sale of Livestock at Auction Markets, Consignment, Community, and other Sales (1715.0210 to 1715.0580); State-Federal Approved Markets for Swine (1715.0590 to 1715.0770); Public Stockyards (1715.1290 to 1715.1480)

The rules proposed and published at *State Register*, Volume 12, Number 13, pages 561-576, September 28, 1987 (12 S.R. 561) are adopted with the following modifications:

Rules as Adopted

IMPORTATION OF SWINE

1700.2590 DEFINITIONS.

Subp. 1a. **Feral swine.** "Feral swine" means undomesticated swine that ordinarily run wild and are not included in any pseudorabies surveillance program.

Subp. 2. **Imported breeding swine.** "Imported breeding swine" means swine imported for the purpose of producing offspring, including domestic and feral swine of both sexes and all ages.

Subp. 3. **Imported feeder swine.** "Imported feeder swine" means domestic and feral swine imported into Minnesota for the purpose of feeding until sold to slaughter and does not include boars or post-parturient sows.

1700.2650 PERMITS.

~~Veterinarians examining feeder and breeding swine must secure a permit from the board for each certificate of veterinary inspection.~~ Prior to importation of swine, except for swine going directly to slaughter, the veterinarian completing the certificate of veterinary inspection under part 1700.2700 must obtain a permit number from the board. Before a permit is issued, the board must be given the following information: the source of the swine to be imported, the number of swine to be imported, and the destination of the swine. The permit number issued by the board must be included on the certificate of veterinary inspection.

STATE OF MINNESOTA

SECRETARY OF STATE

In the Matter of the Proposed Adoption
of the 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 rule was published in the State Register on February 22nd, 1988 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, on February 8th, 1988. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency.

No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency. No changes were made between the rule as proposed and the rule as adopted.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rules identified as 8220.0650, and 8220.0800 are adopted this 25th day of March 1988, pursuant to authority vested in me by Minnesota Statutes, section 206.57, subdivision 1.

Joan A. Growe

Secretary of State

C8803.07

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

DECLARATION OF COUNSEL

I, Peter M. Ackerberg, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules, 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.

Peter M. Ackerberg

PETER M. ACKERBERG
Special Assistant
Attorney General

Dated: March 30, 1988.

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 9:00 A.M., this 8th day of February, 1988.

Election Procedures Assistant

C8710.61

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

Joseph Mansky

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

Speed Letter®

To Rita Desmond
515 Transportation Bldg

From Peter Ackerberg
525 Park St. - Suite 200

Subject Resubmission of Secretary of State Rules Governing Bonding of Vendors

—No. 9 & 10 FOLD

MESSAGE

Enclosed for ~~your~~ review by your office is the above-referenced Rules, which are being resubmitted. Your central file number in this matter is 1421. Please contact me if you have any questions.

Date 3/30/88 Signed Peter Ackerberg

REPLY

Rec'd - 3/30/88

—No. 9 FOLD

—No. 10 FOLD

Date Signed

WilsonJones
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