

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 149 Docket No 25.0009.0747

DATE RECEIVED 6-17-88 ADOPTED W/O HEARING ✓

REVIEW DATE 6-27-88 EMERGENCY RULE _____

DUE DATE 7-1-88 REVISOR APPROVED ✓

APPROVED 6-30-88 REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ ~~Notice to Solicit Outside Information/Opinion (if applicable)~~

_____ ~~Date published in State Register~~
_____ ~~Comments~~

_____ ~~Petition for Adoption of a Rule (if applicable)~~

~~✓~~ ~~Board's Authorizing Resolution~~

~~yes~~ ~~Date adopted~~

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

2038.09.2657 Statutory Authority
yes Small Business Statement
yes Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness (if applicable)

yes Small Business Statement
n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

3/28/88 Date (30)/25 days before adoption
yes Notice attached
yes Copy of rule or summary attached

✓ Publication in State Register

4/11/88 Date (30)/25 days before adoption

_____ 180-day deadline from:

4/28/88 end of comment period (§ 14.26) (rules without hearing)
_____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

_____ ~~Resolution Adopting~~

_____ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting

June 1, 1988 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney

P. Ackerberg Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen.~~ (if applicable)

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : July 1, 1988

TO : PETER ACKERBERG
Special Assistant
Attorney General

FROM : CHRISTIE B. ELLER CBE
Assistant Attorney General

PHONE : 6-9421

SUBJECT : In the Matter of the Adopted Rule Relating to Absentee Ballots; Optical Scan Voting Systems

The above-refernced rule has been approved as to its legality by the Attorney General on June 30, 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, submission 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 publish a notice of adoption in the State Register in accoradance 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.

CEB:rer

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

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

Speed Letter®

To Rita Desmond
515 Transportation

From Peter Ackerberg
525 Park

Subject Secretary of State Rules Governing Absentee Ballots & Optical Scan Voting Systems

—No. 9 & 10 FOLD

MESSAGE

Enclosed are the above-referenced rules and supporting materials for AG approval. Pls contact me if you have any questions.

RECEIVED

Date 6/16/88 Signed PMA

REPLY

JUN 17. 88

ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

—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

684

Secretary of State

Adopted Permanent Rules Relating to Absentee Ballots; Optical Scan Voting Systems

Rules as Adopted

8210.0200 ABSENTEE BALLOT APPLICATION.

Subpart 1. [Unchanged.]

Subp. 2. **Absentee ballot instruction.** The following instructions shall be printed on the absentee ballot application:

INSTRUCTIONS

1. In order to vote by absentee ballot you must be an eligible voter, you must be a resident of the election precinct indicated by your legal residence address on this application, and you must not intend to abandon this residence prior to election day. Please note that Minnesota law provides that it is a felony to make a false or untrue statement in an application for an absentee ballot, to apply for an absentee ballot more than once in an election with the intent to cast an illegal ballot, to exhibit a ballot marked by a person to another person, or to violate an absentee ballot provision for the purpose of casting an illegal vote in a precinct or to assist anyone to cast an illegal vote.

2. Be sure to check the appropriate box indicating why you are unable to go to your polling place on election day; these are the only reasons that entitle you to vote by absentee ballot.

3. Be sure to give your correct legal residence address as completely as possible, since this is used to verify your precinct number.

4. Be sure to sign the application.

5. Return the completed application as soon as possible to the county auditor or municipal clerk from whom you received it.

Remember:

1. You must indicate whether you are requesting ballots for the primary or general election, or both.

Approved by Revisor

2. Do not submit more than one application for each election.

3. Your absentee ballots will be mailed or delivered to you as soon as they are available.

Subp. 3. **Postcard application.** The absentee ballot application may be printed as a postcard application or in any other manner deemed appropriate by the auditor or municipal clerk. If the application is printed as a postcard application, it shall be printed in the following manner.

The postcard shall be white with black ink. The postcard shall weigh not more than one ounce. The size shall be no smaller than 3-1/2 inches by five inches and no larger than 6-1/8 inches by 11-1/2 inches. The postcard shall be at least .007 inches thick.

8210.9910 ABSENTEE BALLOT APPLICATION, SPECIFIED BY PART 8210.0200.

Absentee Ballot Application for .....

(print or type your name)

READ INSTRUCTIONS BEFORE COMPLETING

I hereby apply for absentee ballots for:

(Check one)

() primary election

() general election

() primary and general election

I will need an absentee ballot for the following reason:

(Check one)

() absence from precinct

() illness or disability

() religious discipline or observance of religious holiday

() service as election judge in another precinct

Approved by Revisor _____

My legal residence address is:

.....

Street or Route No. Apt. No. Rural Box No.

.....

() City () Township County Zip

(check wichever is applicable)

Mail my absentee ballot to me at the following address:

.....

Street or Route No. Apt. No. Rural Box No.

.....

City or Township State Zip

Date ....

Legal signature

8230.4350 OPTICAL SCAN VOTING SYSTEMS

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Precinct counting equipment.** Precinct counting systems that read ballots as they are inserted into the ballot box may not be used for a central counting center, except that one ballot counter may be supplied for up to ~~four~~ ten precincts with a combined total of fewer than ~~1,000~~ 1,500 registered voters. Separate prom packs must be used for each of the precincts. Except as provided in this subpart, at least one ballot counter must be supplied to each precinct.

If the ballot counter will be used to count ballots of only one precinct, machine-readable ballot configuration identification may be printed on each ballot card in place of the precinct name and identification required by subpart 2. A ballot configuration means a unique ballot format prepared for

Approved
by Revisor _____

use in one or more precincts in which all ballot information, including offices and questions to be voted on, candidate names, and rotation sequence, is identical.

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

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

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

If the ballot counter is programmed to return to the voter a ballot having defects, the rejected ballot must be treated as a spoiled ballot and a new ballot must be issued to the voter after the spoiled ballot has been deposited in the spoiled ballot container. The election judges shall read the error message to the voter and may explain the conditions that cause a ballot to be rejected, but the judges shall not examine the voted ballot unless the voter requests assistance as provided in Minnesota Statutes, section 204C.15.

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

A. The override must be protected against being

Approved by Revisor _____

inadvertently activated.

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

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

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

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

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

Subp. 6. and 7. [Unchanged.]

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JUL 1 1988

Joan Anderson Growe

Secretary of State

9:25 AM

APPROVED AS TO FORM AND LEGALITY

June 30 1988

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Christine B Elbert
ASSISTANT ATTORNEY GENERAL

Secretary of State

Proposed Permanent Rules Relating to Absentee Ballots; Optical Scan Voting Systems

Rules as Proposed

8210.0200 ABSENTEE BALLOT APPLICATION.

Subpart 1. [Unchanged.]

Subp. 2. **Absentee ballot instruction.** The following instructions shall be printed on the absentee ballot application:

INSTRUCTIONS

1. In order to vote by absentee ballot you must be an eligible voter, you must be a resident of the election precinct indicated by your legal residence address on this application, and you must not intend to abandon this residence prior to election day. Please note that Minnesota law provides that it is a felony to make a false or untrue statement in an application for an absentee ballot, to apply for an absentee ballot more than once in an election with the intent to cast an illegal ballot, to exhibit a ballot marked by a person to another person, or to violate an absentee ballot provision for the purpose of casting an illegal vote in a precinct or to assist anyone to cast an illegal vote.

2. Be sure to check the appropriate box indicating why you are unable to go to your polling place on election day; these are the only reasons that entitle you to vote by absentee ballot.

3. Be sure to give your correct legal residence address as completely as possible, since this is used to verify your precinct number.

4. Be sure to sign the application.

5. Return the completed application as soon as possible to the county auditor or municipal clerk from whom you received it.

Remember:

1. ~~This application form will obtain ballots for only the~~ NEXT <u>You must indicate whether you are requesting ballots for</u>

Approved by Revisor

the primary or general election, or both.

2. Do not submit more than one application for each election.

3. Your absentee ballots will be mailed or delivered to you as soon as they are available.

Subp. 3. **Postcard application.** The absentee ballot application may be printed as a postcard application or in any other manner deemed appropriate by the auditor or municipal clerk. If the application is printed as a postcard application, it shall be printed in the following manner.

The postcard shall be white with black ink. The postcard shall weigh not more than one ounce. The size shall be no smaller than 3-1/2 inches by five inches and no larger than 6-1/8 inches by 11-1/2 inches. The postcard shall be at least .007 inches thick.

8210.9910 ABSENTEE BALLOT APPLICATION, SPECIFIED BY PART 8210.0200.

Absentee Ballot Application for .....

(print or type your name)

READ INSTRUCTIONS BEFORE COMPLETING

I hereby apply for absentee ballots ~~to be voted upon in my precinct at the next election for the following reason~~ for:

(Check one)

() primary election

() general election

() primary and general election

I will need an absentee ballot for the following reason:

(Check one box)

() absence from precinct

Approved by Revisor _____

() illness or disability

() religious discipline or observance of religious holiday

() service as election judge in another precinct

My legal residence address is:

.....

Street or Route No. Apt. No. Rural Box No.

.....

() City () Township County Zip

(check wichever is applicable)

Mail my absentee ballot to me at the following address:

.....

Street or Route No. Apt. No. Rural Box No.

.....

City or Township State Zip

Date ....

Legal signature

8230.4350 OPTICAL SCAN VOTING SYSTEMS

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Precinct counting equipment.** Precinct counting systems that read ballots as they are inserted into the ballot box may not be used for a central counting center, except that one ballot counter may be supplied for ~~two~~ up to four precincts ~~if one of the precincts has fewer than 200~~ with a combined total of fewer than 1,000 registered voters. Separate prom packs must be used for each of the ~~two~~ precincts. Except as provided in this subpart, at least one ballot counter must be supplied to each precinct.

If the ballot counter will be used to count ballots of only

Approved
by Revisor _____

one precinct, machine-readable ballot configuration identification may be printed on each ballot card in place of the precinct name and identification required by subpart 2. A ballot configuration means a unique ballot format prepared for use in one or more precincts in which all ballot information, including offices and questions to be voted on, candidate names, and rotation sequence, is identical.

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

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

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

If the ballot counter is programmed to return to the voter a ballot having defects, the rejected ballot must be treated as a spoiled ballot and a new ballot must be issued to the voter after the spoiled ballot has been deposited in the spoiled ballot container. The election judges shall read the error message to the voter and may explain the conditions that cause a ballot to be rejected, but the judges shall not examine the voted ballot unless the voter requests assistance as provided in Minnesota Statutes, section 204C.15.

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by Revisor _____

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

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

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

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

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

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

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

Subp. 6. and 7. [Unchanged.]

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Absentee Ballots; Optical Scan Voting Systems

AGENCY: Secretary of State

MINNESOTA RULES: Chapters 8210 and 8230

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 Absentee Ballots;
Optical Scan Voting Systems.

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 rule 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, sections 203B.09 and 206.57.

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:

C8801.02

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 advised, pursuant to Minnesota Statutes, section 14.115, that the proposed rule will not have an impact on small business in Minnesota. Also pursuant to Minnesota Statutes, section 14.11, the adoption of this rule will not have any impact upon agricultural land nor will the adoption of this rule result in additional spending by local public bodies in excess of $100,000 per year for the first two years following the adoption of this rule within the meaning of that law.

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.

March 28, 1988
Date

Joan A. Growe
Secretary of State

C8801.03

Secretary of State

Adopted Permanent Rules Relating to Absentee Ballots; Optical Scan Voting Systems

Rules as Adopted

8210.0200 ABSENTEE BALLOT APPLICATION.

Subpart 1. [Unchanged.]

Subp. 2. **Absentee ballot instruction.** The following instructions shall be printed on the absentee ballot application:

INSTRUCTIONS

1. In order to vote by absentee ballot you must be an eligible voter, you must be a resident of the election precinct indicated by your legal residence address on this application, and you must not intend to abandon this residence prior to election day. Please note that Minnesota law provides that it is a felony to make a false or untrue statement in an application for an absentee ballot, to apply for an absentee ballot more than once in an election with the intent to cast an illegal ballot, to exhibit a ballot marked by a person to another person, or to violate an absentee ballot provision for the purpose of casting an illegal vote in a precinct or to assist anyone to cast an illegal vote.

2. Be sure to check the appropriate box indicating why you are unable to go to your polling place on election day; these are the only reasons that entitle you to vote by absentee ballot.

3. Be sure to give your correct legal residence address as completely as possible, since this is used to verify your precinct number.

4. Be sure to sign the application.

5. Return the completed application as soon as possible to the county auditor or municipal clerk from whom you received it.

Remember:

1. You must indicate whether you are requesting ballots for the primary or general election, or both.

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2. Do not submit more than one application for each election.

3. Your absentee ballots will be mailed or delivered to you as soon as they are available.

Subp. 3. **Postcard application.** The absentee ballot application may be printed as a postcard application or in any other manner deemed appropriate by the auditor or municipal clerk. If the application is printed as a postcard application, it shall be printed in the following manner.

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8210.9910 ABSENTEE BALLOT APPLICATION, SPECIFIED BY PART 8210.0200.

Absentee Ballot Application for .....
(print or type your name)

READ INSTRUCTIONS BEFORE COMPLETING

I hereby apply for absentee ballots for:

(Check one)
() primary election
() general election
() primary and general election

I will need an absentee ballot for the following reason:

(Check one)
() absence from precinct
() illness or disability
() religious discipline or observance of religious holiday
() service as election judge in another precinct

Approved
by Revisor _____

My legal residence address is:

.....

Street or Route No. Apt. No. Rural Box No.

.....

() City () Township County Zip

(check wichever is applicable)

Mail my absentee ballot to me at the following address:

.....

Street or Route No. Apt. No. Rural Box No.

.....

City or Township State Zip

Date ....

Legal signature

8230.4350 OPTICAL SCAN VOTING SYSTEMS

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Precinct counting equipment.** Precinct counting systems that read ballots as they are inserted into the ballot box may not be used for a central counting center, except that one ballot counter may be supplied for up to ~~four~~ ten precincts with a combined total of fewer than ~~17000~~ 1,500 registered voters. Separate prom packs must be used for each of the precincts. Except as provided in this subpart, at least one ballot counter must be supplied to each precinct.

If the ballot counter will be used to count ballots of only one precinct, machine-readable ballot configuration identification may be printed on each ballot card in place of the precinct name and identification required by subpart 2. A ballot configuration means a unique ballot format prepared for

Approved by Revisor _____

use in one or more precincts in which all ballot information, including offices and questions to be voted on, candidate names, and rotation sequence, is identical.

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

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

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If the ballot counter is programmed to return to the voter a ballot having defects, the rejected ballot must be treated as a spoiled ballot and a new ballot must be issued to the voter after the spoiled ballot has been deposited in the spoiled ballot container. The election judges shall read the error message to the voter and may explain the conditions that cause a ballot to be rejected, but the judges shall not examine the voted ballot unless the voter requests assistance as provided in Minnesota Statutes, section 204C.15.

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

A. The override must be protected against being

Approved
by Revisor _____

inadvertently activated.

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

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

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

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

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

Subp. 6. and 7. [Unchanged.]

Approved
by Revisor _____

On The Matter Of The Proposed Rules
Of the Secretary of State Relating
To Absentee Ballots, and Optical
Scan Voting Systems.

STATEMENT OF NEED AND REASONABLENESS

The need to change parts 8210.0200, 8200.9910 and 8230.4350 arise from the desire of the Secretary of State to provide better access to the election process for absentee voters and to make the administration of elections more efficient for local election officials.

Part 8210.0200 is necessary to expand the coverage of an absentee application to both primary and general elections if the applicant so desires. This is reasonable because many voters find that the period they will be absent from their voting precinct covers both elections. Previously two separate applications were needed because of the statutory requirement of 203B.02 which at one time set the earliest date to submit an application as 45 days before the election. Chapter 303 s 3 Laws of 1983 removed this restriction. Further the paper work and filing effort of both the applicant and the local election official is doubled if two applications are required.

Part 8210.9910 is necessary to make the application form conform to the changes in 8210.0200.

Part 8230.4350 is necessary to reduce the administrative and operation costs of elections. It is reasonable because of the improvements to optical scan voting equipment which makes this rule change possible without reducing the integrity of the election. This change would allow counties and municipalities to more effectively deal with small precincts created as a result of reapportionment requirements, such as a municipality being split by a county line, congressional or legislative district boundary.

Pursuant to Minnesota Statutes, section 14.115 "Small Business Consideration in Rulemaking", the proposed rule will not have an impact on small business in Minnesota. Also pursuant to Minnesota Statutes, section 14.11 "Special Notice of Rulemaking", the adoption of this rule will not have any impact upon agricultural land nor will the adoption of this rule result in additional spending by local public bodies in excess of $100,000 per year for the first two years following the adoption of this rule within the meaning of that law.

In the Matter of the Proposed Adoption
of the Rules of the State Governing
Absentee Ballots; Optical Scan Voting
Systems.

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Paula Biever, being first duly sworn deposes and says:

That on the 28th day of March, 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.

C8801.95

Paula Biever

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 Absentee Ballots;
Optical Scan Voting Systems.

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 rule 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, sections 203B.09 and 206.57.

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:

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 advised, pursuant to Minnesota Statutes, section 14.115, that the proposed rule will not have an impact on small business in Minnesota. Also pursuant to Minnesota Statutes, section 14.11, the adoption of this rule will not have any impact upon agricultural land nor will the adoption of this rule result in additional spending by local public bodies in excess of $100,000 per year for the first two years following the adoption of this rule within the meaning of that law.

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.

March 28, 1988
Date

Joan A. Growe
Secretary of State

C8801.03

C. Assurance that services will be provided in accordance with state and federal laws and rules.

D. Assurance that the privacy of all data will be maintained in accordance with law and acceptable medical practice.

Subp. 4. **Priority.** Priority will be given to applications proposing to provide cancer reporting systems addressing one or more of the following criteria:

A. the highest quality and completeness of data;

B. services to the greatest number of persons;

C. services to the largest geographic area; and

D. demonstrated capacity to perform on the proposal.

4606.3309 CHARGES FOR DATA.

The commissioner may charge fees for out-of-pocket expenses including hourly employee wages, employee expenses, electronic data processing costs, duplicating, and clerical charges incurred as a result of requests by agencies for summary data compilation or analyses under the following conditions:

A. the agency requesting the summary data is not a community health services agency as defined in *Minnesota Statutes*, chapter 145;

B. the request requires more than one person hour of time to complete for an employee of the commissioner who is classified as either a programmer/analyst or higher, or an epidemiologist I or higher; and

C. the estimated total out-of-pocket expenses, regardless of person hours needed to satisfy the request, are greater than $50.

Secretary of State

Proposed Permanent Rules Relating to Absentee Ballots; Optical Scan Voting Systems

Notice of Intent to Adopt a Rule Without a Public Hearing

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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.

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Dated: 28 March 1988

Joan A. Growe
Secretary of State

Rules as Proposed

8210.0200 ABSENTEE BALLOT APPLICATION.

Subpart 1. [Unchanged.]

Subp. 2. **Absentee ballot instruction.** The following instructions shall be printed on the absentee ballot application:

INSTRUCTIONS

1. In order to vote by absentee ballot you must be an eligible voter, you must be a resident of the election precinct indicated by your legal residence address on this application, and you must not intend to abandon this residence prior to election day. Please note that Minnesota law provides that it is a felony to make a false or untrue statement in an application for an absentee ballot, to apply for an absentee ballot more than once in an election with the intent to cast an illegal ballot, to exhibit a ballot marked by a person to another person, or to violate an absentee ballot provision for the purpose of casting an illegal vote in a precinct or to assist anyone to cast an illegal vote.

2. Be sure to check the appropriate box indicating why you are unable to go to your polling place on election day; these are the only reasons that entitle you to vote by absentee ballot.

3. Be sure to give your correct legal residence address as completely as possible, since this is used to verify your precinct number.

4. Be sure to sign the application.

5. Return the completed application as soon as possible to the county auditor or municipal clerk from whom you received it.

Remember:

1. ~~This application form will obtain ballots for only the NEXT~~ You must indicate whether you are requesting ballots for the primary or general election, or both.

2. Do not submit more than one application for each election.

3. Your absentee ballots will be mailed or delivered to you as soon as they are available.

Subp. 3. **Postcard application.** The absentee ballot application may be printed as a postcard application or in any other manner deemed appropriate by the auditor or municipal clerk. If the application is printed as a postcard application, it shall be printed in the following manner.

The postcard shall be white with black ink. The postcard shall weigh not more than one ounce. The size shall be no smaller than 3-1/2 inches by five inches and no larger than 6-1/8 inches by 11-1/2 inches. The postcard shall be at least .007 inches thick.

8210.9910 ABSENTEE BALLOT APPLICATION, SPECIFIED BY PART 8210.0200.

Absentee Ballot Application for .....
(print or type your name)

READ INSTRUCTIONS BEFORE COMPLETING

I hereby apply for absentee ballots ~~to be voted upon in my precinct at the next election for the following reason~~ for:

(Check one)

( ) primary election

( ) general election

( ) primary and general election

I will need an absentee ballot for the following reason:

(Check one ~~box~~)

( ) absence from precinct

( ) illness or disability

( ) religious discipline or observance of religious holiday

( ) service as election judge in another precinct

My legal residence address is:

.....

Street or Route No. Apt. No. Rural Box No.

.....

( ) City ( ) Township County Zip

(check wichever is applicable)

Mail my absentee ballot to me at the following address:

.....

Street or Route No. Apt. No. Rural Box No.

.....

City or Township State Zip

Date ....

Legal signature

8230.4350 OPTICAL SCAN VOTING SYSTEMS

Subpart 1. to 4. [Unchanged.]

Subp. 5. **Precinct counting equipment.** Precinct counting systems that read ballots as they are inserted into the ballot box may not be used for a central counting center, except that one ballot counter may be supplied for ~~two~~ up to four precincts ~~if one of the precincts has fewer than 200~~ with a combined total of fewer than 1,000 registered voters. Separate prom packs must be used for each of the ~~two~~ precincts. Except as provided in this subpart, at least one ballot counter must be supplied to each precinct.

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

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

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

Before opening the polls, the election judges shall initialize the ballot counter in accordance with the manufacturer's instructions. The judges shall verify that the initial counts for the voting positions are zero, that the public counter is set at zero, and that the

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ballot positions and other ballot information for each candidate and proposal printed on the initial tape agree with those on the ballot cards.

If the ballot counter is programmed to return to the voter a ballot having defects, the rejected ballot must be treated as a spoiled ballot and a new ballot must be issued to the voter after the spoiled ballot has been deposited in the spoiled ballot container. The election judges shall read the error message to the voter and may explain the conditions that cause a ballot to be rejected, but the judges shall not examine the voted ballot unless the voter requests assistance as provided in *Minnesota Statutes*, section 204C.15.

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

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

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

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

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

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

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

Subp. 6. and 7. [Unchanged.]

Board of Psychology

Proposed Permanent Rule Relating to Fees

Notice of Intent to Adopt Rule Amendments Without a Public Hearing

Notice is hereby given that the Minnesota Board of Psychology (hereinafter "Board") intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1986). The statutory authority to adopt the rule amendments is *Minnesota Statutes* §§ 214.06 and 148.90, subd. 2(4) and subd. 3.

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

Any person may make a written request for a public hearing on the rule amendments 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 amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986).

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

Lois E. Mizuno, Executive Director
Minnesota Board of Psychology
Suite 101
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0587

The proposed rule amendments may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rule amendments as noticed.

STATE OF MINNESOTA

SECRETARY OF STATE

In the Matter of the Proposed Adoption
of the Rules of the Secretary of State
Governing Absentee Ballots and Optical
Scan Voting Systems

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 April 11, 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 March 28, 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 requests for notice of submission to the attorney general were received by the agency.

Two comments were received during the 30 day period following publication of the proposed rules in the April 11th, 1988 State Register. Both comments were directed to rule 8230.4350, subpart 5, which regulates the use of precinct counting equipment as central counting centers. The comments indicated that the proposed language of the rule setting the combined number of registered voters and precincts counted on 1 ballot counter at 1000 and no more than 4 as unnecessarily restrictive. In response to these comments the rule is changed to raise the combined total of registered voters to 1500 and the number of precincts to 10 that can be counted on one ballot counter. The Secretary of State does not consider this a substantial change in that it does not affect a new class of people, introduce a new subject matter, or make a substantive change that was not raised by the proposed rule.

The above-capitoned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as 8210.0200 and 8230.4350 is adopted this 1st day of June 1988, pursuant to authority vested in my by Minnesota Statutes, sections 203B.09 and 206.57.

Joan A. Growe

Secretary of State

In the Matter of the Proposed Adoption of the Rules of the Secretary of State Governing Absentee Ballots and Optical Scan Voting Systems

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.

Peter M. Ackerberg

PETER M. ACKERBERG
Special Assistant
Attorney General

Dated: June 16, 1988.

In the Matter of the Proposed
Adoption of the Rules of the
Secretary of State Governing
Absentee Ballots and Optical
Scan Voting Systems.

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
)
COUNTY OF RAMSEY)

Jeffrey Sigurdson, being sworn says: I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the Secretary of State rulemaking mailing list is accurate, complete, and current as of this 28th day of March, 1988.

Jeffrey Sigurdson

Jeffrey Sigurdson
Election Procedure Assistant

Subscribed and sworn to before me this
28 day of March, 1988.

C8803.71

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

Joseph Mansky