

AN ACT

ENTITLED, An Act to revise certain provisions concerning voter tabulation systems.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 12-16-3.1 be amended to read as follows:

12-16-3.1. If more than one political party qualifies for the general election, the position of each party's candidates on the ballot shall be determined by drawing of lots by the secretary of state at the same time and in the same manner as prescribed for candidates in § 12-16-8. Representatives of the parties may be present when the arrangement is determined. On paper ballots, the first party name drawn shall be placed in the left-hand column, the second party name drawn shall be placed in the next column, and each succeeding party name drawn shall be placed on the ballot in the order drawn. On direct recording electronic screens, on electronic ballot marking system screens, and on optical scan ballots, the candidate names shall appear in the order in which their party name was drawn.

Section 2. That § 12-17B-1 be amended to read as follows:

12-17B-1. Terms used in this chapter mean:

- (1) "Automatic tabulating equipment," the apparatus necessary to automatically examine and count votes as designated on ballots, punch cards, or entered directly into a computer by means of a touch screen or other data entry device and data processing machines which can be used for counting these votes and tabulating results;
- (2) "Ballot," paper ballots containing the names of candidates and statements of measures to be voted on;
- (3) "Counting location," any location selected by the person in charge of the election for the counting of votes cast in an election. A counting location shall be within the territorial jurisdiction of such person unless there is no suitable tabulating equipment available within the jurisdiction. However, in any event, all counting locations shall be within this

state;

- (4) "Direct recording electronic," a voting system which records votes by means of a ballot display provided by electro-optical devices that can be actuated by the voter, that process the data by means of a computer program, and that records voting data in internal memory devices;
- (5) "Electronic ballot marking system," any electronic device which marks votes on a ballot;
- (6) "Optical scan," a procedure in which votes are tabulated by means of examining marks made in voting response locations on the ballots with an optical mark reader (OMR);
- (7) "Resolution board," a board at an automatic tabulating location comprised of a representative from each political party having a candidate on the ballot and whose candidate on the county-wide ballot at the last general election received at least fifteen percent of the votes. The board shall determine the disposition of those ballots which cannot be properly counted by the tabulating equipment and observe the activities at the counting location on behalf of their respective party affiliation. In strictly nonpartisan elections, the resolution board shall be comprised of two persons who are not employees of the jurisdiction conducting the election and shall be appointed by the person in charge of the election.

Section 3. That § 12-17B-2 be amended to read as follows:

12-17B-2. Any automatic tabulating, direct recording electronic, or electronic ballot marking system used in an election shall enable the voter to cast a vote for all offices and on all measures on which the voter is entitled to vote. Each system shall fulfill the requirements for election assistance commission standards certification and be approved by the State Board of Elections prior to distribution and use in this state. No system may be approved unless the system fulfills the requirements as established by the State Board of Elections. Any changes or modifications to an

approved system shall be approved by the State Board of Elections prior to distribution and use.

Section 4. That § 12-17B-3 be amended to read as follows:

12-17B-3. Any governing body having supervision of elections within any political subdivision may adopt, experiment with, or abandon any automatic tabulating, direct recording electronic, or electronic ballot marking system approved for use by the State Board of Elections. Any governing body may use the system in all or some of the precincts within its jurisdiction or in combination with any other type of voting system approved for use by the State Board of Elections.

Section 5. That § 12-17B-4 be amended to read as follows:

12-17B-4. The governing body of a political subdivision may contract with any county for the use of an automatic tabulating, direct recording electronic, or electronic ballot marking system for elections within the political subdivision.

Section 6. That § 12-17B-6 be amended to read as follows:

12-17B-6. The person in charge of the election shall provide a sufficient number of voting equipment and supplies to accommodate the voters and avoid unreasonable waiting times for casting ballots.

Section 7. That § 12-17B-8 be repealed.

Section 8. That § 12-18-1.3 be repealed.

Section 9. That § 12-18-16.2 be repealed.

Section 10. That § 12-26-23.1 be amended to read as follows:

12-26-23.1. No person may intentionally program or alter an automatic ballot counting device, direct recording electronic voting machine, or electronic ballot marking system to erroneously mark, record, or count voted ballots or to render an erroneous total. A violation of this section is a Class 5 felony.

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I certify that the attached Act
originated in the
SENATE as Bill No. 8

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 8
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,
20__ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State