

**SECRETARY OF STATE[721]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 22, “Voting Systems,” and Chapter 26, “Counting Votes,” Iowa Administrative Code.

These proposed amendments remove obsolete references to direct recording electronic devices or DREs, which were eliminated as an option for county use by 2008 Iowa Acts, Senate File 2347, codified in Iowa Code section 52.2.

Any interested person may make written suggestions or comments on these proposed amendments on or before January 18, 2011. Written suggestions or comments should be directed to Sarah Reisetter, Elections Director, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State’s Office by telephone at (515)281-0145 or in person at the Secretary of State’s office on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by January 18, 2011.

These amendments are intended to implement Iowa Code section 52.2.

The following amendments are proposed.

ITEM 1. Amend rule **721—22.1(52)**, definitions of “Vendor” and “Voting machine,” as follows:

“Vendor” means a person or representative of a person owning or being interested in ~~a voting machine or an~~ optical scan voting system and seeking certification of the equipment for use in elections in Iowa.

~~“Voting machine” means a direct recording electronic device.~~

ITEM 2. Amend rule 721—22.2(52) as follows:

**721—22.2(52) Voting system standards.** All electronic voting systems ~~and machines~~ approved for use by the board of examiners after April 9, 2003, shall meet Voting Systems Performance and Test Standards, as adopted by the Federal Election Commission April 30, 2002. The report of an accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.

This rule is intended to implement Iowa Code section 52.5.

ITEM 3. Rescind and reserve subrule **22.5(8)**.

ITEM 4. Amend subrule 22.14(1) as follows:

**22.14(1)** The absence of any feature required by Iowa Code section 52.5 ~~or 52.7 for voting machines,~~ or ~~section 52.26 for electronic voting systems.~~

ITEM 5. Rescind and reserve rule **721—22.32(52)**.

ITEM 6. Amend subparagraph **22.261(2)“d”(3)** as follows:

(3) Certification text to appear at the end of the poll report:

We, the undersigned Precinct Election Officials of this precinct, hereby attest that this tape shows the results of all ballots cast and counted by the M100 Optical Scan tabulation device at this election. ~~This is [not] the complete record of the ballots in the~~

precinct. [~~Another set of results from the iVotronic direct recording electronic voting machine device must be added to these results for the complete results of this precinct.~~]

[print lines for each of the officials to sign]

Precinct Election Officials Date: \_\_\_\_\_ Time: \_\_\_\_\_

ITEM 7. Amend rule **721—26.1(49)**, definitions of “Paper ballot” and “Voting machine,” as follows:

“*Paper ballot*” as used in this chapter means a ballot that is intended to be counted only after inspection by precinct election officials. “Paper ballot” in this context ~~includes:~~ means

1. ~~An emergency paper ballot cast in a precinct that has voting machines;~~
2. ~~An absentee ballot designed to be inspected by precinct election officials, then entered manually on the voting machine;~~
3. ~~A a ballot provided at a precinct that has neither voting machines nor~~ does not have optical scan voting equipment.

“*Voting machine*” ~~means a mechanical or electronic device meeting the requirements of Iowa Code section 52.7 as amended by 2004 Iowa Acts, Senate File 2269, section 27, and designated for use in casting, registering, recording, and counting votes at an election.~~ “Voting machine” includes, but is not limited to, ~~direct recording electronic devices.~~

ITEM 8. Rescind subrule **26.2(4)**.

ITEM 9. Amend rule 721—26.4(50) as follows:

**721—26.4(50) Absentee and special voters precinct.** The absentee and special voters precinct board shall tabulate ballots in the manner appropriate to the voting equipment, if any has been provided. When an optical scan voting system is used, the board shall follow the procedures in subrule 26.2(2).

~~**26.4(1)** If an optical scan voting system is used, the board shall follow the procedures in subrule 26.2(2).~~

~~**26.4(2)** If paper ballots are to be counted on voting machines, the board shall follow the standards in Part III for counting paper ballots and record the votes on the voting machine.~~

~~**26.4(3)** Rescinded IAB 8/1/07, effective 7/13/07.~~

ITEM 10. Amend rule **721—26.20(49)**, Example for 26.20(2), as follows:

EXAMPLE for 26.20(2): Two write-ins for the same person. The voter has written in the name of the same person on both write-in lines. Two persons are to be elected to the county board of supervisors.

**For Board of Supervisors**

(Vote for no more than two.)

- CANDIDATE 1 (Party A)
- CANDIDATE 2 (Party A)
- CANDIDATE 3 (Party B)
- CANDIDATE 4 (Party B)
- Candidate 7  
(Write-in vote, if any)
- Candidate 7  
(Write-in vote, if any)

This example shows one vote for Candidate 7. Iowa Code section 49.99 provides that only one vote be counted if a voter writes the name of the same person more than once in the proper places on a ballot ~~or on a voting machine~~ for an office to which more than one person is to be elected.

ITEM 11. Rescind and reserve rule **721—26.60(49)**.

ITEM 12. Rescind and reserve rule **721—26.61(49)**.

ITEM 13. Rescind paragraph **26.104(1)“d.”**

ITEM 14. Rescind subrule **26.105(3)**.