

ALTERNATIVE VOTING SYSTEMS

Footnotes

Chapter applicable to primary elections, § 43.5
Definitions in § 39.3 applicable to this chapter

52.1 Alternative voting systems definitions.

1. At all elections conducted under chapter 49, and at any other election unless specifically prohibited by the statute authorizing the election, votes may be cast, registered, recorded and counted by means of either voting machines or electronic voting systems, in accordance with this chapter.

2. As used in this chapter, unless the context otherwise requires:

a. "Automatic tabulating equipment" means apparatus, including but not limited to electronic data processing machines, which may be utilized to ascertain the manner in which special paper ballots have been marked by voters, and count the votes marked thereon.

b. "Ballot" includes a special paper ballot. In appropriate contexts, *"ballot"* also includes conventional paper ballots.

c. "Counting center" means any place selected by the commissioner where automatic tabulating equipment is available, or is placed, for the purpose of counting votes marked on ballots cast in two or more precincts.

d. "Electronic voting system" means a system employing special paper ballots under which votes are:

(1) Cast by voters by marking special paper ballots with a vote marking device; and

(2) Thereafter counted by use of automatic tabulating equipment.

e. "Program" means the written record of the set of instructions defining the operations to be performed by a computer in examining, counting, tabulating, and printing votes.

f. "Special paper ballot" means a printed ballot designed to be marked by a voter with a vote marking device.

g. "Vote marking device" means a pen, pencil or similar writing tool for use in marking a special paper ballot, so designed or fabricated that the mark it leaves may be detected and the vote so cast counted by automatic tabulating equipment.

h. "Voting machine" means a mechanical or electronic device, meeting the requirements of section 52.7, 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.

[S13, § 1137-a7; C24, 27, 31, 35, 39, § 904; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.1]

86 Acts, ch 1224, § 17, 18; 2002 Acts, ch 1134, §50, 51, 115; 2004 Acts, ch 1083, §24, 37

52.2 Purchase.

The board of supervisors of a county may, by a majority vote, authorize, purchase, and order the use of voting machines or an electronic voting system in any one or more voting precincts within the county until otherwise ordered by the board of supervisors. Voting machines and an electronic voting system may be used

concurrently at the same precinct.

[S13, § 1137-a8; C24, 27, 31, 35, 39, § **905**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.2]

2004 Acts, ch 1083, §25, 37

52.3 Terms of purchase tax levy.

The county board of supervisors, on the adoption and purchase of a voting machine or an electronic voting system, may issue bonds under section 331.441, subsection 2, paragraph "b", subparagraph (1).

[S13, § 1137-a14; C24, 27, 31, 35, 39, § **906**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, § 52.3; 81 Acts, ch 117, § 1009]

83 Acts, ch 123, § 46, 209

52.4 Examiners term removal.

The state commissioner of elections shall appoint three members to a board of examiners for voting machines and electronic voting systems, not more than two of whom shall be from the same political party. The examiners shall hold office for staggered terms of six years, subject to removal at the pleasure of the state commissioner of elections.

At least one of the examiners shall have been trained in computer programming and operations. The other two members shall be directly involved in the administration of elections and shall have experience in the use of electronic voting systems.

[S13, § 1137-a9; C24, 27, 31, 35, 39, § **907**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.4]

94 Acts, ch 1180, §20

52.5 Testing and examination of voting equipment.

A person or corporation owning or being interested in a voting machine or electronic voting system may request that the state commissioner call upon the board of examiners to examine and test the machine or system. Within seven days of receiving a request for examination and test, the state commissioner shall notify the board of examiners of the request in writing and set a time and place for the examination and test.

The state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the testing and examination of any voting machine or electronic voting system by the board of examiners. The rules shall prescribe the method to be used in determining whether the machine or system is suitable for use within the state and performance standards for voting equipment in use within the state. The rules shall provide that all electronic voting systems and voting machines approved for use by the examiners after April 9, 2003, shall meet voting systems performance and test standards, as adopted by the federal election commission on April 30, 2002, and as deemed adopted by Pub. L. No. 107-252, section 222. The rules shall include standards for determining when recertification is necessary following modifications to the equipment or to the programs used in tabulating votes, and a procedure for rescinding certification if a system or machine is found not to comply with performance standards adopted by the state commissioner.

The state commissioner may employ a competent person or persons to assist the examiners in their evaluation of the equipment and to advise the examiners as to the sufficiency of the equipment. Consultant fees shall be paid by the person who requested the certification. Following the examination and testing of the voting machine or system the examiners shall report to the state commissioner describing the testing and

examination of the machine or system and upon the capacity of the machine or system to register the will of voters, its accuracy and efficiency, and with respect to its mechanical perfections and imperfections. Their report shall be filed in the office of the state commissioner and shall state whether in their opinion the kind of machine or system so examined can be safely used by voters at elections under the conditions prescribed in this chapter. If the report states that the machine or system can be so used, it shall be deemed approved by the examiners, and machines or systems of its kind may be adopted for use at elections as provided in this section. Any form of voting machine or system not so approved cannot be used at any election. Before actual use by a county of a particular electronic voting system which has been approved for use in this state, the state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the development of vote counting programs and all procedures used in actual counting of votes by means of that system.

[S13, § 1137-a10; C24, 27, 31, 35, 39, § 908; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.5]

86 Acts, ch 1224, § 19; 89 Acts, ch 136, §50; 2004 Acts, ch 1083, §26, 37

52.6 Compensation.

Each examiner is entitled to one hundred fifty dollars for compensation and expenses in making such examination and report, to be paid by the person or corporation applying for such examination. No examiner shall have any interest whatever in any machine or system reported upon. Provided that each examiner shall receive not to exceed fifteen hundred dollars and reasonable expenses in any one year; and all sums collected for such examinations over and above said maximum salaries and expenses shall be turned in to the state treasury.

[S13, § 1137-a10; C24, 27, 31, 35, 39, § 909; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.6]

52.7 Construction of machine approved.

A voting machine approved by the state board of examiners for voting machines and electronic voting systems must be so constructed as to provide facilities for voting for the candidates of at least seven different parties or organizations, must permit a voter to vote for any person for any office although not nominated as a candidate by any party or organization, and must permit voting in absolute secrecy.

It must also be so constructed as to prevent voting for more than one person for the same office, except where the voter is lawfully entitled to vote for more than one person for that office; and it must afford the voter an opportunity to vote for any or all persons for that office as the voter is by law entitled to vote for and no more, at the same time preventing the voter from voting for the same person twice. The voting machine must be so constructed as to provide the voter with an opportunity to change a vote before the ballot is recorded and counted.

It may also be provided with one ballot in each party column or row containing only the words "presidential electors", preceded by the party name, and a vote for such ballot shall operate as a vote for all the candidates of such party for presidential electors.

Such machine shall be so constructed as to accurately account for every vote cast upon it. The machine shall be so constructed as to remove information from the ballot identifying the voter before the ballot is recorded and counted. If the machine is a direct recording electronic device, the machine shall be so constructed as to store each ballot cast separate from the ballot tabulation function, which ballot may be reproduced on paper in the case of a recount, manual audit, or machine malfunction.

[S13, § 1137-a11; C24, 27, 31, 35, 39, § 910; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.7]

2004 Acts, ch 1083, §27, 37; 2004 Acts, ch 1175, §359

52.8 Experimental use.

The board of supervisors of any county may provide for the experimental use at an election in one or more districts, of a voting machine or electronic voting system which it might lawfully adopt, without a formal adoption thereof; and its use at such election shall be as valid for all purposes as if it had been lawfully adopted.

[S13, § 1137-a12; C24, 27, 31, 35, 39, § 911; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.8]

52.9 Duties of local authorities certificate of test.

The commissioner having jurisdiction of any precinct for which the board of supervisors has adopted voting by machine shall, as soon as practicable thereafter, provide for the precinct polling place one or more voting machines in complete working order, and shall thereafter keep them in repair, and shall have the custody thereof and of the furniture and equipment of the polling place when not in use at an election. The machines shall be used for voting at all elections unless the commissioner directs otherwise pursuant to section 49.26. If it shall be impracticable to supply each and every election precinct for which machine voting has been adopted with a voting machine or voting machines at any election following such adoption, as many may be supplied as it is practicable to procure, and the same may be used in such election precincts as the commissioner may direct.

It shall be the duty of the commissioner or the commissioner's duly authorized agents to examine and test the voting machines to be used at any election, after the machines have been prepared for the election and not less than twelve hours before the opening of the polls on the morning of the election. For any election to fill a partisan office, the county chairperson of each political party referred to in section 49.13 shall be notified in writing of the time said machines shall be examined and tested so that they may be present, or have a representative present. For every election, the commissioner shall include the notice in the notice of the election published as required by section 49.53. Those present for the examination and testing shall sign a certificate which shall read substantially as follows:

The Undersigned Hereby Certify that, having duly qualified, we were present and witnessed the testing and preparation of the following voting machines; that we believe the same to be in proper condition for use in the election of (date); that each registering counter of the machine is set at 000; that the public counter is set at 000; that the seal numbers and the protective counter numbers are as indicated below. igned:
..... Republican (if applicable) Democrat (if applicable)
..... oting machine custodian ated Machine Protective Seal Number Counter
Number Number

On those voting machines presently equipped with an after-election latch and on all machines placed in use after January 1, 1961, in this state, the after-election latch shall be fully used by the election officials.

[S13, § 1137-a13; C24, 27, 31, 35, 39, § 912; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.9]

98 Acts, ch 1123, §7, 8; 2000 Acts, ch 1058, §59, 60

52.10 Ballots form.

All ballots shall be printed in black ink on clear, white material, of such size as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit. The party name for each political party represented on the machine shall be prefixed to the list of candidates of such party. The order of the list of candidates of the several parties or organizations shall be arranged as provided in sections 49.30 to 49.42A, except that the

lists may be arranged in horizontal rows or vertical columns to meet the physical requirements of the voting machine used.

[S13, § 1137-a15; C24, 27, 31, 35, 39, § **913**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.10]

97 Acts, ch 170, §60; 98 Acts, ch 1100, § 11

52.11 Locking of unused party row.

At all general elections the commissioner in preparing the ballot upon every voting machine shall cause the party row next underneath the names of the Republican candidates, and also the party row underneath the names of the Democratic candidates, to be locked and left blank except when more than five political parties have nominated candidates whose names are entitled to be placed on the official ballot.

[C27, 31, 35, § 913-a1; C39, § **913.1**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.11]

52.12 Exception straight party voting.

Voting machines shall have a single lever or switch which casts a vote for each candidate of a political party or nonparty political organization which has nominated candidates for more than one partisan office on the ballot. Straight party voting shall be provided for all general elections.

[C24, 27, 31, 35, 39, § **914**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.12]

97 Acts, ch 170, §61

52.13 Sample ballots.

The commissioner shall provide for each precinct polling place at which votes are to be cast by machine two sample ballots, which shall be arranged in the form of a diagram showing the entire front of the voting machine as it will appear after the official ballots are arranged for voting on election day. Such sample ballots shall be open to public inspection at such polling place during the day of election.

[S13, § 1137-a16; C24, 27, 31, 35, 39, § **915**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.13]

52.14 Two sets of ballots.

Two sets of ballots shall be provided for each polling place for each election for use in the voting machine.

[S13, § 1137-a17; C24, 27, 31, 35, 39, § **916**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.14]

52.15 Delivery of ballots and supplies.

The voting machine ballots and other necessary supplies shall be delivered to the board members of each precinct in which votes are to be cast by machine at the time required by section 49.55.

[S13, § 1137-a18; C24, 27, 31, 35, 39, § **917**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.15]

52.16 Duties of election officers independent ballots.

The election board of each precinct in which votes are to be cast by machine shall meet at the precinct polling place, at least one hour before the time set for the opening of the polls at each election, and shall proceed to arrange the furniture, stationery, and voting machine for the conduct of the election. The board shall cause at

least two instruction cards to be posted conspicuously within the polling place. If not previously done, they shall arrange, in their proper place on the voting machine, the ballots containing the names of the offices to be filled at the election, and the names of the candidates nominated. If not previously done, the machine shall be so arranged as to show that no vote has been cast, and shall not be thereafter operated, except by electors in voting.

Before the polls are open for election, the board shall carefully examine every machine and see that no vote has been cast, and the machines are subject to inspection of the election officers. If the voting machine is equipped to produce a printed record showing the status of the counters, this record shall be produced by the precinct election officials immediately before the polls are open. The inspection sheets from each machine used in the election shall be available for examination throughout election day.

Ballots voted for any person whose name does not appear on the machine as a nominated candidate for office, are referred to in this section as independent ballots. When two or more persons are to be elected to the same office, and the machine requires that all independent ballots voted for that office be deposited in a single receptacle or device, an elector may vote in or by the receptacle or device for one or more persons whose names do not appear upon the machine with or without the names of one or more persons whose names do so appear. With that exception, and except for presidential electors, no independent ballot shall be voted for any person for any office whose name appears on the machine as a nominated candidate for that office; any independent ballot so voted shall not be counted. An independent ballot must be cast in its appropriate place on the machine, or it shall be void and not counted.

[S13, § 1137-a19; C24, 27, 31, 35, 39, § **918**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.16]

86 Acts, ch 1224, § 20

52.17 Voting machine in plain view.

The exterior of the voting machine and every part of the polling place shall be in plain view of the election officers. The voting machine shall be placed at least three feet from every wall and partition of the polling place, and at least four feet from the precinct election officials' table.

[S13, § 1137-a20; C24, 27, 31, 35, 39, § **919**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.17]

52.18 Method of voting.

After the opening of the polls, the precinct election officials shall not allow any voter to enter the voting machine booth until they ascertain that the voter is duly entitled to vote. Only one voter at a time shall be permitted to enter the voting machine booth to vote. The operating of the voting machine by the elector while voting shall be secret and obscured from all other persons, except as provided by sections 49.89, 49.90 and 49.91 in cases of voting by assisted electors. No voter shall remain within the voting machine booth longer than three minutes, and if the voter shall refuse to leave it after the lapse of three minutes, the voter shall be removed by the officials.

[S13, § 1137-a21; C24, 27, 31, 35, 39, § **920**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.18]

52.19 Instructions.

In case any elector after entering the voting machine booth shall ask for further instructions concerning the manner of voting, two precinct election officials of opposite political parties shall give such instructions to the elector; but no precinct election official or other election officer or person assisting an elector shall in any

manner request, suggest, or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question, or proposition. After receiving such instructions, such elector shall vote as in the case of an unassisted voter.

[S13, § 1137-a22; C24, 27, 31, 35, 39, § 921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.19]

52.20 Injury to machine.

No voter, or other person, shall deface or injure the voting machine or the ballot thereon. It shall be the duty of the precinct election officials to enforce the provisions of this section. During the entire period of an election, at least one of their number, designated by them from time to time, shall be stationed beside the entrance to the booth and shall see that it is properly closed after a voter has entered it to vote. The official shall also, at such intervals as the official may deem proper or necessary, examine the face of the machine to ascertain whether it has been defaced or injured, to detect the wrongdoer, and to repair any injury.

[S13, § 1137-a23; C24, 27, 31, 35, 39, § 922; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.20]

52.21 Canvass of vote tally sheet.

As soon as the polls of the election are closed, the precinct election officials thereat shall immediately lock the voting machine against voting and open the counting compartments in the presence of all persons who may be lawfully within the polling place, and proceed to canvass the vote. Said officials shall use a voting machine return and tally sheet in substantially the following form:

The reverse side of said return shall carry a certificate in substantially the following form: CERTIFICATE OF ELECTION OFFICIALS AND CANVASS STATE OF IOWA) COUNTY OF) ss.

We, the undersigned Precinct Election Officials for Precinct No. of the county of and state of Iowa, do hereby certify that voting machine (was or were) used in the above-mentioned precinct at the election held on the day of (month), (year).

1. That before opening of the polls we compared the ballot labels on (the or each) machine with the sample ballots furnished, and found the names, numbers and letters thereon agreed.
2. That we compared the number on the seal which sealed the curtain lever and the number on the protective counter and we found the same as follows: Curtain Protective Machine Lever Seal Counter No. No. No. No. No. No. No. No. No. No. No. No. No. No.
3. That the public counter was set at 000 and that we opened the rear of.....(the or each) machine and examined every registering counter and that each registered 000, or, if the machines used have a capability to produce a printed record, that an inspection sheet from each machine used at this election was produced immediately prior to any vote being cast upon it showing that all counters were set at 000.
4. That the following statement shows the number of the seal with which the curtain lever was sealed, the number on the public counter and the number on the protective counter after the poll was closed and the vote thereon canvassed and the machine locked: Curtain Protective Public Machine Lever Seal Counter Counter No. No. No. No. No. No. No. No. No. No. No. No. No. No. No. No. No.
5. That we are Precinct Election Officials of the Election in and for, Precinct No. in the county of and state of Iowa, on the day of (month), (year), and that we have canvassed all the votes registered on the voting machines for each candidate, and all irregular ballots written on the paper roll of each machine used in said precinct, and do hereby severally certify that the canvass

thereof was duly and legally made, and the result of said canvass is correctly set forth in the within return-sheet statement, and that the said statement is true in all respects.

Dated this day of (month), (year)
..... precinct Election Officials After the canvass has been completed the officials shall immediately report the result of the canvass in the manner provided by section 50.11.

In a precinct in which only one voting machine is used and that machine can deliver, immediately upon the conclusion of voting, multiple copies of a printed record of the votes cast and the totals for each candidate or question appearing on the face of the machine, one of the copies may be used in lieu of the tally sheet specified in this section for the canvasses provided under sections 50.1A and 50.24. The state commissioner of elections may adopt rules regarding the certification of the printed record to allow its use in lieu of the tally sheet.

[S13, § 1137-a24; C24, 27, 31, 35, 39, § **923**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.21]

86 Acts, ch 1224, § 21, 22; 91 Acts, ch 97, § 63; 2000 Acts, ch 1058, §56, 61

52.22 Locking machine.

The precinct election officials shall, as soon as the count is completed and fully ascertained as in this chapter required, lock the machine against voting, and it shall so remain until thirty days after the proclamation of the results of the election, except that it shall remain locked only ten days after a primary or school election, and only two days after a city primary election, if such election is not contested.

In cities in which the council has chosen a runoff election in lieu of a primary pursuant to section 376.9, the machine shall remain locked only two days after the regular city election if the canvass shows that a runoff election is required, and the election is not contested. However, if the machines in any precinct are so constructed as to deliver, immediately upon conclusion of the voting at any election, multiple copies of a printed record of the votes cast and the totals for each candidate or question appearing on the face of the machine, the machines may be unlocked immediately following the canvass of votes by the county board of supervisors unless the precinct election board informs the commissioner that the printed record produced by the machine is smeared, torn or otherwise unreadable. In the latter case, the machines shall be kept locked for the period of time prescribed for machines which do not print such a record.

Whenever independent ballots have been voted, the officials shall return all of such ballots properly secured in a sealed package as prescribed by section 50.12.

[S13, § 1137-a25; C24, 27, 31, 35, 39, § **924**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.22]

88 Acts, ch 1119, §24

Footnotes

Independent ballots, § 52.16

Locking unused party row, § 52.11

52.23 Written statements of election other papers.

After the total vote for each candidate has been ascertained, and before leaving the room or voting place, the precinct election officials shall make and sign the canvass forms referred to in section 52.21, which canvass

shall serve as a written statement of election. Said canvass statement shall be in lieu of the tally list required in section 50.16.

The inspection sheets from each machine used in the election and one copy of the printed results from each machine shall be signed by all precinct election officials and, with any paper or papers upon which write-in votes were recorded by voters, shall be securely sealed in an envelope marked with the name and date of the election, the precinct, and the serial numbers of the machines from which the enclosed results were removed. This envelope shall be preserved, unopened, for twenty-two months following elections for federal offices and for six months following elections for all other offices unless a recount is requested pursuant to section 50.48 or an election contest is pending. The envelope shall be destroyed in the same manner as ballots pursuant to section 50.13. Additional copies of the results, if any, shall be delivered to the commissioner with the other supplies from the election pursuant to section 50.17.

[S13, § 1137-a26; C24, 27, 31, 35, 39, § 925; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.23]

86 Acts, ch 1224, § 23; 93 Acts, ch 143, § 26

52.24 What statutes apply separate ballots.

All of the provisions of the election law not inconsistent with the provisions of this chapter shall apply with full force to all counties adopting the use of voting machines. Nothing in this chapter shall be construed as prohibiting the use of a separate ballot for public measures.

[S13, § 1137-a27; C24, 27, 31, 35, 39, § 926; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 52.24]

Footnotes

See also § 49.43, 49.44

52.25 Summary of amendment or public measure.

The question of a constitutional convention, amendments, and public measures including bond issues may be voted on voting machines and on special paper ballots in the following manner:

The entire convention question, amendment or public measure shall be printed and displayed prominently in at least four places within the voting precinct, and inside each voting booth, or on the left-hand side inside the curtain of each voting machine, the printing to be in conformity with the provisions of chapter 49. The public measure shall be summarized by the commissioner and in the largest type possible printed on the special paper ballots or inserts used in the voting machines, except that:

1. In the case of the question of a constitutional convention, or of an amendment or measure to be voted on in the entire state, the summary shall be worded by the state commissioner of elections as required by section 49.44.
2. In the case of a public question to be voted on in a political subdivision lying in more than one county, the summary shall be worded by the commissioner responsible under section 47.2 for conducting that election.

[C62, 66, 71, 73, 75, 77, 79, 81, § 52.25]

88 Acts, ch 1119, §25; 2002 Acts, ch 1134, §52, 115

52.26 Authorized electronic voting system.

1. Every electronic voting system approved by the state board of examiners for voting machines and electronic voting systems shall:

a. Provide for voting in secrecy, except as to persons entitled by sections 49.90 and 49.91 to assistance. The state board of examiners for voting machines and electronic voting systems shall determine whether the systems' voting booths provide for voting in secrecy.

b. Permit each voter to vote at any election for any candidate for each office and upon each public question with respect to which the voter is entitled by law to vote, while preventing the voter from voting more than once upon any public question or casting more votes for any office than there are persons to be elected to that office.

c. Permit a voter to vote for any person for any office on the ballot at that election, whether or not the person's name is printed on the ballot.

d. Be so constructed or designed that, when voting in a primary election in which candidates are nominated by political parties, a voter is limited to the candidates for the nominations of the political party with which that voter is affiliated.

e. Be so constructed or designed that in presidential elections the voter casts a vote for the presidential electors of any party or political organization by a single mark made opposite the name of the candidates of that party or organization for the offices of both president and vice president of the United States, and so that the voter is also provided the opportunity to write in the name of any person for whom the voter desires to vote for president or vice president of the United States.

f. Be so constructed or designed as to permit voting for candidates for nomination or election of at least seven different political parties or organizations, and to permit voting for all of the candidates of any one political party or organization by a single mark, at any one election.

2. A punch card voting system shall not be approved for use.

[C77, 79, 81, § 52.26]

90 Acts, ch 1007, §2; 2002 Acts, ch 1134, §53, 115

52.27 Commissioner to provide electronic voting equipment.

The commissioner having jurisdiction of any precinct for which the board of supervisors has adopted voting by means of an electronic voting system shall, as soon as practicable thereafter, provide for use at each election held in the precinct special paper ballots and vote marking devices in appropriate numbers. The commissioner shall have custody of all equipment required for use of the electronic voting system, and shall be responsible for maintaining it in good condition and for storing it between elections. All provisions of chapter 49 relative to times and circumstances under which voting machines are to be used in any election and the number of voting machines to be provided shall also govern the use of electronic voting systems, when applicable.

[C77, 79, 81, § 52.27]

2002 Acts, ch 1134, §54, 115

52.28 Electronic voting system ballot forms.

The commissioner of each county in which the use of an electronic voting system in one or more precincts

has been authorized shall determine the arrangement of candidates' names and public questions upon the ballot or ballots used with the system. The ballot information shall be arranged as required by chapters 43 and 49, and by any relevant provisions of any statutes which specify the form of ballots for special elections, so far as possible within the constraints of the physical characteristics of the electronic voting system in use in that county. The state commissioner may adopt rules requiring a reasonable degree of uniformity among counties in arrangement of electronic voting system ballots.

[C77, 79, 81, § 52.28]

2002 Acts, ch 1134, §55, 56, 115

52.29 Electronic voting system sample ballots.

The commissioner shall provide for each precinct where an electronic voting system is in use at least four sample special paper ballots which shall be exact copies of the official ballots as printed for that precinct. The sample ballots shall be arranged in the form of a diagram showing the special paper ballot as it will appear to the voter in that precinct on election day. The sample ballots shall be posted prominently within the polling place, and shall be open to public inspection during the hours the polls are open on election day.

[C77, 79, 81, § 52.29]

2002 Acts, ch 1134, §57, 115

52.30 Procedure where votes cast on ballot cards. Repealed by 2002 Acts, ch 1134, §114, 115.

52.31 Procedure where votes cast on special paper ballots.

Preparations for voting and voting at any election in a precinct where votes are to be received on special paper ballots shall be in accordance with the provisions of chapter 49 governing voting upon conventional paper ballots with the following exceptions:

1. Before entering the voting booth each voter shall be cautioned to mark the ballot only with a vote marking device provided in the booth or by the precinct election officials.
2. In each precinct where a portable vote tallying system is used and the ballots are tabulated by a device located in the precinct which is equipped with a mechanism which will not permit more than one ballot to be inserted at a time, the voter may personally insert the ballot into the tabulating device.

[C77, 79, 81, § 52.31]

86 Acts, ch 1224, § 24

52.32 Procedure upon closing polls.

The provisions of this section apply, in lieu of sections 50.1A to 50.12, to any precinct for those elections at which voting is conducted by means of an electronic voting system and the ballots are to be counted at a counting center.

1. At the time for closing the polls, or as soon thereafter as all persons entitled under section 49.74 to do so have cast their votes, the precinct election officials in each precinct where an electronic voting system or an electronic tabulating system is in use shall secure the system against further voting. The precinct election officials shall certify the number of declarations of eligibility signed as required by section 49.77, and record that number on the tally sheet with the number of special, unused, spoiled, and unvoted ballots cast, with

each number recorded separately. The numbers shall be used to determine whether the number of ballots cast as recorded in the electronic precinct reports varies from the number of declarations of eligibility. If so, that fact shall be reported in writing to the commissioner by the counting center officials, together with the number of ballots varying from the number of declarations of eligibility and the reason for the variance, if known.

2. The precinct election officials shall affix a seal upon the ballot container. The precinct election officials shall then each affix their signatures to a statement attesting that the requirements of this section have been met and the time the ballot container is removed from the precinct polling location for delivery to the counting center pursuant to section 52.37. The statement shall be returned to the commissioner at the counting center with the ballot container and shall accompany the ballots through the counting process.

[C77, 79, 81, § 52.32]

88 Acts, ch 1119, § 26, 27; 89 Acts, ch 136, § 51; 92 Acts, ch 1034, § 1; 93 Acts, ch 143, § 27

52.33 Absentee voting by electronic voting system.

In any county in which the board of supervisors has adopted voting by means of an electronic voting system, the commissioner may elect to also conduct absentee voting by use of such a system if the system so used is compatible with the counting center serving the precinct polling places in the county where voting is by means of an electronic voting system. In any other county, the commissioner may with approval of the board of supervisors conduct absentee voting by use of an electronic voting system. All provisions of chapter 53 shall apply to such absentee voting, so far as applicable. In counties where absentee voting is conducted by use of an electronic voting system, the special precinct counting board shall, at the time required by chapter 53, prepare absentee ballots for delivery to the counting center in the manner prescribed by this chapter.

The absentee and special precinct board shall follow the process prescribed in section 52.37, subsection 2, in handling damaged or defective ballots and in counting write-in votes on special paper ballots.

[C77, 79, 81, § 52.33]

97 Acts, ch 170, §62; 2002 Acts, ch 1134, §58, 115

52.34 Counting center established.

Before authorizing the purchase and ordering the use of an electronic voting system under section 52.2, the county board of supervisors shall, with advice of the commissioner, determine whether counting center equipment is to be purchased as a part of the system and operated by the county, or the county will enter into an arrangement to have its ballots tabulated at a counting center maintained by another county, or whether ballots will be tabulated by devices located in each of the precincts in which the board of supervisors has ordered its use. The arrangement may be reviewed and revised, with approval of the board of supervisors, at any time. If a county acquires and operates a counting center at which ballots cast in one or more other counties are tabulated, the commissioner of the county acquiring and operating the center, or that commissioner's designee, shall be responsible for and in control of the operation of that counting center at all times, regardless of the origin of the ballots being tabulated at any particular time.

[C77, 79, 81, § 52.34]

86 Acts, ch 1224, § 25

52.35 Equipment tested.

Within five days before the date of any election at which votes are to be cast by means of an electronic voting system and tabulated at a counting center established under section 52.34, the commissioner in charge of the counting center where votes so cast are to be tabulated shall have the automatic tabulating equipment tested to ascertain that it will correctly count the votes cast for all offices and on all public questions. The procedure for conducting the test shall be as follows:

1. For any election to fill a partisan office, the county chairperson of each political party shall be notified in writing of the time the test will be conducted, so that they may be present or have a representative present. For every election, the commissioner shall include such notice in the notice of the election published as required by section 49.53. The test shall be open to the public.
2. The test shall be conducted by processing a preaudited group of ballots marked so as to record a predetermined number of valid votes for each candidate, and on each public question, on the ballot. The test group shall include for each office and each question one or more ballots having votes in excess of the number allowed by law for that office or question, in order to test the ability of the automatic tabulating equipment to reject such votes. Any observer may submit an additional test group of ballots which, if so submitted, shall also be tested. The state commissioner shall promulgate administrative rules establishing procedures for any additional test group of ballots submitted by an observer. If any error is detected, its cause shall be ascertained and corrected and an errorless count obtained before the automatic tabulating equipment is approved. When so approved, a statement attesting to the fact shall be signed by the commissioner and kept with the records of the election.
3. The test group of ballots used for the test shall be clearly labeled as such, and retained in the counting center. The test prescribed in subsection 2 shall be repeated immediately before the start of the official tabulation of ballots cast in the election, and again immediately after the tabulation is completed. The test group of ballots and the programs used for the counting procedure shall be sealed, retained for the time required for and disposed of in the same manner as ballots cast in the election.

[C77, 79, 81, § 52.35]

86 Acts, ch 1224, § 26; 97 Acts, ch 170, § 63; 98 Acts, ch 1123, § 9; 2002 Acts, ch 1134, §59, 115

52.36 Commissioner in charge of counting center appointment of resolution board.

All proceedings at the counting center shall be under the direction of the commissioner and open to the public. The proceedings shall be under the observation of at least one member of each of the political parties referred to in section 49.13, designated by the county chairperson or, if the chairperson fails to make a designation, by the commissioner. No person except those employed and authorized by the commissioner for the purpose shall touch any ballot or ballot container.

The commissioner shall appoint from the lists provided by the county political party chairpersons a resolution board to tabulate write-in votes and to decide questions regarding damaged, defective, or other ballots which cannot be tabulated by machine. The commissioner shall appoint as many people to the resolution board as the commissioner believes are necessary. The resolution board shall be divided into two-person teams. Each team shall consist of people who are not members of the same political party. If a team is unable to decide how to count one or more ballots, a third person shall be available to consult with the team and to resolve disputes. Ballots which were objected to shall be endorsed and separated as required by section 50.4.

[C77, 79, 81, § 52.36]

93 Acts, ch 143, § 28; 97 Acts, ch 170, § 64

52.37 Counting center tabulation procedure.

The tabulation of ballots cast by means of an electronic voting system, at a counting center established pursuant to this chapter, shall be conducted as follows:

1. The sealed ballot container from each precinct shall be delivered to the counting center by two election officials, not members of the same political party if the ballot contains partisan offices, who shall travel together in the same vehicle and shall have the container under their immediate joint control until they surrender it to the commissioner or the commissioner's designee in charge of the counting center. The commissioner may designate two precinct election officials, of different political parties if the ballot contains partisan offices, to collect the sealed ballot containers from more than one precinct to deliver to the counting center. The commissioner or designee shall, in the presence of the two precinct election officials who delivered the container, enter on a record kept for the purpose that the container was received, the time the container was received, and the condition of the seal upon receipt.

In nonpartisan elections the election officials delivering the ballots are not required to be members of any political party, or to be members of different political parties.

2. After the record required by subsection 1 has been made, the ballot container shall be opened. If any ballot is found damaged or defective, so that it cannot be counted properly by the automatic tabulating equipment, a true duplicate shall be made by the resolution board team and substituted for the damaged or defective ballot, or, as an alternative, the valid votes on a defective ballot may be manually counted at the counting center by the resolution board, whichever method is best suited to the system being used. All duplicate ballots shall be clearly labeled as such, and shall bear a serial number which shall also be recorded on the damaged or defective ballot.

The resolution board shall also tabulate any write-in votes which were cast. Write-in votes cast for a candidate whose name appears on the ballot for the same office shall be counted as a vote for the candidate indicated, if the vote is otherwise properly cast.

Ballots which are rejected by the tabulating equipment as blank because they have been marked with an unreadable marker shall be duplicated or tabulated as required by this subsection for damaged or defective ballots. The commissioner may instruct the resolution board to mark over voters' unreadable marks using a marker compatible with the tabulating equipment. The resolution board shall take care to leave part of the original mark made by the voter. If it is impossible to mark over the original marks made by the voter without completely obliterating them, the ballot shall be duplicated.

3. The record printed by the automatic tabulating equipment, with the addition of a record of any write-in or other votes manually counted pursuant to this chapter, shall constitute the official return of the precinct. Upon completion of the tabulation of the votes from each individual precinct, the result shall be announced and reported in substantially the manner required by section 50.11.

4. If for any reason it becomes impracticable to count all or any part of the ballots with the automatic tabulation equipment, the commissioner may direct that they be counted manually, in accordance with chapter 50 so far as applicable.

[C77, 79, 81, § 52.37]

92 Acts, ch 1034, § 2; 93 Acts, ch 143, § 29; 97 Acts, ch 170, § 65; 2002 Acts, ch 1134, §60, 115

52.38 Testing portable tabulating devices.

All portable tabulating devices shall be tested before any election in which they are to be used following the procedure in section 52.35, subsection 2. Testing shall be completed not later than twelve hours before the opening of the polls on the morning of the election. For any election to fill a partisan office, the chairperson

of each political party shall be notified in writing of the time the devices will be tested so that the chairperson or a representative may be present. For every election, the commissioner shall include the notice in the notice of the election published as required by section 49.53. Those present for the test shall sign a certificate which shall read substantially as follows:

The undersigned certify that we were present and witnessed the testing of the portable tabulating devices in the following precincts, that we believe the devices are in proper condition for use in the election of (date); that following the test the vote totals were erased from the memory of each portable tabulating device and a report was produced showing that all vote totals in the memory were set at 0000; that the devices were securely locked or sealed; and that the serial numbers and locations of the devices which were tested are listed below. Signed name and political party affiliation, f applicable) name and political party affiliation, f applicable) otting equipment custodian ated Precinct Location Serial Number
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86 Acts, ch 1224, § 27; 97 Acts, ch 170, § 66; 98 Acts, ch 1123, § 10; 2000 Acts, ch 1058, §59, 60

52.39 Reserved.

52.40 Early pick-up sites established procedure.

1. In counties where counting centers have been established under section 52.34, the commissioner may designate certain polling places as early ballot pick-up sites. At these sites, between the hours of one p.m. and four p.m. on the day of the election, two precinct election officials of different political parties shall seal the ballot container to prevent the addition or removal of ballots and replace it with an empty, locked ballot container. The sealed ballot container shall be kept in a safe place in view of the precinct election officials. The early pick-up officers shall receive the sealed ballot container containing the ballots which have been voted along with a signed statement of the precinct officials attesting to the number of declarations of eligibility signed up to that time, excluding those declarations signed by voters who had not yet placed their ballots in the ballot container when it was sealed.
2. Early pick-up officers shall be appointed in two-person teams, one from each of the political parties referred to in section 49.13, who shall be appointed by the commissioner from the election board panel drawn up as provided by section 49.15. The early pick-up officers shall be sworn in the manner provided by section 49.75 for election board members, and shall receive compensation as provided in section 49.20.
3. Each two-person team of early pick-up officers shall travel together in the same vehicle and shall have the container under their immediate joint control until they surrender it to the commissioner or the commissioner's designee. If persons designated as early pick-up officers fail to appear at the time the duties set forth in this section are to be performed, the commissioner shall at once appoint some other person or persons, giving preference to persons designated by the respective county chairpersons of the political parties described in section 49.13, to carry out the requirements of this section.
4. The tabulation of ballots received from early pick-up sites shall be conducted at the counting center during the hours the polls are open, in the manner provided in sections 52.36 and 52.37, except that the room in which the ballots are being counted shall not be open to the public during the hours in which the polls are open and the room shall be policed so as to prevent any person other than those whose presence is authorized by this section and sections 52.36 and 52.37 from obtaining information about the progress of the count. The only persons who may be admitted to that room, as long as admission does not impede the progress of the count, are the members of the board, one challenger representing each political party, one observer representing any nonparty political organization or any candidate nominated by petition pursuant to chapter

45, and the commissioner or the commissioner's designee. No compilation of vote subtotals shall be made while the polls are open. It shall be unlawful for any person to communicate or attempt to communicate, directly or indirectly, information regarding the progress of the count at any time before the polls are closed.

93 Acts, ch 143, § 30; 94 Acts, ch 1180, §21; 97 Acts, ch 170, § 67; 2002 Acts, ch 1071, §10

52.41 Electronic transmission of election results.

With the advice of the board of examiners for voting machines and electronic voting systems, the state commissioner shall adopt by rule standards for the examination and testing of devices for the electronic transmission of election results. All voting systems which contain devices for the electronic transmission of election results submitted to the examiners for examination and testing after July 1, 2003, shall comply with these standards.

2002 Acts, ch 1134, §61, 115