

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

474H0080

HOUSE BILL NO. 1010

Introduced by: The Committee on Local Government at the request of the Secretary of State

1 FOR AN ACT ENTITLED, An Act to permit certain direct recording electronic voting systems
2 and to regulate the use of automatic tabulating equipment.

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

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

5 12-17B-1. Terms used in this chapter mean:

- 6 (1) "Automatic tabulating equipment," the apparatus necessary to automatically examine
7 and count votes as designated on ballots ~~or~~, punch cards, or entered directly into a
8 computer by means of a touch screen or other data entry device and data processing
9 machines which can be used for counting ~~ballots or punch cards~~ these votes and
10 tabulating results;
- 11 (2) "Ballot," paper ballots containing the names of candidates and statements of measures
12 to be voted on;
- 13 (3) "Ballot labels," the cards, booklet, or pages containing the names of officers and
14 candidates and statements of measures to be voted on;
- 15 (4) "Counting location," any location selected by the person in charge of the election for



1 the counting of votes cast in an election. A counting location shall be within the
2 territorial jurisdiction of such person unless there is no suitable tabulating equipment
3 available within the jurisdiction. However, in any event, all counting locations shall
4 be within this state;

5 (5) "Marking device," an apparatus in which punch cards are inserted and used in
6 connection with a punch apparatus for the piercing of punch cards by the voter;

7 (6) "Optical scan," a procedure in which votes are tabulated by means of examining marks
8 made in voting response locations on the ballots with an optical mark reader (OMR);

9 (7) "Punch card," a ballot which is voted by the process of punching;

10 (8) "Resolution board," a board at an automatic tabulating location comprised of a
11 representative from each political party having a candidate on the ballot and whose
12 candidate on the county-wide ballot at the last general election received at least fifteen
13 percent of the votes. The board shall determine the disposition of those ballots which
14 cannot be properly counted by the tabulating equipment and observe the activities at
15 the counting location on behalf of their respective party affiliation. In strictly
16 nonpartisan elections, the resolution board shall be comprised of two persons who are
17 not employees of the jurisdiction conducting the election and shall be appointed by the
18 person in charge of the election;

19 (9) "Direct recording electronic," a voting system which records votes by means of a
20 ballot display provided by electro-optical devices that can be actuated by the voter,
21 that process the data by means of a computer program, and that records voting data
22 in internal memory devices.

23 Section 2. That chapter 12-17B be amended by adding thereto a NEW SECTION to read
24 as follows:

1 No direct recording electronic voting system may be certified or used unless it is capable of
2 producing in random order a paper copy of each ballot cast on the system. No direct recording
3 electronic voting system may be certified which transmits uncounted votes or ballots through the
4 internet.

5 Section 3. That chapter 12-17B be amended by adding thereto a NEW SECTION to read
6 as follows:

7 If automatic tabulating equipment is located at a polling place for processing ballots while
8 the polls are open, the equipment may not be operated in a manner which returns an over-voted
9 or partially under-voted ballot to the voter. The equipment shall be operated in a manner which
10 returns any ballot that appears to be blank. If a blank ballot is returned to the voter, the voter
11 may choose to remark that ballot, obtain a new ballot, or have the ballot resubmitted as a blank
12 ballot.

13 Any central count automatic tabulating equipment containing the capability to out-stack
14 ballots shall be operated in a manner to out-stack any ballot which appears to be blank. If the
15 ballot contains votes from which the voter's intent may be legally determined, the resolution
16 board shall make a duplicate ballot as prescribed in § 12-17B-14 which shall be counted by the
17 automatic tabulating equipment.