

STATEMENT OF NEED AND REASONABLENESS

The need to adopt parts 8220.0650 and 8220.0800 arise from the requirements of Minnesota Statutes 206.57, subd. 4 and 206.82, subd. 3; which requires the Secretary of State to bond vendors of voting systems or programs for use in Minnesota elections. The actual form of the rules are based on recommendations of the Secretary of State's Advisory Task Force on Punch Card Voting. Those recommendations relate to the rules in the following fashion:

1. Part 8220.0650, subpart 2, section E and subpart 3. The Secretary of State's Advisory Task Force on Punch Card Voting found that the accurate and lawful counting of ballots cannot be accomplished unless the voting systems are in compliance with Minnesota election law. To insure that the vendors of voting systems are knowledgeable of the applicable election laws on voting systems, the task force recommended bonding of vendors of voting systems. Printers of election ballots post a bond to insure conformity with election law and instructions provided. A similar bonding provision for vendors of voting systems was found appropriate by the Task Force.

The Task Force recommended posting the bond with the secretary of state. The Task Force found that this would be easier for the vendor than bonding with each individual election jurisdiction in which the vendor may do business. To insure that all appropriate election officials are informed concerning the status of voting systems, the secretary of state is responsible for notifying persons on the user list of any receipt, forfeiture or restoration of bonds. This is reasonable to keep local election officials updated on which voting systems are capable of meeting Minnesota election law and which should not be bought or used in their current form.

2. Part 8220.0800 is needed to establish a bonding procedure for the preparation of programs used with electronic voting systems. The need for this part is to insure that otherwise accurate voting systems will not be rendered inaccurate by programs that are not prepared in compliance with Minnesota election law and the instructions of the election jurisdiction.

The program bond is a recommendation of the Advisory Task Force on Punch Card Voting. Bonding was chosen by the task force as the means of gaining compliance in the preparation of programs using the same rational as stated in number 1 for bonding of voting systems.

As required by Minnesota Statutes 14.115, the Election Division has considered the effect of this rule on small businesses. Following the format of 14.115, subp. 2, the following five methods for reducing impact on small businesses were considered:

- (a) Establishing a lower bonding requirement for small businesses is beyond the statutory authority given to the secretary of state in Minnesota Statutes 206.57. Further, less stringent bonding requirements for small businesses would lower the integrity and security of the election process.
- (b) The Election Division considered less restrictive time periods for compliance with Rules 8220.0650, and 8220.0800 but believes that the time frames established are sufficient to allow a vendor to explain a program failure and defend against a bond forfeiture.

- (c) Rules 8220.0650 and 8220.0800 will establish a consolidation of compliance requirements for small businesses as the bonding requirement will be centralized at the secretary of state. This will result in lower actual bonding cost and administrative costs to the vendor than bonding with each individual election jurisdiction to which the vendor may sell or lease equipment.
- (d) Rules 8220.0650 and 8220.0800 do not establish design or operational standards.
- (e) The ability of the secretary of state to insure that voting systems and programs used in Minnesota elections comply with Minnesota election law would be undermined if small businesses were excluded from the bonding procedures set in rules 8220.0650 and 8220.0800.

Also pursuant to Minnesota Statutes, section 14.11, there is no impact on agricultural land nor will the adoption of these rules result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following the adoption of these rules.

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