

Minutes

State Board of Elections Meeting

State Capitol, Pierre

December 17, 2003

The meeting was called to order by chair Chris Nelson at 8:00a.m.on December 17, 2003 with the following members responding:

Present

Chris Nelson

Linda Lea Viken

Karen Layher

Gail Brock

Absent

Nelva Kristofferson

Carol Klumper

Beth Benning

Kea Warne, Jennifer Jacobson and Chad Heinrich, Secretary of State's staff; Julie Pearson, Pennington County; Sue Roust, Minnehaha County; Jodean Joy; Ken Herricks, Pierre City Finance Officer; Dwight Neuharth, Executive Director SDACO; Joseph Tallone and Mike Ma, Avante International Technology Representatives.

Moved by Viken and seconded to approve the minutes of the May 15th, 2003 meeting. Passed.

Moved by Layher and seconded to approve Sequoia Voting Systems AVC Edge DRE 4.1B. Passed

Moved by Brock and seconded to approve the minor changes in the operating firmware for ES&S model 100 OMR Precinct Counter Versions 4.7.5 & 4.7.6. Passed

Joseph Tallone and Mike Ma were present from Avante International Technology, Inc. seeking certification for the Vote-Trakker DRE 4.7.4. Mr. Ma and Mr. Tallone demonstrated the system including the card activator unit, voter cards, and the printing unit. Mr. Ma presented a document stating that the system meets each of the certification criteria but that they were demonstrating the 4.7.4 version instead

of the NASED certified 4.7.3 version. Mr. Ma gave the board a copy of the review summary for the 4.7.4 and stated they were in the last phases for certification. All other criteria appeared to be met by the unit with the possible exception of ARSD 5:02:09:02.02(10) which requires the unit to meet the disability voting requirements of the Help America Vote Act. It is unclear at this time whether the Act requires DRE machines to have the capability to accommodate "puff and sip" technology for disabled access. Board members and members of the audience test voted on the DRE.

Moved by Viken and seconded to certify Avante International Technology's Vote-Trakker 4.7.4 DRE with the provision that they submit the NASED certification number for the 4.7.4 before the certification would be issued and that if it is determined by the Election Assistance Commission that "puff and sip" compatibility is a requirement of HAVA, the certification of this model would be revoked. Passed.

Discussion and action was taken on several legislative proposals as follows:

Moved by Viken and seconded to amend the proposed change to SDCL 12-19-2 by adding that the copy of the voter's identification card not be public record and also adding back into this section the federal requirement to send out an absentee ballot for each federal election through two general elections to voters covered by the Uniform and Overseas Citizens Absentee Voting Act. Passed.

Moved by Brock and seconded to amend the proposed changes to SDCL 9-13-6, 9-13-7, 9-13-9, 13-7-5, 13-7-6 and 13-7-10.2 by moving the filing process back two weeks. It was also suggested to change the word "desires" in 13-7-6 to read "specifies on the petition". Petition filing deadline if mailed by registered or certified mail by five p.m. on the Friday four weeks before the election was changed to read "five and a half weeks". Passed.

Moved by Viken and seconded to amend the proposed changes to SDCL 12-20-13.1 and 12-20-13.3 by changing the wording to state "the person in charge of the election" instead of referring to each county auditor for determining the time for provisional ballot count and added clarification of which notifications are given for certain elections. Passed

Moved by Layher and seconded to amend the proposed change to SDCL 13-8-23 by changing (4) to read "His ceasing to be a resident of the school district or representation area where elected" to clarify an event causing a vacancy on a school board. Passed

Moved by Viken and seconded to amend the proposed change to SDCL 13-8-7 and 13-8-7.1 to remove similar wording that has already been removed from other statutes pertaining to incorporated and unincorporated representation areas for school board members. Passed

Moved by Brock and seconded to amend the proposed change to SDCL 9-13-7 to remove business address as a requirement on a municipal petition. Passed

Moved by Layher and seconded to amend the proposed changes to SDCL 9-13-9 to remove the word "subdivision" throughout this statute and add "A petition signer in municipalities of the third class is not restricted in the number of petitions which the person may sign." Passed

Moved by Viken and seconded to amend the proposed changes to SDCL 9-13-21 and 13-7-13 to state how many ballots a finance officer and business manager provide for their elections. The suggestion was made to make the wording regarding the ballot position determination to be identical in both statutes. Passed

No action was taken on the proposed section of SDCL 12-18.

Moved by Brock and seconded to amend the proposed changes to SDCL 12-18-9 by prohibiting a candidate from serving as a pollwatcher in the polling place where that candidate is on the ballot and stating the candidate may only be present to cast their own vote during voting hours. Clarify proposed change to not exclude candidate from counting process. Passed with majority vote. Viken wanted us to look at putting these proposed changes in SDCL 12-18-3 and Nelson said he would look at that.

Moved by Brock and seconded to add the proposed section to Title 12 to define the Election Equipment Replacement Fund. Passed

Moved by Viken and seconded to amend the proposed changes to SDCL 13-27-6.1 to allow a student at least 18 years old and is an appointed precinct election official during an election, to be excused from school. Passed

Moved by Brock and seconded to add the proposed section to SDCL 12-19 to allow a voter to fax the absentee ballot application back to the person in charge of the election. This proposed section would require the voter to supply a phone or fax number that the person in charge of the election shall attempt

to call if the application is not legible. Jodean Joy gave the presentation for this proposed legislation. Nelson added that we should put an emergency clause on this bill to ensure the voters serving in the military the opportunity to use this in the special congressional election and the June 1st primary election. Passed

Moved by Viken and seconded to add the proposed section to SDCL 12-4 to allow a person that is a victim of domestic abuse or stalking to use the mailing address for the Office of Secretary of State for voter registration and absentee ballot purposes. Viken wants the amendment to include "adjudicated victim". Nelson will have representative from States Attorney's Association to review this to see if "adjudicate" should be included. Passed with amendments

Moved by Layher and seconded to amend the proposed changes to SDCL 12-18-6.1 to allow a high school identification card to be included as a valid form of personal identification. Changes at the beginning of this section to read "At the time of the request for a ballot, the voter shall present a valid form of personal identification". Passed

Moved by Brock and seconded to amend the proposed changes to SDCL 12-17B-7 to have the instructions be given if requested, for the proper procedure for marking the ballot in jurisdictions that use automatic tabulating equipment. Passed

Moved by Viken and seconded to have Nelson promulgate rules if he finds it necessary in order to obtain gubernatorial votes in each district. Our office will check with the county that combined the votes to direct him to use a procedure where the breakdown of votes can be accurately recorded. Passed

Moved by Layher and seconded to amend the proposed change to SDCL 12-1-4 to remove the thirty day durational residency requirement. This requirement is not allowed under federal law for federal elections. Passed

Moved by Brock and seconded to amend the proposed changes to SDCL 12-11-3 to move the filing deadline date for independent candidates and party nominations to the first Tuesday in April or the second Tuesday in August if combined with primary or general election. This proposal also contains an emergency clause. Passed

The Board discussed the question as to whether or not the new voting system by Vogue Election System called the Automark would have to go through a certification process. The board decided this would not since it is not a counting machine only a marking machine.

Adjourned.

Chris Nelson, Secretary of State

Kea Warne, Recorder