

DIRECTIVE 2008-59

July 25, 2008

TO: All County Boards of Elections

RE: Optical Scan Ballots for Voters in Counties Using DRE Voting Machines

In a continuing effort to ensure backup ballots are available in the event of DRE voting machine failure or other Election Day emergency, to address voter concerns arising from the findings of the EVEREST report on the examination and testing of the state's voting systems and similar government reports across the country, and to assist elections officials in being prepared for large voter turnout by being able to offer voters in an orderly and efficient manner an alternative means of voting in the event of long lines on Election Day, all counties using direct recording electronic (DRE) voting machines as their primary voting system must provide an optical scan ballot to any voter who requests it as an alternative method to casting a ballot on a DRE voting machine for the November 4, 2008 general election.

All counties using DREs must make available an optical scan ballot to any voter at his or her polling place for the November 4, 2008 general election. In addition, all counties using DREs must prominently post at least four informational posters supplied by the Secretary of State in each polling place to ensure voters are aware of the availability of these paper ballots. Posters will be directly shipped prior to the general election to each county using DREs as its primary voting system.

Determining Minimum Number of Optical Scan Ballots

Boards shall determine the minimum number of optical scan ballots to provide for each precinct by multiplying the number of ballots cast in each precinct at the November 2004 general election by 25%. This will provide the minimum number of optical scan ballots a board using DREs as their primary voting system must provide for each precinct. Boards of elections may print ballots totaling more than this minimum prescribed 25% number at their option, but boards must print ballots at the same percentage for each precinct in the county.

Funding For Ballot Printing Costs Incurred

Reimbursement funding is available for the cost of ballots printed to comply with this directive. County boards are strongly encouraged to document and itemize the printing costs incurred as a result of complying with this directive to allow the Secretary of State's office to compile these costs and reimburse your county for the cost of printing the required ballots. A reporting form will be sent prior to the general election to allow you to report these documented and itemized costs. Reimbursement for the printing costs incurred as a result of this directive will be for the printing of at least the minimum number of ballots required (25%).

Voter Privacy

Boards shall provide a private area for voters who request optical scan ballots to mark their ballot. Privacy booths used by persons voting provisional ballots may be utilized for this purpose.

Final Time for Voter to Request Paper Ballot

A paper ballot need not be provided to a voter who expresses a desire to opt out of voting on a DRE machine at the point in time at which the computerized voting machine has been loaded with the appropriate ballot for that voter or the voting machine has otherwise been committed to receiving the votes of that individual. A poll worker in a DRE county is no longer required to provide a paper ballot a voter who requests it at this point in time.

This point in time can be identified as follows:

Premier (Diebold) Accuvote-TSX: Poll workers need no longer provide a paper ballot to a voter requesting one at the point in time that the Voter Access Card is inserted into the AccuVote-TSX.

ES&S iVotronic: Poll workers need no longer provide a paper ballot to a voter requesting one at the point in time that the poll worker has inserted the supervisor PEB containing the ballot image for that voter into the iVotronic.

Hart eSlate: Poll workers need no longer provide a paper ballot to a voter requesting one at the point in time that the poll worker has begun entering data into the Judge's Booth Controller to generate a voter access code for that voter.

Secure Ballot Containers

Boards shall provide a secure ballot container for the voter to place his or her optical scan ballot into after marking the ballot. The paper ballot need not be contained in an envelope when it is inserted into the ballot box. Optical scan paper ballots voted under this directive should be segregated from provisional ballots.

Tabulation

The optical scan ballots cast in a precinct must be centrally counted at the county board of elections on election night as part of the unofficial canvass.

If you have any questions concerning this directive, please contact the elections attorney assigned to your county. Thank you for your cooperation.

Sincerely,

Jennifer Brunner