

CHAPTER 8220
SECRETARY OF STATE
VOTING MACHINES

8220 0650 APPROVAL OF MACHINES OR
SYSTEMS
8220 0800 PROGRAM PREPARATION BONDS

8220 1950 DUPLICATE PROGRAM TO
SECRETARY OF STATE

8220.0650 APPROVAL OF MACHINES OR SYSTEMS.

Subpart 1. Certification. If, from the reports of the demonstration and testing, the secretary of state determines that the machine or system complies with Minnesota statutes and parts 8220.0050 to 8230.4250 and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the machine or system for use in Minnesota. The certification must be limited to specific hardware and software configurations and may not extend to models or configurations not examined. The certification may include stipulations or special procedures for use of the machine or system. No certification may be issued until the vendor has:

[For text of subpart 1, items A and B, see M.R. 1987]

C. certified that the vendor will immediately notify the secretary of state of any modifications to the machine or system and will not offer for sale or provide for use in Minnesota any modified machine or system if the secretary of state advises the vendor that, in the opinion of the secretary, the modifications constitute a significant change requiring that the machine or system be reexamined;

D. deposited with the secretary of state a copy of all programs, documentation, and source code. If the vendor considers this data proprietary, the secretary of state shall maintain the integrity and security of the data; and

E. deposited with the secretary of state a bond in the amount of \$5,000 conditioned on the vendor offering the machine or system for sale in the manner required by parts 8220.0050 to 8230.4450 and any conditions under which the machine or system is certified for use in Minnesota. The form and execution of the bond must be acceptable to the secretary of state. Bonds must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

Subp. 2. Decertification. If a voting machine or system no longer meets the standards of Minnesota statutes or parts 8220.0050 to 8230.4250, the secretary of state may withdraw certification of the voting machine or system. The vendor must be given written notification of intent to withdraw certification and may within ten days of receipt of the notification submit a written request to the secretary of state for a contested case hearing under Minnesota Statutes, sections 14.57 to 14.62.

Subp. 3. Forfeiture of bond. If the secretary of state determines that a vendor has offered for sale or use at an election a voting machine or system in a manner other than that required by parts 8220.0050 to 8230.4450 or any conditions under which the machine or system was certified, the bond required by subpart 1, item E, must be forfeited. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. No machine or system may be subsequently offered for sale or use at an election by the vendor who has received a notice of intent to forfeit the bond or whose bond

has been forfeited, until the vendor has submitted an additional bond in the amount of \$5,000. The secretary of state shall notify each official on the user list of a receipt, forfeiture, or restoration of these bonds.

Statutory Authority: *MS s 206.57 subd 1*

History: *12 SR 1712; 12 SR 2426*

8220.0800 PROGRAM PREPARATION BONDS.

Subpart 1. Amount of bonds. Each vendor preparing programs for use with an electronic voting system shall deposit a bond with the secretary of state in the amount of \$5,000. The form of the bond must be acceptable to the secretary of state. Bonds must be issued by corporations authorized to contract as a surety in Minnesota. This bond is not in lieu of any right of action by the purchaser or the state of Minnesota against the vendor or the surety. The bond is required until the adoption, use, or purchase of the machine, system, or program is discontinued in Minnesota.

Subp. 2. Forfeiture of bonds. If the secretary of state determines that a program used with an electronic voting system was not prepared in the manner required by parts 8220.0050 to 8230.4450 and the written instructions of the official responsible for preparation of the ballots, the bond must be forfeited to the extent necessary to cover actual expenses resulting from the failure of the program. The secretary of state shall determine within 45 days after receiving notification of the failure of a program and a request for reimbursement of expenses resulting from the failure of the program from the appropriate election officials, what actual costs were incurred as a result of the program failure. The secretary of state shall notify the vendor of the intent to forfeit the bond in writing and provide the vendor an opportunity to furnish a written explanation to the secretary of state prior to forfeiture. If required to meet actual expenses in excess of the amount of the bond posted under subpart 1, the secretary of state shall use, to the extent necessary, any bond posted by the vendor under part 8220.0650 as compensation to the election jurisdiction. The secretary of state shall notify each official on the user list of any receipt, forfeiture, or restoration of these bonds.

Statutory Authority: *MS s 206.57 subd 1*

History: *12 SR 2426*

8220.1950 DUPLICATE PROGRAM TO SECRETARY OF STATE.

When state offices and questions are to be voted on, the person preparing the computer program shall deliver an exact duplicate or an exact electronic equivalent of the program to the secretary of state at least three days prior to the election. The program must be sealed so that it cannot be opened without breaking the seal. Attached to the exterior of the sealed program must be a certificate signed by the person who prepared the program naming the election jurisdiction for which the program was prepared and stating that the program is an exact duplicate of the program provided to the election jurisdiction and that the program was prepared in accordance with Minnesota statutes and parts 8220.0050 to 8230.4250 and the instructions of the election jurisdiction requesting the program.

Statutory Authority: *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

History: *12 SR 2215*