

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

400Z0287

## HOUSE BILL NO. 1013

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding voting systems used  
2 in elections and to declare an emergency.

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

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

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 entered directly into a computer by means  
8 of a touch screen or other data entry device and data processing machines which can  
9 be used for counting these votes and tabulating results;
- 10 (2) "Ballot," paper ballots containing the names of candidates and statements of  
11 measures to be voted on;
- 12 (3) "Counting location," any location selected by the person in charge of the election for  
13 the counting of votes cast in an election. A counting location shall be within the  
14 territorial jurisdiction of such person unless there is no suitable tabulating equipment  
15 available within the jurisdiction. However, in any event, all counting locations shall



1 be within this state;

2 (4) ~~"Direct recording electronic," a voting system which records votes by means of a~~  
3 ~~ballot display provided by electro-optical devices that can be actuated by the voter,~~  
4 ~~that process the data by means of a computer program, and that records voting data~~  
5 ~~in internal memory devices;~~

6 ~~(5)~~ "Electronic ballot marking system," any electronic device which marks votes on a  
7 ballot;

8 ~~(6)~~(5) "Optical scan," a procedure in which votes are tabulated by means of examining  
9 marks made in voting response locations on the ballots with an optical mark reader  
10 (OMR);

11 ~~(7)~~(6) "Resolution board," a board at an automatic tabulating location comprised of a  
12 representative from each political party having a candidate on the ballot and whose  
13 candidate on the county-wide ballot at the last general election received at least  
14 fifteen percent of the votes. The county auditor may request additional board  
15 members balanced evenly by party. If the resolution board consists of more than one  
16 member from each party, the party shall designate which member of the party shall  
17 serve as co-leader of the resolution board. The co-leaders shall ensure that each board  
18 member is conducting resolution board duties uniformly and in accordance with  
19 applicable statutes and administrative rules. The board shall determine the disposition  
20 of those ballots which cannot be properly counted by the tabulating equipment and  
21 observe the activities at the counting location on behalf of the board member's  
22 respective party affiliation. In strictly nonpartisan elections, the resolution board shall  
23 be comprised of two persons who are not employees of the jurisdiction conducting  
24 the election and shall be appointed by the person in charge of the election.

1 Section 2. That § 12-17B-2 be amended to read:

2 12-17B-2. Any automatic tabulating, ~~direct recording electronic~~, or electronic ballot marking  
3 system used in an election shall enable the voter to cast a vote for all offices and on all measures  
4 on which the voter is entitled to vote. No automatic tabulating, electronic ballot marking, or  
5 election voting equipment system may be connected to the internet. No ballot marking device  
6 may save or tabulate votes marked on any system. Each system shall fulfill the requirements for  
7 election assistance commission standards certification and be approved by the State Board of  
8 Elections prior to distribution and use in this state. No system may be approved unless the  
9 system fulfills the requirements as established by the State Board of Elections. Any changes or  
10 modifications to an approved system shall be approved by the State Board of Elections prior to  
11 distribution and use.

12 Section 3. That § 12-17B-2.1 be repealed.

13 ~~12-17B-2.1. No direct recording electronic voting system may be certified or used unless~~  
14 ~~it is capable of producing in random order a paper copy of each ballot cast on the system. No~~  
15 ~~direct recording electronic voting system may be certified which transmits uncounted votes or~~  
16 ~~ballots through the internet.~~

17 Section 4. That § 12-17B-3 be amended to read:

18 12-17B-3. Any governing body having supervision of elections within any political  
19 subdivision may adopt, experiment with, or abandon any automatic tabulating, ~~direct recording~~  
20 ~~electronic~~, or electronic ballot marking system approved for use by the State Board of Elections.  
21 Any governing body may use the system in all or some of the precincts within its jurisdiction  
22 or in combination with any other type of voting system approved for use by the State Board of  
23 Elections.

24 Section 5. That § 12-17B-4 be amended to read:

1       12-17B-4. The governing body of a political subdivision may contract with any county for  
2 the use of an automatic tabulating, ~~direct recording electronic~~, or electronic ballot marking  
3 system for elections within the political subdivision.

4       Section 6. Whereas, this Act is necessary for the support of the state government and its  
5 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in  
6 full force and effect from and after its passage and approval.