

**NOTICE OF INTENT TO POST A RULE OF THE STATE ELECTIONS BOARD,
CHAPTER 183-1-15, RULES OF STATE ELECTION BOARD, RULE 183-1-15-.02
DEFINITION OF VOTE
AND NOTICE OF PUBLIC HEARING.**

TO ALL INTERESTED PERSONS AND PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia State Election Board, (hereinafter "SEB") proposes to post an SEB rule, Rule 183-1-15-.02 *Definition of Vote* (hereinafter "proposed rule").

This notice, together with an exact copy of the proposed new rule and a synopsis of the proposed rule, is being distributed to all persons who have requested, in writing, that they be placed on a distribution list. A copy of this notice, an exact copy of the proposed rule amendment, and a synopsis of the proposed rule amendment may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except official state holidays, at the Office of the Secretary of State, Elections Division, 2 Martin Luther King Jr. Drive, S.E., 8th Floor West Tower, Atlanta, Georgia 30334. These documents will also be available for review on the State Election Board's web page at https://sos.ga.gov/index.php/elections/state_election_board. Copies may also be requested by contacting the Elections Division at 404-656-2871.

To provide the public an opportunity to comment upon and provide input into the proposed rule amendment, a public hearing will be held on:

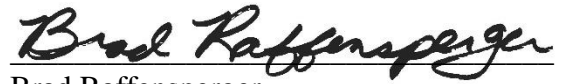
January 22, 2020
9:00 a.m.
2 Martin Luther King Jr. Dr. SE
18th Floor, West Tower
Room 1816
Atlanta, GA 30334

At the public hearing anyone may present data, make a statement, comment or offer a viewpoint or argument whether orally or in writing. Oral statements should be concise and will be limited to 3 minutes per person. Additional comments should be presented in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record on or before January 13, 2020 to the address below. Written comments must be received on or before January 13, 2020 and be addressed to Jasmine Shannon by mail to Office of the Secretary of State, Elections Division, 2 Martin Luther King Jr. Drive, S.E., 8th Floor West Tower, Atlanta, Georgia 30334 or by email to jshannon@sos.ga.gov.

The State Election Board will consider the proposed rule at a meeting scheduled to begin at 9:00 a.m. on January 22, 2020 at 2 MLK Jr. Dr. SE, 18th Floor, West Tower, Room 1816, Atlanta, Georgia 30334.

This notice is given in compliance with O.C.G.A. §50-13-4.

This 19th day of December, 2019.

A handwritten signature in black ink that reads "Brad Raffensperger". The signature is written in a cursive style and is positioned above a horizontal line.

Brad Raffensperger
Chairman, State Elections Board

Posted: December 19, 2019

**SYNOPSIS OF THE PROPOSED RULE OF THE
STATE ELECTIONS BOARD, CHAPTER 183-1-15, RULES OF STATE
ELECTION BOARD, RULE 183-1-15-.02 DEFINITION OF VOTE**

Purpose: The purpose of the rule is to remove the definition of a vote on the old DRE voting system and add a definition for the new electronic ballot marker paper ballot system.

Main Features: The main feature of the rule is to delete the definitions regarding a vote cast on a DRE machine and add a definition for a paper ballot marked by an electronic ballot marker.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED
AMENDMENTS OF THE STATE ELECTION BOARD, CHAPTER 183-1-15,
RULES OF STATE ELECTION BOARD, RULE 183-1-15-.02 DEFINITION OF
VOTE**

NOTE: Struck through text is proposed to be deleted. Underlined text is proposed to be added.

RULE 183-1-15-.02 Definition of Vote

- (1) ~~DRE Equipment. A vote cast on a DRE unit shall be the choice made by a voter by:~~
- ~~(a) Pressing the appropriate place on the DRE unit's touchscreen to cause an "X" or similar designation to display adjacent to the name of the candidate or answer to a question for which the voter desires to vote;~~
 - ~~(b) Typing on the touchscreen the name of a qualified write-in candidate in accordance with the instructions for voting on the DRE unit; or~~
 - ~~(c) Pressing the appropriate buttons on the keypad in the case of persons using the VWD device attached to the DRE unit.~~

(2) Lever-type Voting Machines. A vote cast on a lever-type voting machine shall be the choice made by a voter by either operating the lever adjacent to the name of the candidate or answer to a question for which the voter desires to vote or by writing of the name of a qualified write-in candidate on the machine in accordance with the instructions for voting on the voting machine and then recording such votes on the machine by the actuation of the main lever which casts such votes and returns the other levers to their original positions.

(3) Optical Scan Voting Systems.

- (a) A vote cast on an optical scan ~~voting system~~ ballot marked by hand shall be the choice made by a voter by either:
 - 1. Filling in the oval ~~or completing the arrow~~ adjacent to the name of the candidate or answer to a question for which the voter desires to vote; or

2. Filling in the oval ~~or completing the arrow~~ adjacent to the appropriate write-in space and writing the name of a qualified write-in candidate in the appropriate space on the ballot as specified in the instructions for voting such ballot.
- (b) In reviewing an optical scan ballot marked by hand which has been rejected as containing an overvote in accordance with O.C.G.A. § 21-2-483(g)(2), if the voter filled in the oval ~~or completed the arrow~~ next to the name of a candidate whose name appears on the ballot and filled in the oval ~~or completed the arrow~~ adjacent to the write-in space and wrote the name of the same candidate in the write-in space for the same office, the properly cast vote shall be counted and the write-in vote shall be ignored.
- (c) If, in reviewing an optical scan ballot marked by hand which has been rejected as containing an overvote in accordance with O.C.G.A. § 21-2-483(g)(2), it appears that there is a properly cast vote and what is clearly a stray mark which has caused the ~~tabulator~~ ballot scanner to read the vote for such office as an overvote, the properly cast vote shall be counted and the stray mark shall be ignored.
- (d) If, in reviewing an optical scan ballot marked by hand which has been rejected as containing an overvote in accordance with O.C.G.A. § 21-2-483(g)(2), a voter marks his or her ballot in a manner other than that specified by law and this rule, the votes shall be counted if, in the opinion of the vote review panel as provided in O.C.G.A. § 21-2-483(g)(2)(B), the voter has clearly and without question indicated the candidate or candidates and answers to questions for which such voter desires to vote.
- (e) When an optical scan ballot marked by hand contains stray marks or marks which prevent the ~~tabulating machine~~ ballot scanner from properly recording valid votes as determined under this rule and by law, the ballot shall be duplicated in accordance with law to correct such problems and the duplicate shall then be tabulated.
- (f) In lieu of manually duplicating a ballot pursuant to paragraph (e), the manual review of ballots with overvotes by vote review panels pursuant to O.C.G.A. § 21-2-483(g) may be done by reviewing a digital image of the ballot and electronically adjudicating the intent of the voter, if such determination is recorded on the digital image of the ballot.
- (f) When an optical scan ballot marked by an electronic ballot marker contains marks added, in addition to what was printed by the electronic ballot marker, the additional marks shall be ignored.

(43) Paper Ballots.

(a) A vote cast on a paper ballot that is not counted by an optical scan system (i.e. in certain municipal elections) shall be a choice made by a voter by either:

1. Placing an "X", a check, or other similar mark in the square adjacent to the name of the candidate or answer to a question for which the voter desires to vote; or
 2. Writing the name of a qualified write-in candidate in the appropriate space on the ballot as specified in the instructions for voting such ballot.
- (b) If a voter marks his or her paper ballot in a manner other than that specified by law and this rule, the votes shall be counted if, in the opinion of the poll officers as provided in O.C.G.A. § 21-2-439, the voter has clearly and without question indicated the candidate or candidates and answers to questions for which such voter desires to vote.
- (c) If the voter marked the square next to the name of a candidate whose name appears on the ballot and wrote in the name of the same candidate in the write-in space for the same office, the properly cast vote shall be counted and the write-in vote shall be ignored.

(5) Write-in Votes. In no event shall votes cast for write-in candidates who have not qualified in accordance with O.C.G.A. § 21-2-133 be counted or recorded.

Authority: O.C.G.A. §§ 21-2-2, 21-2-31, 21-2-133, 21-2-439, 21-2-483

COPY OF THE PROPOSED NEW RULE

RULE 183-1-15-.02 Definition of Vote

(1) Lever-type Voting Machines. A vote cast on a lever-type voting machine shall be the choice made by a voter by either operating the lever adjacent to the name of the candidate or answer to a question for which the voter desires to vote or by writing of the name of a qualified write-in candidate on the machine in accordance with the instructions for voting on the voting machine and then recording such votes on the machine by the actuation of the main lever which casts such votes and returns the other levers to their original positions.

(2) Optical Scan Voting Systems.

- (a) A vote cast on an optical scan ballot marked by hand shall be the choice made by a voter by either:

1. Filling in the oval adjacent to the name of the candidate or answer to a question for which the voter desires to vote; or
 2. Filling in the oval adjacent to the appropriate write-in space and writing the name of a qualified write-in candidate in the appropriate space on the ballot as specified in the instructions for voting such ballot.
- (b) In reviewing an optical scan ballot marked by hand which has been rejected as containing an overvote in accordance with O.C.G.A. § 21-2-483(g)(2), if the voter filled in the oval next to the name of a candidate whose name appears on the ballot and filled in the oval adjacent to the write-in space and wrote the name of the same candidate in the write-in space for the same office, the properly cast vote shall be counted and the write-in vote shall be ignored.
- (c) If, in reviewing an optical scan ballot marked by hand which has been rejected as containing an overvote in accordance with O.C.G.A. § 21-2-483(g)(2), it appears that there is a properly cast vote and what is clearly a stray mark which has caused the ballot scanner to read the vote for such office as an overvote, the properly cast vote shall be counted and the stray mark shall be ignored.
- (d) If, in reviewing an optical scan ballot marked by hand which has been rejected as containing an overvote in accordance with O.C.G.A. § 21-2-483(g)(2), a voter marks his or her ballot in a manner other than that specified by law and this rule, the votes shall be counted if, in the opinion of the vote review panel as provided in O.C.G.A. § 21-2-483(g)(2)(B), the voter has clearly and without question indicated the candidate or candidates and answers to questions for which such voter desires to vote.
- (e) When an optical scan ballot marked by hand contains stray marks or marks which prevent the ballot scanner from properly recording valid votes as determined under this rule and by law, the ballot shall be duplicated in accordance with law to correct such problems and the duplicate shall then be tabulated.
- (f) In lieu of manually duplicating a ballot pursuant to paragraph (e), the manual review of ballots with overvotes by vote review panels pursuant to O.C.G.A. § 21-2-483(g) may be done by reviewing a digital image of the ballot and electronically adjudicating the intent of the voter, if such determination is recorded on the digital image of the ballot.
- (g) When an optical scan ballot marked by an electronic ballot marker contains marks added, in addition to what was printed by the electronic ballot marker, the additional marks shall be ignored.

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(b) If a voter marks his or her paper ballot in a manner other than that specified by law and this rule, the votes shall be counted if, in the opinion of the poll officers as provided in O.C.G.A. § 21-2-439, the voter has clearly and without question indicated the candidate or candidates and answers to questions for which such voter desires to vote.

(c) If the voter marked the square next to the name of a candidate whose name appears on the ballot and wrote in the name of the same candidate in the write-in space for the same office, the properly cast vote shall be counted and the write-in vote shall be ignored.

(4) Write-in Votes. In no event shall votes cast for write-in candidates who have not qualified in accordance with O.C.G.A. § 21-2-133 be counted or recorded.

Authority: O.C.G.A. §§ 21-2-2, 21-2-31, 21-2-133, 21-2-439, 21-2-483