

Andrea Gyger

From: Ed Smith [REDACTED]
Sent: Wednesday, June 08, 2016 11:44 AM
To: SoS Rulemaking
Cc: 'Moore Larry'
Subject: comments regarding proposed election Rules
Attachments: Clear_Ballot_comment_June2016_election_rulemaking.pdf

Mr. Secretary:

Please see the attached for comments from Clear Ballot Group regarding Rule changes proposed by your offices. We thank you in advance for your consideration of these comments.

Best Regards,
Ed Smith

Ed Smith

Vice President,
Products



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June 8, 2016

The Honorable Wayne Williams
Colorado Secretary of State
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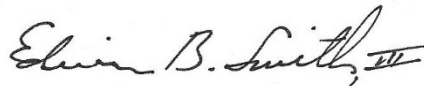
*sent via electronic mail
three pages, no attachments*

Secretary Williams:

Clear Ballot Group notes the proposed elections Rulemaking described in your announcement of June 1, 2016. We wish to comment on section 18.3 of the proposed Rules. In summary, the proposed Rule changes limit polling place optical scan voting machines to the type that contain a physical diverter mechanism. The diverter actuates to physically separate ballots containing programmed conditions such as write-in votes into compartments of the ballot box attached to an optical scan voting machine. Such technology has been in existence for decades and was present on the earliest polling place optical scan voting machines. Diverter mechanisms have been known to fail since they contain moving parts and must be energized and actuated to perform ballot diversion. Newer voting systems have evolved past the need for diverter mechanisms. These systems place ballots with programmed conditions that would have traditionally led to diversion into virtual ballot boxes, from which authorized jurisdiction staff can adjudicate write-ins and other required conditions electronically.

The changes to the proposed Rules that Clear Ballot requests would allow for electronic adjudication and keep Colorado election Rules in line with existing voting system technology. We respectfully ask the Secretary to consider this request and express our thanks for that consideration. Below you will find the Rule as proposed by your office, followed by blackline edits of the Rule. There are two areas of change, one in 18.3.1 A and the other in 18.3.1 B. There are also explanatory notes following 18.3.1 B and 18.3.1 C.

Sincerely,



Edwin B. Smith, III
Vice President, Product



Clear Ballot

AS PROPOSED:

18.3 ~~Uniform Counting Standards for Optical Scan Ballots~~ COUNTING PAPER BALLOTS ON BALLOT SCANNERS

18.3.1 ~~Optical Scan Procedures FOR COUNTING PAPER BALLOTS ON BALLOT SCANNERS at a voter service and polling center~~ POLLING LOCATIONS

(A) THE COUNTY CLERK MUST PROGRAM POLLING LOCATION BALLOT SCANNERS TO SORT BALLOTS WITH WRITE-IN VOTES TO A SEGREGATED BIN OF THE BALLOT BOX AND TO INITIALLY REJECT BLANK BALLOTS AND BALLOTS WITH OVERVOTES.

~~(a)~~(B) Voters whose ballots are INITIALLY rejected ~~or sorted by a voter service and polling center~~ BY A POLLING LOCATION BALLOT scanner as a blank or overvoted ballot must be given the opportunity to REVIEW AND correct their ballot. IF AFTER REVIEW, A VOTER REQUESTS TO CAST THE BLANK OR OVERVOTED BALLOT AS ORIGINALLY MARKED, AN ELECTION JUDGE MUST ASSIST THE VOTER BY OVERRIDING THE INITIAL REJECTION SETTING ON THE BALLOT SCANNER.

~~(b)~~(C) ~~Ballots~~ AT THE CONCLUSION OF VOTING EACH DAY, BALLOTS sorted to a write-in bin must be ~~tallied at the conclusion of the voting and~~ delivered to the central ~~counting center~~ COUNT LOCATION in a secure container FOR RESOLUTION IN ACCORDANCE WITH RULE 18.5.3.

WITH CLEAR BALLOT GROUP REQUESTED EDITS:

18.3 ~~Uniform Counting Standards for Optical Scan Ballots~~ COUNTING PAPER BALLOTS ON BALLOT SCANNERS

18.3.1 ~~Optical Scan Procedures FOR COUNTING PAPER BALLOTS ON BALLOT SCANNERS at a voter service and polling center~~ POLLING LOCATIONS

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~~(a)~~(B) Voters whose ballots are INITIALLY rejected ~~or sorted by a voter service and polling center~~ BY A POLLING LOCATION BALLOT scanner as a blank or overvoted ballot must be given the opportunity to REVIEW AND correct their ballot. IF AFTER REVIEW, A VOTER REQUESTS TO CAST THE BLANK OR OVERVOTED BALLOT AS ORIGINALLY MARKED, AN ELECTION JUDGE MUST ASSIST THE VOTER BY OVERRIDING THE INITIAL REJECTION SETTING ON THE BALLOT SCANNER ~~IF THE VOTER CANNOT MAKE AN OVERRIDE SELECTION AT THE POLLING LOCATION BALLOT SCANNER~~ [this

addition allows for scanners that allow the voter to choose whether to cast their ballot as is or to have the scanner return their ballot for subsequent correction].

~~(b)(C) Ballots~~ AT THE CONCLUSION OF VOTING EACH DAY, BALLOTS sorted to a write-in bin must be ~~tallied at the conclusion of the voting and~~ delivered to the central ~~counting center~~ COUNT LOCATION in a secure container FOR RESOLUTION IN ACCORDANCE WITH RULE 18.5.3. [one might think that based on the edits to 18.3.1 A and B above that C also requires a corresponding edit. However, since ballots containing write-in votes for eventual electronic adjudication are automatically brought to the central counting location, aka Election Central, no edit to this section is needed. Ballots sorted to a physical write-in bin instead of a virtual electronic “bin” do indeed need to be delivered to Election Central as dictated by this edited clause.]