

**RULES
OF
SECRETARY OF STATE
STATE COORDINATOR OF ELECTIONS**

**CHAPTER 1360—2—18
DOWNLOADING EARLY VOTING RESULTS**

TABLE OF CONTENTS

1360—2—18—.01	Adoption and promulgation	1360—2—18—.07	Officials Involved In Removing Results
1360—2—18—.02	Intent of regulations	1360—2—18—.08	Certifying the condition of the machines
1360—2—18—.03	State Election Code Governs	1360—2—18—.09	Removing Results From Microvote Machines
1360—2—18—.04	Regulations Have Force of Law	1360—2—18—.10	Removing Results From Shouptronic Machines
1360—2—18—.05	Removing Results from Mechanical Lever Machines	1360—2—18—.11	Storage of the Results until Election Day
1360—2—18—.06	Provision of Notice		

1360—2—18—.01 ADOPTION AND PROMULGATION. The following rules and regulations for removing voting results from machines used in early voting in the State of Tennessee are hereby adopted and promulgated by the Coordinator of Elections of the State of Tennessee and approved by the Tennessee Secretary of State under the authority of Sections 2—11—201(c) and 2—6—304(e), Tennessee Code Annotated.

Authority: T.C.A. §§2—11—201(c) and 2—6—304(e). *Administrative History:* Original rule filed September 21, 1995; effective January 28, 1996.

1360—2—18—.02 INTENT OF REGULATIONS. It is the intent of these regulations to provide standard procedures for removing voting results from machines used in early voting in the State of Tennessee in such a manner that:

- (a) The freedom and purity of the ballot is safeguarded;
- (b) The several county election commissions in this state shall be able to use voting machines for early voting and retain the option to use the same machines on election day;
- (c) Each voter's vote will be accurately and honestly counted;
- (d) A uniform procedure for removing results from machines used in early voting will be in use throughout the State of Tennessee;
- (e) Maximum participation by all citizens in the electoral process will be encouraged; and
- (f) The total of votes cast will accurately reflect the will of the voters participating in any given election.

Authority: T.C.A. §§2—11—201(c) and 2—6—304(e). *Administrative History:* Original rule filed September 21, 1995; effective January 28, 1996.

1360—2—18—.03 STATE ELECTION CODE GOVERNS. The Election Code of the State of Tennessee as embodied in Chapter 740, Public Acts of the General Assembly of Tennessee, 1972 (Title 2, Tennessee Code Annotated), as amended, shall govern the procedures for early voting.

Authority: T.C.A. §§2—11—201(c) and 2—6—304(e). *Administrative History:* Original rule filed September 21, 1995; effective January 28, 1996.

1360—2—18—.04 REGULATIONS HAVE FORCE OF LAW. These regulations shall have the force of law until otherwise adopted, modified, amended, or repealed by the General Assembly of the State of Tennessee. Failure to follow the procedures of these rules shall be cause for a disciplinary hearing before the State Election Commission to investigate the actions of the county election commission.

Authority: T.C.A. §§2—11—201(c) and 2—6—304(e). *Administrative History:* Original rule filed September 21, 1995; effective January 28, 1996.

1360—2—18—.05 REMOVING RESULTS FROM MECHANICAL LEVER MACHINES. In removing the results from mechanical lever machines, the County Election Commission shall follow the procedures outlined in T.C.A. § 2—7—130. As the statute indicates, this process should not begin until after the close of polls on election day. Mechanical lever machines used in early voting may not be reset and used again on election day.

Authority: T.C.A. §§2—11—201(c) and 2—6—304(e). *Administrative History:* Original rule filed September 21, 1995; effective January 28, 1996.

1360—2—18—.06 PROVISION OF NOTICE. The county election commission shall provide notice to all candidates and political parties of the place and time when the individual machine results will be removed from those electronic voting machines used during early voting. Votes must be removed from the machines in such a manner so that no vote totals can be associated with any candidate at the time of removal. In no event may the votes for any candidate be totaled until after all polls in the county are closed. All machines used in early voting shall be brought to the location designated in the notice and the results removed on that occasion.

Authority: T.C.A. §§2—11—201(c) and 2—6—304(e) *Administrative History:* Original rule filed September 21, 1995; effective January 28, 1996.

1360—2—18—.07 OFFICIALS INVOLVED IN REMOVING RESULTS. The majority party members of the county election commission shall appoint one person and the minority party members of the county election commission shall appoint one person to represent their respective parties in performing the task of removing the results from machines used in early voting. These representatives may be a machine technician, a member of the county election commission, or someone else knowledgeable about the operation of voting machines. Additionally, the registrar, or someone designated by the registrar, shall be present while results are removed from the machine. While this process is conducted, others may be present to observe, but may not approach within ten feet (10') of the voting machine.

Authority: T.C.A. §§2—11—201(c) and 2—6—304(e). *Administrative History:* Original rule filed September 21, 1995; effective January 28, 1996.

360—2—18—.08 CERTIFYING THE CONDITION OF THE MACHINES. Prior to opening the machine, the registrar or deputy registrar and a representative of the majority political party and of the minority political party (these representatives may be the machine technicians) shall examine all seals and counter numbers on the machine for signs of tampering and compare the numbers with the closing inspection figures on the Daily Machine Certification for the last day of early voting. If there are any discrepancies, the machine shall not be opened. Any problems shall be reported to the Coordinator of Elections while the machine remains locked and sealed. If there are no problems, the registrar and the representative of each political party shall date and sign the Daily Machine Certification.

Authority: T.C.A. §§2—11—201(c) and 2—6—304(e). *Administrative History:* Original rule filed September 21, 1995; effective January 28, 1996.

1360—2—18—.09 REMOVING RESULTS FROM MICROVOTE MACHINES. The county election commission shall follow substantially the same procedures as are performed on election night to remove vote totals from voting machines produced by the Microvote Corporation, with exceptions only as noted below.

- (1) When programming the machines prior to early voting, the machine must be set to print results by NUMERIC report under the ADVANCED UTILITIES options, as opposed to ALPHA-NUMERIC.

(Rule 1360-2-18-.09, continued)

- (2) One of the technicians shall cut the seal on the judge's compartment access cover. The technician shall slide back the cover and press the latch bar to open the door on the judge's compartment. The technician shall press the MODE button and then press the CAST VOTE button to begin tallying the results. No other buttons shall be pressed on the machine until after the memory cartridge has been removed. The judge's compartment door shall be closed while the printer is printing the results.
- (3) Once the printer has stopped printing the results, a technician shall open the judge's compartment door and remove the tape with the printed results from the spool without unwinding the tape. This tape shall immediately be placed in an envelope without examination; the technician shall mark the envelope with the number of the voting machine and any other necessary information for matching the results to the appropriate elections.
- (4) A technician shall then open the custodian's compartment and remove the audit trail tape in the same manner as the tape with the official results. This tape shall be placed in the envelope with the other printout. The envelope shall be sealed and the representative of each political party and the registrar shall sign across the flap of the envelope. The envelope shall then be placed in a ballot box.
- (5) A technician shall cut the seal inside the judge's compartment and then remove the memory cartridge and place it in a separate envelope from the printout. The envelope shall be sealed and the representative of each political party and the registrar shall sign across the flap of the envelope. The envelope shall then be placed in a ballot box.

Authority: T.C.A. §§2—11—201(c) and 2—6—304(e). **Administrative History:** Original rule filed September 21, 1995; effective January 28, 1996.

1360—2—18—.10 REMOVING RESULTS FROM SHOUPTRONIC MACHINES.

- (1) After the machine has been examined according to the manner described in 1360—2—18—.08, a technician shall cut the necessary seals and open the back of the machine. The CLOSE POLLS button shall *NOT* be pressed.
- (2) The technician shall enter the necessary instructions to cause the machine to print a numerically coded report that indicates election results according to ballot position. Once the machine has stopped printing the results, a technician shall cut the necessary seals and open the printer compartment. The printer tape shall be removed without examination. This tape shall be immediately placed in an envelope. The envelope shall be marked with the machine number and any other necessary information for matching the results to the appropriate elections. The envelope shall be sealed and the representative of each political party and the registrar shall sign across the flap of the envelope. The envelope shall then be placed in a ballot box.
- (3) Next, a technician shall remove the memory cartridge from the machine. The cartridge shall be placed in a separate envelope from the printed tape. The envelope shall be marked with the machine number and any other necessary information for matching the results to the appropriate elections. The envelope shall be sealed and the representative of each political party and the registrar shall sign across the flap of the envelope. The envelope shall then be placed in a ballot box.
- (4) In order to remove the resident memory of results in the voting machine, a new cartridge programmed for use on election day shall be placed in the machine and the machine shall immediately be programmed for re-use. Even if the county election commission is uncertain about whether it will need a machine or does not intend to use an early voting machine on election

(Rule 1360-2-18-.10, continued)

day, the machine must be reprogrammed using either a demonstration cartridge or any other available cartridge which will reset the machine's internal memory.

Authority: *T.C.A. §§2—11—201(c) and 2—6—304(e). Administrative History: Original rule filed September 21, 1995; effective January 28, 1996.*

1360—2—18—.11 STORAGE OF THE RESULTS UNTIL ELECTION DAY.

- (1) After each machine used in early voting has been processed in the same manner, all the envelopes containing printer tapes and memory cartridges shall be locked and sealed in ballot boxes and stored in a secure location until election day. To prevent the loss of both formats of the results, the printer tapes shall be stored in one ballot box and the memory cartridges stored in a separate box. After the results have been certified, these materials may be stored in the same manner as the other records of the election. The ballot boxes shall be locked with one lock provided by a county election commissioner of the majority party and another lock provided by a commissioner of the minority party. The commissioners shall retain the keys personally. The boxes may not be unlocked except when the votes are to be counted. In addition to the locks, the county election commission shall place two (2) numbered seals on each ballot box with one (1) seal each placed by a county election commissioner of each party. Such seal numbers shall be recorded by the registrar and certified in duplicate by a commissioner of each party, and the original shall be forwarded by mail immediately to the office of the Coordinator of Elections and the duplicate shall be filed in the county election commission office. The seals may not be broken except when the votes are to be counted. If a seal or seals are broken, the registrar shall immediately attach new numbered seals and certify in writing to the Coordinator of Elections the numbers and a description of the circumstances necessitating this action.
- (2) On election day, the absentee counting board shall follow the procedures in *T.C.A. § 2—6—304*, as amended, for opening the ballot box containing the memory cartridges. Unless a county is unable to retrieve the results from a memory cartridge, the envelopes containing the printouts should not be opened until after the close of polls on election day. The memory cartridges shall be delivered to the staff member of the county election commission who is responsible for downloading the data from the cartridges into the computer. If the election commission discovers that it cannot read the data on a memory cartridge, then the envelope containing the printer tape from the same machine may be opened and processed by the absentee counting board. As required in *T.C.A. §2—6—304(c)*, the votes for any candidate may not be totaled until after all polls in the county are closed.

Authority: *T.C.A. §§2—11—201(c) and 2—6—304(e). Administrative History: Original rule filed September 21, 1995; effective January 28, 1996.*