2016

MINNESOTA ELECTION LAWS

Office of the Minnesota Secretary of State
Elections Division

Annotations provided by
Minnesota Attorney General

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CONSTITUTION OF THE UNITED STATES 21
ARTICLE I 21
ARTICLE II 21
CONSTITUTIONAL AMENDMENTS OF THE UNITED STATES 22
AMENDMENT XII 22
AMENDMENT XV 22
AMENDMENT XVII 22
AMENDMENT XIX 23
AMENDMENT XX 23
AMENDMENT XXII 23
AMENDMENT XXIV 23
AMENDMENT XXVI 23
CONSTITUTION OF THE STATE OF MINNESOTA (SELECTED PROVISIONS) 25
ARTICLE I - BILL OF RIGHTS 25
Sec. 17. Religious tests and property qualifications prohibited. 25
ARTICLE IV - LEGISLATIVE DEPARTMENT 25
Sec. 3. Census Enumeration Apportionment: Congressional and Legislative District Boundaries; Senate Districts. 25
Sec. 5. Restriction on holding office. 25
Sec. 6. Qualification of legislators; judging election returns and eligibility. 25
Sec. 8. Oath of office. 25
ARTICLE V - EXECUTIVE DEPARTMENT 26
Section 1. Executive officers. 26
Sec. 2. Term of governor and lieutenant governor; qualifications. 26
Sec. 4. Terms and salaries of executive officers. 26
Sec. 5. Succession to offices of governor and lieutenant governor. 26
Sec. 6. Oath of office of state officers. 26
ARTICLE VI - JUDICIARY 26
Sec. 5. Qualifications; compensation. 26
Sec. 6. Holding other office. 26
Sec. 7. Term of office; election. 26
Sec. 8. Vacancy 27
ARTICLE VII - ELECTIVE FRANCHISE 27
Section 1. Eligibility; place of voting; ineligible persons. 27
Sec. 2. Residence. 27
Sec. 3. Uniform oath at elections 28
Sec. 4. Civil process suspended on election day. 28
Sec. 5. Elections by ballot. 28
Sec. 6. Eligibility to hold office. 28
Sec. 7. Official year of state. 28
Sec. 8. Election returns to secretary of state; board of canvassers. 28
ARTICLE VIII - IMPEACHMENT AND REMOVAL FROM OFFICE 31
Section 1. Impeachment powers. 31
Sec. 2. Officers subject to impeachment; grounds; judgment. 31
Sec. 5. Removal of inferior officers. 31
Sec. 6. Recall. 31

ARTICLE IX - AMENDMENTS TO THE CONSTITUTION. 32
Section 1. Amendments; ratification. 32
Sec. 2. Constitutional convention. 32
Sec. 3. Submission to people of constitution drafted at convention. 32
2016 MINNESOTA ELECTION LAWS. 33
CHAPTER 200 - GENERAL PROVISIONS; DEFINITIONS. 33
200.01 CITATION, MINNESOTA ELECTION LAW. 33
200.015 APPLICATION. 33
200.02 DEFINITIONS. 33
200.031 DETERMINATION OF RESIDENCE. 36
200.039 PETITION REQUIREMENTS FOR BALLOT QUESTIONS. 37
200.04 HELP AMERICA VOTE ACT COMPLAINTS. 37
CHAPTER 201 - REGISTRATION AND ELIGIBILITY OF VOTERS. 39
201.01 DEFINITIONS. 39
201.014 ELIGIBILITY TO VOTE. 39
201.016 RESIDENCE REQUIREMENTS FOR VOTING; VIOLATIONS; PENALTY. 39
201.018 REGISTRATION FOR VOTING. 40
201.021 PERMANENT REGISTRATION SYSTEM. 40
201.022 STATEWIDE REGISTRATION SYSTEM. 40
201.023 VOTER REGISTRATION. 41
201.054 METHODS OF REGISTERING; PENALTY. 41
201.056 SIGNATURE OF REGISTERED VOTER; MARKS ALLOWED. 42
201.061 REGISTRATION ON OR BEFORE ELECTION DAY. 42
201.071 REGISTRATION APPLICATIONS. 46
201.081 REGISTRATION FILES. 48
201.091 REGISTERED VOTER LISTS; REPORTS; REGISTRATION PLACES. 48
201.096 SCHOOL ELECTIONS; USE OF VOTER REGISTRATION SYSTEM. 50
201.11 PRECINCT BOUNDARIES; HOUSE NUMBER; STREET ADDRESS CHANGED, CHANGE OF FILES. 50
201.12 PROPER REGISTRATION, VERIFICATION BY MAIL, CHALLENGES. 50
201.121 ENTRY OF NAMES; MAILED NOTICE. 51
201.13 REPORT OF DECEASED VOTERS; CHANGES TO VOTER RECORDS. 52
201.14 COURT ADMINISTRATOR OF DISTRICT COURT, REPORT CHANGES OF NAMES. 53
201.15 DISTRICT JUDGE, REPORT GUARDIANSHIPS AND COMMITMENTS. 54
201.155 REPORT ON FELONY CONVICTIONS. 54
201.157 USE OF DEPARTMENT OF CORRECTIONS DATA. 55
201.158 USE OF DEPARTMENT OF PUBLIC SAFETY DATA. 55
201.161 DRIVER'S LICENSE AND IDENTIFICATION CARD APPLICATIONS. 56
201.1611 POST-SECONDARY INSTITUTION VOTER REGISTRATION. 56
201.1615 INFORMATION SHARING; USE OF SOCIAL SECURITY NUMBER. 56
201.162 DUTIES OF STATE AGENCIES. 57
201.171 POSTING VOTING HISTORY; FAILURE TO VOTE; REGISTRATION REMOVED. 57
201.195 CHALLENGES. 57
201.211 COSTS. 58
201.221 RULES. 58
201.225 ELECTRONIC ROSTER AUTHORIZATION. 59
201.27 VIOLATIONS; PENALTY. 61
201.275 INVESTIGATIONS; PROSECUTIONS. 61

CHAPTER 202A - CAUCUSES AND CONVENTIONS 63
202A.01 DEFINITIONS. 63
202A.11 PARTY NAME. 63
202A.12 STATE CONVENTION, AUTHORITY OF. 63
202A.13 COMMITTEES, CONVENTIONS. 64
202A.135 LEAVE TIME FROM EMPLOYMENT; PARTY OFFICERS; DELEGATES TO PARTY CONVENTIONS. 64
202A.14 PRECINCT CAUCUS. 64
202A.15 TIME AND PLACE OF CAUCUS. 66
202A.155 INTERPRETER SERVICES; CAUCUS MATERIALS. 66
202A.156 INTERPRETER SERVICES AND ACCESSIBLE PRECINCT CAUCUS EXEMPTIONS. 67
202A.16 CAUCUS, WHO MAY PARTICIPATE AND VOTE. 67
202A.18 CAUCUS, PROCEDURE. 67
202A.19 CAUCUS, SCHOOL SCHEDULE PREEMPTION, EXCUSAL FROM EMPLOYMENT TO ATTEND. 68
202A.192 USE OF PUBLIC FACILITIES. 68
202A.20 CAUCUS INFORMATION; RESULTS. 69
CHAPTER 203B - ABSENTEE VOTING 71
203B.001 ELECTION LAW APPLICABILITY. 71
203B.01 ABSENTEE BALLOTING; DEFINITIONS. 71
203B.02 GENERAL ELIGIBILITY REQUIREMENTS. 71
203B.03 PROHIBITIONS; PENALTIES. 71
203B.04 APPLICATION FOR BALLOTS. 72
203B.05 DESIGNATION OF MUNICIPAL CLERKS TO ADMINISTER ABSENTEE VOTING LAWS. 74
203B.06 APPLICATIONS; FILING WITH COUNTY AUDITOR OR MUNICIPAL CLERK; DELIVERY OF BALLOT. 75
203B.065 USING THE REGISTRATION SYSTEM. 77
203B.07 RETURN AND BALLOT ENVELOPES; DIRECTIONS TO VOTERS. 77
203B.08 MARKING AND RETURN OF ABSENTEE BALLOTS 78
203B.081 LOCATIONS AND METHODS FOR ABSENTEE VOTING IN PERSON. 79
203B.085 COUNTY AUDITOR'S OFFICE AND TOWN CLERK'S OFFICE TO REMAIN OPEN DURING CERTAIN HOURS PRECEDING ELECTION. 80
203B.09 FORM AND CONTENT OF REQUIRED MATERIALS; RULES OF SECRETARY OF STATE. 80
203B.11 HOSPITAL PATIENTS AND RESIDENTS OF HEALTH CARE FACILITIES. 80
203B.12 ABSENTEE VOTER NAMES. 81
203B.121 BALLOT BOARDS. 81
203B.125 SECRETARY OF STATE TO MAKE RULES. 84
203B.14 COUNTY AUDITOR OR MUNICIPAL CLERK MAY EMPLOY ADDITIONAL HELP. 84
203B.15 ADMINISTRATIVE EXPENSES. 84
203B.16 ABSENT VOTERS IN THE MILITARY OR OUTSIDE THE UNITED STATES. 84
203B.17 APPLICATION FOR BALLOT. 85
203B.18 FORWARDING APPLICATIONS. 86
203B.19 RECORDING APPLICATIONS. 87
203B.20 CHALLENGES. 87
203B.21 BALLOTS AND ENVELOPES. 87
203B.22 TRANSMITTING BALLOTS. 88
203B.225 TRANSMITTING AND RETURNING BALLOTS. 89
203B.227 WRITE-IN ABSENTEE BALLOT. 89
203B.23 ABSENTEE BALLOT BOARD. 89
203B.24 DUTIES OF ELECTION JUDGES. 90
203B.26 SEPARATE RECORD. 91
203B.27 EXPENSE CHARGEABLE TO GENERAL REVENUE. 91

203B.28 POSTELECTION REPORT TO LEGISLATURE 91
CHAPTER 204B - ELECTIONS; GENERAL PROVISIONS 93
204B.01 DEFINITIONS. 93
204B.02 APPLICATION. 93
204B.03 MANNER OF NOMINATION. 93
204B.04 CANDIDACY; PROHIBITIONS. 93
204B.06 FILING FOR PRIMARY; AFFIDAVIT OF CANDIDACY. 94
204B.07 NOMINATING PETITIONS. 97
204B.071 PETITIONS, RULES OF SECRETARY OF STATE. 98
204B.08 SIGNING PETITIONS. 98
204B.09 TIME AND PLACE OF FILING AFFIDAVITS AND PETITIONS. 99
204B.10 AFFIDAVITS OF CANDIDACY; NOMINATING PETITIONS; DUTIES. 101
204B.11 CANDIDATES; FILING FEES; PETITION IN PLACE OF FILING FEE. 102
204B.12 WITHDRAWAL OF CANDIDATES. 103
204B.13 VACANCY IN NOMINATION; PARTISAN OFFICE. 103
204B.131 VACANCY IN NOMINATION; NONPARTISAN OFFICE. 106
204B.135 REDISTRICTING OF ELECTION DISTRICTS. 106
204B.14 ELECTION PRECINCTS. 107
204B.145 DUTIES OF SECRETARY OF STATE; REDISTRICTING. 110
204B.146 DUTIES OF SECRETARY OF STATE. 110
204B.15 UNORGANIZED TERRITORY; ELECTION PRECINCTS. 111
204B.16 POLLING PLACES; DESIGNATION. 111
~~204B.17 CHANGE OF POLLING PLACE BY ELECTION JUDGES~~. [Repealed, 2016 c 161 art 3 s 5] 113
204B.175 CHANGE OF POLLING PLACE IN AN EMERGENCY. 113
204B.18 POLLING PLACES; EQUIPMENT. 114
204B.181 ELECTION EMERGENCY PLANS. 115
204B.19 ELECTION JUDGES; QUALIFICATIONS. 116
204B.195 TIME OFF FROM WORK TO SERVE AS ELECTION JUDGE. 117
204B.20 ELECTION BOARD; HEAD ELECTION JUDGE; DUTIES. 117
204B.21 APPOINTMENT OF ELECTION JUDGES. 117
204B.22 ELECTION JUDGES; NUMBER REQUIRED. 118
204B.23 VACANCIES AMONG ELECTION JUDGES. 119
204B.24 ELECTION JUDGES; OATH. 119
204B.25 TRAINING FOR ELECTION JUDGES. 120
204B.26 ELECTION JUDGES; VIOLATIONS; PENALTIES. 120
204B.27 DUTIES OF SECRETARY OF STATE. 120
204B.28 CLERKS; ELECTION SUPPLIES; DUTIES. 121
204B.29 ELECTION JUDGES; ELECTION SUPPLIES; DUTIES. 122
204B.30 UNOFFICIAL BALLOTS. 123
204B.31 COMPENSATION FOR ELECTION SERVICES. 123
204B.32 ELECTION EXPENSES; PAYMENT. 124
204B.33 NOTICE OF FILING. 124
204B.34 NOTICE OF ELECTION. 125
204B.35 PREPARATION OF BALLOTS. 125
204B.36 BALLOTS; FORM. 127
204B.37 BACK OF BALLOT. 128
204B.38 NAMES ON BALLOTS; IDENTICAL DESCRIPTIVE WORDS. 129
204B.39 SUBSTITUTE BALLOTS. 129

204B.40 BALLOTS, ELECTION RECORDS AND OTHER MATERIALS; DISPOSITION; INSPECTION OF BALLOTS. 129
204B.43 UNLAWFUL PRINTING OR DISTRIBUTION OF BALLOTS; PENALTY. 130
204B.44 ERRORS AND OMISSIONS; REMEDY. 130
204B.45 MAIL BALLOTING. 132
204B.46 MAIL ELECTIONS; QUESTIONS. 133
204B.47 ALTERNATE ELECTION PROCEDURES; DUTIES OF SECRETARY OF STATE. 134
204B.48 VOTING EQUIPMENT GRANT ACCOUNT. 134
CHAPTER 204C - ELECTION DAY ACTIVITIES 137
204C.01 DEFINITIONS. 137
204C.02 CHAPTER APPLICATION; INDIVIDUALS UNABLE TO WRITE. 137
204C.03 PUBLIC MEETINGS PROHIBITED ON ELECTION DAY. 137
204C.035 DECEPTIVE PRACTICES IN ELECTIONS. 137
204C.04 EMPLOYEES; TIME OFF TO VOTE. 138
204C.05 STATE ELECTIONS; HOURS FOR VOTING. 138
204C.06 CONDUCT IN AND NEAR POLLING PLACES. 139
204C.07 CHALLENGERS. 140
204C.08 OPENING OF POLLING PLACES. 141
204C.09 BALLOT PREPARATION BY ELECTION JUDGES. 143
204C.10 PERMANENT REGISTRATION; VERIFICATION OF REGISTRATION. 143
204C.12 CHALLENGES TO VOTERS; PENALTY. 144
204C.13 RECEIVING AND MARKING BALLOTS. 145
204C.14 UNLAWFUL VOTING; PENALTY. 146
204C.15 ASSISTANCE TO VOTERS. 146
204C.16 MISMARKING BALLOTS; DISCLOSURE OF MARKINGS BY OTHERS; PENALTY. 147
204C.17 VOTING; SECRECY. 147
204C.18 BALLOTS; SECRECY. 147
204C.19 COUNTING VOTES; PENALTY. 147
204C.20 BALLOTS; NUMBER TO BE COUNTED 148
204C.21 COUNTING BALLOTS; PILING SYSTEM. 149
204C.22 DETERMINING VOTER'S INTENT 149
204C.23 DEFECTIVE BALLOTS. 152
204C.24 ELECTION RETURNS; SUMMARY STATEMENTS. 152
204C.25 DISPOSITION OF BALLOTS. 153
204C.26 SUMMARY STATEMENTS AND ENVELOPES FOR BALLOT RETURNS; ELECTION OFFICIALS TO FURNISH. 153
204C.27 DELIVERY OF RETURNS TO COUNTY AUDITORS. 154
204C.28 ELECTION NIGHT; DUTIES OF COUNTY AUDITORS AND MUNICIPAL CLERKS. 154
204C.29 IMPROPER DELIVERY OF RETURNS. 155
204C.30 ELECTION RETURNS; ADDITIONAL DUTIES OF COUNTY AUDITOR. 156
204C.31 CANVASSING BOARDS; MEMBERSHIP. 156
204C.32 CANVASS OF STATE PRIMARIES. 157
204C.33 CANVASS OF STATE GENERAL ELECTIONS. 157
204C.34 TIE VOTES. 159
204C.35 FEDERAL, STATE, AND JUDICIAL RACES. 159
204C.36 RECOUNTS IN COUNTY, SCHOOL DISTRICT, AND MUNICIPAL ELECTIONS. 161
204C.361 RULES FOR RECOUNTS. 162
204C.37 COUNTY CANVASS; RETURN OF REPORTS TO SECRETARY OF STATE. 163
204C.38 CORRECTION OF OBVIOUS ERRORS; WHEN CANDIDATES AGREE. 163

204C.39 CORRECTION OF OTHER OBVIOUS ERRORS. 164
204C.40 CERTIFICATES OF ELECTION. 165
204C.41 NEGLECT OF DUTY; OTHER OFFENSES BY ELECTION OFFICIALS; PENALTY. 166
CHAPTER 204D - PARTICULAR ELECTIONS 167
204D.01 DEFINITIONS. 167
204D.02 OFFICERS CHOSEN AT STATE GENERAL ELECTION; TERMS OF OFFICE. 167
204D.03 TIME OF STATE ELECTIONS. 167
204D.04 BALLOT PREPARATION. 167
204D.05 STATE PRIMARY BALLOTS; PARTISAN AND NONPARTISAN; OFFICIAL IN CHARGE. 168
204D.06 CERTIFICATION OF NAMES BY SECRETARY OF STATE. 168
204D.07 PLACING NAMES ON BALLOTS. 169
204D.08 STATE PRIMARY BALLOTS. 169
204D.09 EXAMPLE BALLOTS; SAMPLE PRIMARY BALLOTS. 170
204D.10 PRIMARY RESULTS; NOMINEES. 171
204D.11 STATE GENERAL ELECTION BALLOTS; CANDIDATES; OFFICIAL IN CHARGE; RULES; REIMBURSEMENT. 171
204D.12 NAMES PLACED ON GENERAL ELECTION BALLOTS. 172
204D.13 BALLOT; PARTISAN OFFICES. 172
204D.14 BALLOTS; NONPARTISAN OFFICES. 173
204D.15 BALLOT; CONSTITUTIONAL AMENDMENT SAMPLE. 173
204D.16 SAMPLE GENERAL ELECTION BALLOTS; POSTING; PUBLICATION. 173
204D.165 SAMPLE BALLOTS TO SCHOOLS. 174
204D.17 STATE SENATOR; STATE REPRESENTATIVE; VACANCY IN OFFICE; SPECIAL ELECTION. 174
204D.18 GENERAL ELECTION LAWS; APPLICATION. 174
204D.19 SPECIAL ELECTIONS; WHEN HELD. 174
204D.195 DATE OF SPECIAL ELECTION; CERTAIN TIMES PROHIBITED. 175
204D.20 NOMINATIONS; VACANCY. 175
204D.21 TIME OF SPECIAL PRIMARY. 175
204D.22 WRIT OF ELECTION. 176
204D.23 AFFIDAVITS OF CANDIDACY; NOMINATING PETITIONS. 176
204D.24 SPECIAL ELECTIONS; PRECINCTS; ELECTION JUDGES; VOTERS. 176
204D.25 SPECIAL ELECTION BALLOTS. 177
204D.26 CONGRESSIONAL OR LEGISLATIVE DISTRICTS; CHANGE IN BOUNDARIES. 177
204D.27 SPECIAL ELECTION RETURNS 177
204D.28 UNITED STATES SENATE VACANCY; MANNER OF FILLING. 179
204D.29 REPRESENTATIVE IN CONGRESS VACANCY. 180
CHAPTER 205 - MUNICIPAL ELECTIONS 181
205.01 DEFINITIONS. 181
205.02 STATUTES APPLICABLE. 181
205.065 PRIMARIES. 181
205.07 CITY GENERAL ELECTION. 182
205.075 TOWN GENERAL ELECTION. 183
205.10 MUNICIPAL SPECIAL ELECTIONS. 184
205.105 POSTPONEMENT OF ELECTION; INCLEMENT WEATHER. 185
205.121 NOMINATING PETITIONS; CITIES OF FIRST CLASS; SIGNATURES. 185
205.13 CANDIDATES, FILING. 185
205.16 NOTICE. 187
205.17 BALLOTS. 188
205.175 VOTING HOURS. 188

205.185 PROCEDURE. 189
205.84 REDISTRICTING; CITIES WITH WARDS. 189
CHAPTER 205A - SCHOOL DISTRICT ELECTIONS 191
205A.01 DEFINITIONS. 191
205A.02 ELECTION LAW APPLICABLE. 191
205A.03 PRIMARIES. 191
205A.04 GENERAL ELECTION. 192
205A.046 SCHOOL BOARD MEMBER TERM EXPIRATION. 192
205A.05 SPECIAL ELECTIONS. 192
205A.055 POSTPONEMENT OF ELECTION; INCLEMENT WEATHER. 193
205A.06 CANDIDATES, FILING. 193
205A.07 NOTICE. 194
205A.08 BALLOTS. 195
205A.09 VOTING HOURS. 196
205A.10 PROCEDURE. 196
205A.11 PRECINCTS; POLLING PLACES. 197
205A.12 SCHOOL BOARD ELECTION DISTRICTS. 198
205A.13 REQUIREMENTS FOR PETITIONS. 199
CHAPTER 206 - ELECTRONIC VOTING SYSTEMS 201
206.55 MINNESOTA ELECTION LAW APPLIES. 203
206.56 DEFINITIONS. 203
206.57 EXAMINATION OF NEW VOTING SYSTEMS. 204
206.58 AUTHORIZATION FOR USE. 206
206.59 PAYMENT FOR VOTING SYSTEMS. 206
206.61 BALLOTS. 207
206.62 SAMPLE BALLOTS. 207
206.64 ACCESSIBILITY; INSTRUCTIONS; ASSISTANCE TO VOTERS. 208
206.66 VIOLATIONS; PENALTIES. 208
206.80 ELECTRONIC VOTING SYSTEMS. 208
206.805 STATE VOTING SYSTEMS CONTRACTS. 209
206.81 ELECTRONIC VOTING SYSTEMS; EXPERIMENTAL USE. 209
206.82 PREPARATION OF ELECTRONIC VOTING SYSTEM PROGRAMS AND PLANS. 209
206.83 TESTING OF VOTING SYSTEMS. 210
206.84 METHODS OF USING ELECTRONIC VOTING SYSTEMS. 210
206.845 BALLOT RECORDING AND COUNTING SECURITY. 211
206.85 OFFICIALS IN CHARGE OF COUNTING. 212
206.86 COUNTING ELECTRONIC VOTING SYSTEM RESULTS. 212
206.87 CANVASSING BOARD DUTIES. 214
206.88 PARTIAL RECOUNTS ON ELECTRONIC VOTING SYSTEMS. 214
206.89 POSTELECTION REVIEW OF VOTING SYSTEMS. 214
206.895 SECRETARY OF STATE MONITOR. 216
206.90 OPTICAL SCAN VOTING SYSTEMS. 216
CHAPTER 207A - PRESIDENTIAL PRIMARY 219
207A.11 PRESIDENTIAL NOMINATION PRIMARY ESTABLISHED. 219
207A.12 CONDUCTING PRESIDENTIAL NOMINATION PRIMARY. 219
207A.13 FORM OF BALLOTS; CANDIDATES ON BALLOT. 219
207A.14 NOTICE OF PRESIDENTIAL NOMINATION PRIMARY; SAMPLE BALLOTS. 220
207A.15 PRESIDENTIAL NOMINATION PRIMARY ELECTION EXPENSES; LOCAL REIMBURSEMENT. 220

CHAPTER 208 - PRESIDENTIAL ELECTORS 223
208.01 DEFINITIONS. 223
208.02 ELECTION OF PRESIDENTIAL ELECTORS AND ALTERNATES 223
208.03 NOMINATION OF PRESIDENTIAL ELECTORS AND ALTERNATES. 223
208.04 PREPARATION OF BALLOTS. 223
208.05 STATE CANVASSING BOARD. 224
208.06 ELECTORS AND ALTERNATES TO MEET AT CAPITOL. 224
208.40 SHORT TITLE. 225
208.41 DEFINITIONS. 225
208.42 DESIGNATION OF STATE'S ELECTORS. 226
208.43 PLEDGE. 226
208.44 CERTIFICATION OF ELECTORS. 226
208.45 PRESIDING OFFICER; ELECTOR VACANCY. 226
208.46 ELECTOR VOTING. 227
208.47 ELECTOR REPLACEMENT; ASSOCIATED CERTIFICATES. 227
208.48 UNIFORMITY OF APPLICATION AND CONSTRUCTION. 227
CHAPTER 209 - ELECTION CONTESTS 229
209.01 DEFINITIONS. 229
209.02 CONTESTANT; GROUNDS. 229
209.021 NOTICE OF CONTEST. 231
209.03 CONTESTEE'S ANSWER. 232
209.045 VENUE FOR STATEWIDE CONTESTS. 232
209.05 GUARDING THE BALLOTS. 232
209.06 INSPECTION OF BALLOTS. 232
209.065 PLEADINGS; PROCEDURE. 233
209.07 RESULTS OF CONTEST. 233
209.09 APPEALS. 234
209.10 STATE LEGISLATIVE OFFICE. 235
209.12 CONGRESSIONAL OFFICE. 236
CHAPTER 211A - CAMPAIGN FINANCIAL REPORTS 239
211A.01 DEFINITIONS. 239
211A.02 FINANCIAL REPORT. 239
211A.03 FINAL REPORT. 241
211A.04 SECRETARY OF STATE'S DUTIES. 241
211A.05 FAILURE TO FILE STATEMENT. 241
211A.06 FAILURE TO KEEP ACCOUNT; PENALTY. 242
211A.07 BILLS WHEN RENDERED AND PAID. 242
211A.08 PROSECUTION. 242
211A.09 FORFEITURE OF NOMINATION OR OFFICE. 243
211A.10 DISQUALIFIED INDIVIDUALS NOT TO HOLD VARIOUS POSITIONS. 243
211A.11 PENALTIES FOR VIOLATIONS. 243
211A.12 CONTRIBUTION LIMITS. 243
211A.13 PROHIBITED TRANSFERS. 244
211A.14 CONTRIBUTIONS AND SOLICITATIONS DURING LEGISLATIVE SESSION. 244
CHAPTER 211B - FAIR CAMPAIGN PRACTICES 245
211B.01 DEFINITIONS. 245
211B.02 FALSE CLAIM OF SUPPORT 246
211B.03 USE OF THE TERM REELECT. 246
211B.04 CAMPAIGN LITERATURE MUST INCLUDE DISCLAIMER 246

211B.045 NONCOMMERCIAL SIGNS EXEMPTION. 247
211B.05 PAID ADVERTISEMENTS IN NEWS. 247
211B.06 FALSE POLITICAL AND CAMPAIGN MATERIAL. 248
211B.07 UNDUE INFLUENCE ON VOTERS PROHIBITED. 249
211B.08 SOLICITATION OF CONTRIBUTIONS PROHIBITED. 250
211B.09 PROHIBITED PUBLIC EMPLOYEE ACTIVITIES. 250
211B.10 INDUCING OR REFRAINING CANDIDACY; TIME OFF FOR PUBLIC OFFICE MEETINGS. 250
211B.11 ELECTION DAY PROHIBITIONS. 251
211B.12 LEGAL EXPENDITURES. 252
211B.13 BRIBERY, TREATING, AND SOLICITATION. 252
211B.14 DIGEST OF LAWS. 253
211B.15 CORPORATE POLITICAL CONTRIBUTIONS. 253
211B.16 PROSECUTION. 256
211B.17 FORFEITURE OF NOMINATION OR OFFICE; CIRCUMSTANCES WHERE NOT FORFEITED. 256
211B.18 DISQUALIFIED CANDIDATE NOT TO HOLD VARIOUS POSITIONS. 256
211B.19 PENALTIES FOR VIOLATION. 257
211B.20 DENIAL OF ACCESS BY POLITICAL CANDIDATES TO MULTIPLE UNIT DWELLINGS. 257
211B.205 PARTICIPATION IN PUBLIC PARADES. 258
211B.21 APPLICABILITY. 258
211B.31 DEFINITION. 258
211B.32 COMPLAINTS OF UNFAIR CAMPAIGN PRACTICES. 258
211B.33 PRIMA FACIE REVIEW. 259
211B.34 PROBABLE CAUSE HEARING. 259
211B.35 EVIDENTIARY HEARING BY PANEL. 260
211B.36 PROCEDURES. 261
211B.37 COSTS ASSESSED 261
CHAPTER 211C - RECALL OF ELECTED STATE OFFICIALS 263
211C.01 DEFINITIONS. 263
211C.02 GROUNDS. 263
211C.03 PETITION FOR RECALL; FORM AND CONTENT. 263
211C.04 PROPOSED PETITION; SUBMITTAL. 264
211C.05 SUPREME COURT REVIEW OF PROPOSED PETITION. 264
211C.06 ISSUING, CIRCULATING, AND VERIFYING PETITION. 265
211C.07 GOVERNOR; WRIT OF ELECTION; ELECTION. 265
211C.071 REMOVAL ELECTION FORM OF QUESTION. 265
211C.08 ELECTION RESULT; REMOVAL FROM OFFICE. 265
211C.09 RECALL PETITION; CORRUPT PRACTICES. 266
OTHER LAWS RELATED TO ELECTIONS 267
CHAPTER 2 – TERRITORIAL DIVISIONS 267
2.91 REDISTRICTING PLANS. 267
CHAPTER 3 – LEGISLATURE 268
3.20 FORM OF ACT; SUBMISSION. 268
3.21 NOTICE. 268
CHAPTER 5B – DATA PROTECTION FOR VICTIMS OF VIOLENCE 268
5B.03 ADDRESS CONFIDENTIALITY PROGRAM. 268
5B.06 VOTING BY PROGRAM PARTICIPANT; ABSENTEE BALLOT. 269
CHAPTER 10 – PUBLIC WEB SITES AND PUBLICATIONS 269
10.60 PUBLIC WEB SITES AND PUBLICATIONS. 269

CHAPTER 10A – CAMPAIGN FINANCE AND PUBLIC DISCLOSURE 271
10A.01 DEFINITIONS. 271
10A.04 LOBBYIST REPORTS. 278
10A.321 ESTIMATES OF MIMIMUM AMOUNTS TO BE RECEIVED. 279
10A.38 CAPTIONING OF CAMPAIGN ADVERTISEMENTS. 280
CHAPTER 13 – GOVERNMENT DATA PRACTICES 280
13.045 SAFE AT HOME PROGRAM PARTICIPANT DATA. 280
13.356 PERSONAL CONTACT AND ONLINE ACCOUNT INFORMATION. 283
13.37 GENERAL NONPUBLIC DATA. 284
13.607 CAMPAIGN FINANCE, PUBLIC DISCLOSURE, AND ELECTION DATA CODED ELSEWHERE. (Formerly 13.99) 285
13.851 CORRECTIONS AND DETENTION DATA CODED ELSEWHERE. 286
CHAPTER 43A – STATE PERSONNEL MANAGEMENT 286
43A.32 POLITICAL ACTIVITIES. 286
CHAPTER 103C – SOIL AND WATER CONSERVATION DISTRICTS 287
103C.305 GENERAL ELECTION OF SUPERVISORS. 287
103C.311 FORMATION OF SUPERVISOR DISTRICTS. 288
103C.315 SUPERVISORS. 289
CHAPTER 123A – SCHOOL DISTRICTS; FORMS OF ORGANIZING 289
123A.48 CONSOLIDATION. 289
CHAPTER 123B – EDUCATION FUNDING 292
123B.09 BOARDS OF INDEPENDENT SCHOOL DISTRICTS 292
123B.095 [Repealed, 2016 c 161 art 2 s 2] ~~VACANCY IN OFFICE OF SCHOOL BOARD MEMBER.~~ 293
CHAPTER 126C – SCHOOL DISTRICTS; FORMS OF ORGANIZING 294
126C.17 REFERENDUM REVENUE. 294
CHAPTER 135A – PUBLIC POSTSECONDARY EDUCATION 299
135A.17 PROVISIONS TO FACILITATE VOTING. 299
CHAPTER 160 – ROADS, GENERAL PROVISIONS 300
160.27 PARTICULAR USES OF RIGHT-OF-WAY; MISDEMEANORS. 300
160.2715 RIGHT-OF-WAY USE; MISDEMEANORS. 300
CHAPTER 171 – DRIVER'S LICENSES AND TRAINING SCHOOLS 301
171.11 DUPLICATE LICENSE; CHANGE OF DOMICILE OR NAME. 301
171.12 DRIVING RECORD; FILING; PRIVATE DATA. 301
CHAPTER 256 – HUMAN SERVICES 301
256.925 OPTIONAL VOTER REGISTRATION FOR PUBLIC ASSISTANCE APPLICANTS AND RECIPIENTS. 301
CHAPTER 275 – TAXES, LEVY, EXTENSION 301
275.60 LEVY OR BOND REFERENDUM; BALLOT NOTICE. 301
275.61 VOTER APPROVED LEVY; MARKET VALUE. 302
CHAPTER 289A – ADMINISTRATION AND COMPLIANCE (VARIOUS STATE TAXES AND PROGRAMS) 302
289A.08 FILING REQUIREMENTS FOR INDIVIDUAL INCOME, FIDUCIARY INCOME, CORPORATE FRANCHISE, MINING COMPANY, AND ENTERTAINMENT TAXES. 302
CHAPTER 325L – UNIFORM ELECTRONIC TRANSACTIONS ACT 302
325L.02 DEFINITIONS. 302
325L.03 SCOPE. 303
325L.04 PROSPECTIVE APPLICATION. 304
325L.05 USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES; VARIATION BY AGREEMENT. 304
325L.07 LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS. 304
325L.15 TIME AND PLACE OF SENDING AND RECEIPT. 305

325L.17 CREATION AND RETENTION OF ELECTRONIC RECORDS AND CONVERSION OF WRITTEN RECORDS BY GOVERNMENTAL AGENCIES. 305
325L.18 ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES. 306
CHAPTER 340A – LIQUOR 306
340A.416 LOCAL OPTION ELECTION 306
340A.504 HOURS AND DAYS OF SALE 307
CHAPTER 351 – RESIGNATIONS, VACANCIES, REMOVALS 308
351.01 RESIGNATIONS. 308
351.02 VACANCIES. 309
351.05 VACANCY DURING RECESS OF LEGISLATURE. 309
351.055 PREPARATIONS FOR SPECIAL ELECTIONS. 310
351.06 APPOINTMENT; CONTINUANCE OF TERM; IMPEACHMENT. 310
351.14 DEFINITIONS. 310
351.15 REMOVAL OF ELECTED COUNTY OFFICIAL. 310
351.16 PETITION; REVIEW. 310
351.17 CHIEF JUSTICE REVIEW; ASSIGNMENT TO SPECIAL MASTER. 311
351.18 WAIVER. 311
351.19 PUBLIC HEARING. 311
351.20 DECISION; CERTIFICATION. 312
351.21 APPEAL. 312
351.22 REMOVAL ELECTION; DISQUALIFICATION. 312
351.23 EXTENSION OF TIME. 312
CHAPTER 353 – PUBLIC EMPLOYEES RETIREMENT ASSOCIATION 312
353.03 BOARD OF TRUSTEES. 312
CHAPTER 358 – SEALS, OATHS, ACKNOWLEDGEMENTS 316
358.05 OATH OF OFFICE. 316
358.10 OFFICIALS MAY ADMINISTER, WHEN. 317
358.11 OATHS, WHERE FILED. 317
CHAPTER 365 – TOWN GENERAL LAW 317
365.51 ANNUAL MEETING; NOTICE, BUSINESS, ELECTIONS. 317
365.52 SPECIAL MEETING; FOR ANY LAWFUL PURPOSE. 318
365.59 COUNTY TO APPOINT OFFICERS IF NONE ELECTED. 319
CHAPTER 367 – TOWN OFFICERS; OPTIONAL PLANS 319
367.03 ANNUAL ELECTION OF OFFICERS; VACANCIES; SPECIAL ELECTIONS 319
367.31 ADOPTION OF SPECIFIC OPTION. 321
367.033 MAY BE ON BOTH TOWN AND SCHOOL BOARD EXCEPT IF URBAN TOWN. 321
367.10 TOWN CLERK; BOND; OATH. 321
367.12 DEPUTY CLERK. 321
367.25 OATH OF OFFICE; BOND; FILING; PENALTIES. 322
367.30 OPTIONAL PLANS. 322
367.36 CLERK, TREASURER COMBINED; AUDIT STANDARDS. 322
CHAPTER 373 – COUNTIES; POWERS, DUTIES, PRIVILEGES 323
373.50 POSTPONEMENT OF ELECTION; INCLEMENT WEATHER. 323
CHAPTER 375 – COUNTY BOARDS 323
375.025 COMMISSIONER DISTRICTS. 323
375.04 TIE DETERMINED BY LOT. 324
375.08 BOARD TO FILL VACANCIES IN COUNTY OFFICES. 325
375.101 VACANCY IN OFFICE OF COUNTY COMMISSIONER. 325
375.20 BALLOT QUESTIONS. 326

CHAPTER 375A – OPTIONAL FORMS OF COUNTY GOVERNMENT 326
375A.12 HOW, WHEN TO ADOPT, ABANDON OPTIONS. 326
CHAPTER 382 – COUNTY OFFICERS 327
382.10 BONDS RECORDED. 327
CHAPTER 383B – HENNEPIN COUNTY 327
383B.151 FINANCIAL INTEREST FORBIDDEN. 327
CHAPTER 387 – SHERIFF 327
387.01 QUALIFICATIONS; BOND; OATH. 327
CHAPTER 388 – COUNTY ATTORNEY 328
388.01 ELECTION; QUALIFICATIONS; TERM. 328
CHAPTER 410 CLASSIFICATION; CHARTERS (CITIES, ORGANIZATIONS) 328
410.01 CITIES, CLASSES. 328
410.015 DEFINITIONS RELATING TO CITIES. 328
410.10 CHARTER ELECTION. 328
410.12 AMENDMENTS. 329
410.121 SALE OF INTOXICATING LIQUOR OR WINE; FAVORABLE VOTE. 331
410.191 CITY COUNCIL MEMBERS; CITY EMPLOYMENT. 331
410.20 RECALL AND REMOVAL OF OFFICERS; ORDINANCES. 332
410.21 APPLICATION OF GENERAL ELECTION LAWS. 332
CHAPTER 412 – STATUTORY CITIES 332
412.02 CITY ELECTIONS; OFFICERS, TERMS, VACANCIES; CITY EMPLOYEES. 332
412.022 COUNCIL MAY PROVIDE FOUR-YEAR TERM. 334
412.541 OPTIONAL PLANS. 335
412.551 ELECTION ON OPTIONAL PLAN. 335
CHAPTER 414 – MUNICIPAL BOUNDARY ADJUSTMENTS 335
414.041 CONSOLIDATION OF MUNICIPALITIES. 335
CHAPTER 447 – HOSPITALS, WELFARE ACTIVITIES 336
447.32 OFFICERS AND ELECTIONS. 336
CHAPTER 471 – MUNICIPAL RIGHTS, POWERS, DUTIES 339
471.46 VACANCIES; PERSONS INELIGIBLE TO APPOINTMENT. 339
471.87 PUBLIC OFFICERS, INTEREST IN CONTRACT; PENALTY. 339
471.895 CERTAIN GIFTS BY INTERESTED PERSONS PROHIBITED. 339
CHAPTER 473 – METROPOLITAN GOVERNMENT 340
473.121 DEFINITIONS. 340
CHAPTER 475 – MUNICIPAL DEBT 340
475.58 OBLIGATIONS; ELECTIONS TO DETERMINE ISSUE. 340
CHAPTER 524 – UNIFORM PROBATE CODE 342
524.5-310 FINDINGS; ORDER OF APPOINTMENT. 342
CHAPTER 609 – CRIMINAL CODE 342
609.02 DEFINITIONS. 342
609.165 RESTORATION OF CIVIL RIGHTS; POSSESSION OF FIREARMS AND AMMUNITION. 343
609.43 MISCONDUCT OF PUBLIC OFFICER OR EMPLOYEE. 344
CHAPTER 609B – COLLATERAL SANCTIONS 344
609B.139 ELECTIONS; COLLATERAL SANCTIONS. 344
609B.140 CONVICTION FOR FAILURE TO PROSECUTE; FORFEITURE OF OFFICE. 344
609B.141 CONVICTION FOR TREASON OR FELONY; INELIGIBILITY FOR BALLOT CERTIFICATION. 344
609B.142 CONVICTED SEX OFFENDER; SCHOOL BOARD MEMBER INELIGIBILITY. 344
609B.143 VIOLATION OF CAMPAIGN FINANCIAL REPORTS; FORFEITURE OF NOMINATION OR OFFICE. 345
609B.144 CONVICTION FOR VIOLATION OF CAMPAIGN FINANCIAL REPORTS; DISQUALIFICATION. 345

609B.146 CONVICTION FOR VIOLATION OF FAIR CAMPAIGN PRACTICES; DISQUALIFICATION. 345
CHAPTER 626 – PEACE OFFICERS, SEARCHES; PURSUIT; MANDATORY REPORTING 345
626.846 ATTENDANCE, FORFEITURE OF POSITION. 345
CHAPTER 645 – INTERPRETATION OF STATUTES AND RULES 345
645.08 CANONS OF CONSTRUCTION. 345
645.11 PUBLISHED NOTICE. 346
645.12 POSTED NOTICE. 346
645.13 TIME; PUBLICATION FOR SUCCESSIVE WEEKS. 346
645.14 TIME; COMPUTATION OF MONTHS. 346
645.15 COMPUTATION OF TIME. 347
645.44 WORDS AND PHRASES DEFINED. 347
MINNESOTA RULES RELATED TO ELECTIONS 351
CHAPTER 8200 - VOTER REGISTRATION 351
8200.0300 DELEGATION OF DUTIES. 351
8200.0800 ~~DELIVERY OF VOTER REGISTRATION RECORDS FOR ELECTIONS.~~ 351
8200.1100 PRINTING SPECIFICATIONS. 351
8200.1200 REGISTRATION APPLICATION; FORMAT. 352
8200.1700 PRINTING AND DISTRIBUTING VOTER REGISTRATION APPLICATIONS. 352
8200.1800 EXPERIMENTAL FORMS. 353
8200.2100 DUTIES OF AUDITOR. 353
8200.2200 BUILDINGS FOR REGISTRATION. 353
8200.2500 DEFINITION OF ACCEPTED OR PROCESSED. 353
8200.2600 REGISTRATIONS AND NAME AND ADDRESS CHANGES TO REGISTRATIONS. 353
8200.2700 AUDITOR'S RANDOM NOTIFICATION. 354
8200.2900 DEFICIENT REGISTRATIONS; NOTICE OF DEFICIENT REGISTRATIONS. 354
8200.2950 ADDRESSES ON VOTER REGISTRATION APPLICATIONS. 354
8200.3000 REGISTRATION IN WRONG COUNTY. 355
8200.3100 NOTICE OF INCOMPLETE REGISTRATION; COMPLETION OF INCOMPLETE REGISTRATIONS. 355
8200.3110 NOTICE OF LATE REGISTRATION. 356
8200.3200 CERTAIN APPLICANTS EXEMPT FROM IDENTIFICATION REQUIREMENTS. 356
8200.3500 ACKNOWLEDGMENT OF INELIGIBLE APPLICATIONS. 356
8200.3550 NOTICE OF CHALLENGE REMOVAL. 356
8200.3600 CHANGE OF RESIDENCE. 356
8200.3700 REMOVAL OF APPLICATIONS FROM REGISTRATION FILES. 357
8200.3800 EMERGENCY VOTING 357
8200.3900 PROCESSING OF NATIONAL VOTER REGISTRATION ACT APPLICATIONS. 357
8200.4000 PROCESSING OF FEDERAL POST CARD APPLICATION. 357
8200.5100 REGISTRATION AT PRECINCT ONLY. 358
8200.5200 SWEARING TO RESIDENCE. 360
8200.5300 ELECTION JUDGE DUTIES. 360
8200.5400 NOTATION OF IDENTIFICATION ON REGISTRATION APPLICATION. 360
8200.5500 REGISTRATIONS RECEIVED ON ELECTION DAY. 360
8200.5600 TRAINING ELECTION JUDGES. 361
8200.5710 REPORT OF DECEASED VOTER. 361
8200.5800 POSTERS. 361
8200.6100 COPIES OF PUBLIC INFORMATION LISTS. 362
8200.6200 PUBLIC INFORMATION LIST AVAILABLE FOR INSPECTION. 362
8200.6400 FORM OF PUBLIC INFORMATION LIST PROVIDED BY SECRETARY OF STATE. 362
8200.7100 CHALLENGES TO VOTER REGISTRATION. 362

8200.7200 COUNTY ATTORNEY REPORT. 362
8200.9115 FORM OF POLLING PLACE ROSTERS. 363
8200.9120 INSPECTION OF POLLING PLACE ROSTERS. 363
8200.9300 MAINTAINING CERTAIN VOTER REGISTRATION RECORDS; SECURITY. 364
8200.9305 ADMINISTRATION OF STATEWIDE REGISTRATION SYSTEM. 364
8200.9310 TREATMENT OF VOTER REGISTRATION APPLICATIONS. 365
8200.9315 PROCEDURE FOR ENTERING DATA INTO STATEWIDE VOTER REGISTRATION SYSTEM. 367
8200.9320 INTERACTION WITH DEPARTMENT OF PUBLIC SAFETY. 367
8200.9325 SECURITY FOR STATEWIDE REGISTRATION SYSTEM. 367
8200.9939 FORM OF OATH, SPECIFIED BY PART 8200.5100. 368
8200.9940 PRECINCT LIST OF PERSONS VOUCHING FOR VOTER RESIDENCE ON ELECTION DAY AND NUMBER OF PERSONS VOUCHED FOR. 369
8200.9950 CHALLENGES TO VOTER REGISTRATION, SPECIFIED BY PART 8200.7100. 370
8200.9960 CHALLENGES TO VOTER REGISTRATION, FORM TO BE USED UNDER MINNESOTA STATUTES, SECTION 204C.12, SUBDIVISION 2. 371
CHAPTER 8205 PETITIONS 373
8205.1010 FORM OF PETITIONS. 373
8205.1020 CIRCULATING PETITIONS. 373
8205.1030 SIGNING PETITIONS. 373
8205.1040 FILING PETITIONS. 374
8205.1050 VERIFYING PETITIONS. 374
8205.2000 FORM OF PROPOSED RECALL PETITION. 375
8205.2010 VERIFYING THE PROPOSED RECALL PETITION. 375
8205.2100 ISSUING THE RECALL PETITION. 376
8205.2110 FORM OF RECALL PETITION. 376
8205.2120 VERIFYING THE RECALL PETITION. 377
8205.3000 FORM OF MAJOR AND MINOR POLITICAL PARTY RECOGNITION PETITION. 378
8205.3200 VERIFYING STATEWIDE MAJOR POLITICAL PARTY RECOGNITION PETITION AND STATEWIDE MINOR POLITICAL PARTY RECOGNITION PETITION. 379
CHAPTER 8210 - ABSENTEE BALLOTS 381
8210.0050 ABSENTEE OR MAIL BALLOT MATERIALS. 381
8210.0100 PRESIDENTIAL ABSENTEE BALLOTS. 381
8210.0200 PERMANENT ABSENTEE BALLOT APPLICATION. 382
8210.0225 APPLICATIONS FROM CHALLENGED VOTERS. 383
8210.0300 BALLOT ENVELOPE. 383
8210.0400 TRANSMITTAL ENVELOPE. 383
8210.0500 INSTRUCTIONS TO ABSENT VOTER. 383
8210.0600 STATEMENT OF ABSENTEE VOTER. 394
8210.0710 FORMAT AND INSTRUCTIONS FOR ABSENTEE BALLOT RETURN ENVELOPES. 397
8210.0720 MAILING INFORMATION ON ABSENTEE BALLOT RETURN ENVELOPES. 399
8210.0730 ~~ADDITIONAL REQUIREMENTS FOR THIRD ENVELOPE.~~ 399
8210.0800 ABSENTEE BALLOT SIGNATURE ENVELOPE AS PROVIDED BY MINNESOTA STATUTES, SECTIONS 203B.16 AND 203B.17. 400
8210.1000 EXPERIMENTAL FORMS. 402
8210.2000 VOTER'S INFORMATION. 402
8210.2100 MAILING OR DELIVERING ABSENTEE BALLOT RETURN ENVELOPES. 402
8210.2200 DUTIES OF COUNTY AUDITOR OR MUNICIPAL CLERK UPON RECEIPT OF ABSENTEE BALLOT RETURN ENVELOPE. 402
8210.2300 RETAINING BALLOTS. 403

8210.2400 SAFEGUARDING PROCEDURES. 403
8210.2450 DUTIES OF BALLOT BOARD MEMBERS WHEN EXAMINING RETURN ENVELOPES UNDER MINNESOTA STATUTES, SECTION 203B.121. 404
8210.2500 MAIL PICKUP. 405
8210.2600 REPLACEMENT BALLOTS. 405
8210.2700 RECEIPT OF FEDERAL WRITE-IN ABSENTEE BALLOTS. 406
8210.3000 MAIL BALLOTING. 406
CHAPTER 8220 - VOTING SYSTEM TESTING 415
8220.0050 CONDUCT OF ELECTIONS. 415
8220.0150 MINIMUM STANDARDS. 415
8220.0250 DEFINITIONS. 415
8220.0325 TIMING. 417
8220.0350 APPLICATION. 417
8220.0450 ACCEPTANCE DEMONSTRATION. 418
8220.0550 TESTING AND EXAMINATION. 419
8220.0650 APPROVAL OF SYSTEMS. 419
8220.0700 REEXAMINATION AND RECERTIFICATION OF HARDWARE AND SOFTWARE. 420
8220.0750 PREPARATION OF COMPUTER PROGRAMS. 420
8220.0800 PROGRAM PREPARATION BONDS. 421
8220.0825 CANDIDATE ROTATION ALGORITHM. 422
8220.0850 SCHEDULE FOR COMPLETING PROGRAMS. 422
8220.1050 PREPARATION OF TEST DECK. 423
8220.1150 TEST BALLOTS. 423
8220.1350 PRELIMINARY TESTING OF COMPUTER PROGRAMS. 423
8220.1450 DUTIES UPON COMPLETION. 424
8220.1550 PUBLIC ACCURACY TEST. 424
8220.1650 ADDITIONAL TEST DECKS. 425
8220.1750 CERTIFICATE OF PUBLIC ACCURACY TEST. 425
8220.1850 SECURING COMPUTER PROGRAMS. 425
8220.2050 ISOLATION OF CENTRAL COUNT VOTING SYSTEM AND PRECINCT COUNT VOTING SYSTEM. 425
8220.2250 SUPPORT SOFTWARE. 426
8220.2850 CONTROL OF COMPUTER PROGRAM CHANGES. 426
8220.2860 INSTRUCTIONS FOR BALLOT MARKING DEVICES CERTIFIED BEFORE JANUARY 1, 2010. 426
8220.2865 INSTRUCTIONS FOR BALLOT MARKING DEVICES ORIGINALLY CERTIFIED ON OR AFTER JANUARY 1, 2010 430
CHAPTER 8230 - OPTICAL SCAN VOTING SYSTEMS 433
8230.0050 APPLICABILITY. 433
8230.0150 PROCEDURES. 433
8230.0250 ARRANGEMENT OF VOTING STATIONS. 433
8230.0560 BALLOTS. 433
8230.0570 BALLOT SECRECY COVERS. 434
8230.0580 SUPPLIES. 434
8230.0650 VOTING PROCEDURE. 434
8230.0850 SPOILED BALLOTS. 434
8230.1050 BALLOTS FOUND IN VOTING STATIONS. 435
8230.1130 EXAMINING AND PROCESSING ABSENTEE BALLOTS. 435
8230.1150 PROCEDURES FOLLOWING CLOSE OF POLLS. 435
8230.1350 WRITE-IN VOTES. 435
8230.1450 USE OF STICKERS PROHIBITED. 435

8230.1850 DEFECTIVE BALLOT. 436
8230.1860 EXPERIMENTAL PROCEDURES. 436
8230.2010 APPLICABILITY. 436
8230.2020 ELECTION JUDGE DUTIES. 436
8230.2030 POLLING PLACE PROCEDURES. 436
8230.2040 RECORDING VALID WRITE-IN VOTES. 437
8230.2050 ITEMS IN TRANSFER CASE. 437
8230.2150 CERTIFICATE OF ELECTION JUDGES. 438
8230.2250 DELIVERY OF TRANSFER CASE. 438
8230.2450 RETENTION OF BALLOTS. 438
8230.3450 PRELIMINARY PROCEDURES. 439
8230.3550 TEST OF PROGRAM BEFORE AND DURING TABULATION. 439
8230.3560 USE OF PRECINCT COUNT VOTING SYSTEMS AT CENTRAL COUNTING CENTERS. 439
8230.3750 PROCEDURES FOR TRANSFER CASES. 440
8230.3850 DUPLICATION OF BALLOTS. 440
8230.3950 SUMMARY STATEMENTS. 441
8230.4050 DISTRIBUTION OF SUMMARY STATEMENTS. 441
8230.4150 RETENTION OF BALLOTS. 441
8230.4325 APPLICABILITY. 442
8230.4355 BALLOT BOXES FOR PRECINCT COUNTING CENTERS. 442
8230.4360 ~~DUPLICATION OF BALLOTS.~~ 442
8230.4365 PRECINCT COUNT VOTING SYSTEM EQUIPMENT AND PROCEDURES. 442
8230.4370 COUNTING BALLOTS. 443
8230.4375 WRITE-IN VOTES. 444
8230.4380 SUMMARY STATEMENT. 444
8230.4385 TRANSFER CASE PROCEDURES. 444
8230.4390 CERTIFICATE OF ELECTION JUDGES. 445
8230.4395 RETENTION OF BALLOTS. 445
CHAPTER 8235 - RECOUNTS 447
8235.0200 RECOUNTS. 447
8235.0300 NOTICE. 447
8235.0400 SECURING BALLOTS AND MATERIALS. 447
8235.0600 FACILITIES AND EQUIPMENT. 448
8235.0700 GENERAL PROCEDURES. 448
8235.0800 COUNTING AND CHALLENGING BALLOTS. 448
8235.1100 CANVASSING BOARD. 449
8235.1200 SECURITY DEPOSIT. 449
CHAPTER 8240 - ELECTION JUDGE TRAINING PROGRAM 451
8240.0100 DEFINITIONS. 451
8240.0200 SCOPE. 451
8240.0300 PROFICIENCY DEMONSTRATION. 452
8240.1050 ELECTION CONFERENCE. 452
8240.1100 “TRAIN THE TRAINER” SESSION. 452
8240.1200 TRAINING PROGRAM. 452
8240.1300 ELECTION JUDGE BASIC TRAINING REQUIREMENT. 452
8240.1350 HEAD ELECTION JUDGE TRAINING REQUIREMENT. 453
8240.1400 HEALTH CARE FACILITY ABSENTEE VOTING REQUIREMENT. 453
8240.1500 EMERGENCY TRAINING REQUIREMENT. 453
8240.1600 ELECTION JUDGE BASIC TRAINING COURSE. 454

8240.1655 QUALIFICATIONS FOR TRAINEE ELECTION JUDGES. 454
8240.1750 HEAD ELECTION JUDGE TRAINING. 455
8240.1800 COURSE FOR HEALTH CARE FACILITY ABSENTEE VOTING. 455
8240.1900 EMERGENCY ELECTION JUDGE TRAINING COURSE. 456
8240.1950 EMERGENCY HEAD ELECTION JUDGE TRAINING. 456
8240.2000 TRAINING MATERIALS. 456
8240.2100 TRAINING RECORD. 456
8240.2200 REMOVING ELECTION JUDGE FROM RECORD. 456
8240.2300 CERTIFICATION OF TRAINING. 457
8240.2400 TRAINING PLAN. 457
8240.2500 IN-SERVICE REVIEW. 457
8240.2700 MUNICIPAL CLERK TRAINING REQUIREMENT. 457
8240.2800 SCHOOL DISTRICT CLERK TRAINING REQUIREMENT. 459
8240.2900 COUNTY AUDITOR ELECTION ADMINISTRATION CERTIFICATION. 460
CHAPTER 8250 - BALLOT PREPARATION 463
8250.0200 AUDITOR'S DUTIES. 463
8250.0375 FORM OF JUDICIAL BALLOT. 463
8250.0385 FORM OF TOWN ELECTION BALLOT. 463
8250.0700 NUMBER OF CANDIDATES. 465
8250.1600 APPLICABILITY. 465
8250.1810 FORMAT OF BALLOTS FOR OPTICAL SCAN SYSTEMS. 466
CHAPTER 8255 - REDISTRICTING 473
8255.0010 ALTERNATE DATES FOR COMPLETION OF LOCAL REDISTRICTING. 473
8255.0015 COORDINATION OF REESTABLISHMENT OF PRECINCT BOUNDARIES. 473
8255.0020 ~~ESTABLISHMENT OF PRECINCT BOUNDARIES LACKING RECOGNIZABLE PHYSICAL FEATURES.~~ 473
8255.0025 ~~CORRECTION OF PRECINCT BOUNDARIES NOT BASED ON RECOGNIZABLE PHYSICAL FEATURES.~~ 474
8255.0030 POSTING NOTICE OF BOUNDARY CHANGES. 474
8255.0040 PUBLISHED NOTIFICATION BY COUNTY AUDITOR. 474
8255.0050 NOTICE TO AFFECTED VOTERS. 474
CHAPTER 8290 – SAFE AT HOME PROGRAM 475
8290.0100 DEFINITIONS 475
8290.0200 APPLICATION. 476
8290.0300 CERTIFICATION OF PROGRAM PARTICIPANT. 478
8290.0400 DESIGNATED ADDRESS. 478
8290.0500 SERVICE OF PROCESS. 480
8290.0600 ATTAINING AGE OF MAJORITY. 480
8290.0700 CHANGES IN PROGRAM PARTICIPANT INFORMATION. 481
8290.0800 TRANSFER OF SCHOOL RECORDS. 482
8290.0900 FAILURE TO NOTIFY SECRETARY OF STATE OF CHANGES IN INFORMATION; CANCELLATION... 482
8290.1000 WITHDRAWAL OF PROGRAM CERTIFICATION. 483
8290.1100 RENEWAL OF PROGRAM CERTIFICATION. 484
8290.1200 EXPIRATION OF PROGRAM CERTIFICATION. 485
8290.1300 VOTING BY PROGRAM PARTICIPANT. 485
8290.1400 SUMMARY DATA. 489
8290.1500 APPLICATION ASSISTANT ACCREDITATION. 489

CONSTITUTION OF THE UNITED STATES
(Selected Provisions)

ARTICLE I

Sec. 2 The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

When vacancies happen in the representation from any state the executive authority thereof shall issue writs of election to fill such vacancies.

Sec. 3 The Senate of the United States shall be composed of two senators from each state, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

Sec. 4 The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

Sec. 5 Each house shall be the judge of the election returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a small number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Sec. 6 No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

History: Effective March 4, 1789.

NOTES AND DECISIONS

Article I, Sec. 5

Congress is sole judge of eligibility of members, *State ex rel. Eaton v. Schmahl*, 140 Minn. 219, 167 N.W. 481 (1918); *State ex rel. Holm v. District Court, 156 Minn.* 270, 194 N.W. 630 (1923); *State ex rel. 25 Voters v. Selvig*, 170 Minn. 406, 212 N.W. 604 (1927); *Williams v. Maas*, 198 Minn. 516, 270 N.W. 586 (1936).

ARTICLE II

Section 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years and been fourteen years a resident within the United States.

History: Effective March 4, 1789.

CONSTITUTIONAL AMENDMENTS OF THE UNITED STATES (Selected Provisions)

AMENDMENT XII

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballot the person voted for as vice president; and they shall make distinct lists of all persons voted for as president and of all persons voted for as vice president, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president; if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states; and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice president shall be the vice president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then, from the two highest numbers on the list, the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

History: Effective June 15, 1804.

AMENDMENT XV

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color or previous condition of servitude.

History: Effective February 8, 1870.

AMENDMENT XVII

The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies: Provided, that the legislature of any state may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

History: Effective April 8, 1913.

AMENDMENT XIX

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or any state on account of sex.

Sec. 2 Congress shall have power to enforce this article by appropriate legislation.

History: Effective August 18, 1920.

AMENDMENT XX

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of the Senators and Representatives at noon on the 3rd day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Sec. 3 If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Sec. 4 The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

History: Sec. 1 effective October 15, 1933; Sec. 3 and 4 effective January 23, 1933.

AMENDMENT XXII

Section 1. No person shall be elected to the office of President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President, or acting as President, during the remainder of such term.

History: Effective February 27, 1951.

AMENDMENT XXIV

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

History: Effective January 23, 1964.

AMENDMENT XXVI

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Sec. 2. The Congress shall have power to enforce this article by appropriate legislation.

History: Effective July 1, 1971.

CONSTITUTION OF THE STATE OF MINNESOTA (Selected Provisions)

ARTICLE I - BILL OF RIGHTS

Sec. 17. **Religious tests and property qualifications prohibited.**

No religious test or amount of property shall be required as a qualification for any office of public trust in the state. No religious test or amount of property shall be required as a qualification of any voter at any election in this state; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.

ARTICLE IV - LEGISLATIVE DEPARTMENT

Sec. 3. **Census Enumeration Apportionment: Congressional and Legislative District Boundaries; Senate Districts.**

At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall have the power to prescribe the bounds of congressional and legislative districts. Senators shall be chosen by single districts of convenient contiguous territory. No representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series.

Sec. 5. **Restriction on holding office.**

No senator or representative shall hold any other office under the authority of the United States or the state of Minnesota, except that of postmaster or of notary public. If elected or appointed to another office, a legislator may resign from the legislature by tendering his resignation to the governor.

Sec. 6. **Qualification of legislators; judging election returns and eligibility.**

Senators and representatives shall be qualified voters of the state, and shall have resided one year in the state and six months immediately preceding the election in the district from which elected. Each house shall be the judge of the election returns and eligibility of its own members. The legislature shall prescribe by law the manner for taking evidence in cases of contested seats in either house.

Sec. 8. **Oath of office.**

Each member and officer of the legislature before entering upon his duties shall take an oath or affirmation to support the Constitution of the United States, the constitution of this state, and to discharge faithfully the duties of his office to the best of his judgment and ability.

NOTES AND DECISIONS

ARTICLE IV Sec. 3

Court adopted congressional reapportionment plan establishing four metropolitan districts and four outstate districts advances state constitutional policy of convenient contiguous territory and statutory policy recognizing needs and concerns of metropolitan area residents. *LaComb v. Growe*, 541 F. Supp. 160 (D. Minn. 1982).

Court adopted legislative reapportionment plan attempted, where practicable, to include metropolitan area residents in districts entirely within seven county metropolitan area. *LaComb v. Growe*, 541F. Supp. 160 (D. Minn. 1982).

ARTICLE IV Sec. 5

Deputy police chief, police lieutenant and patrolman do not hold "offices" for purposes of this section. *McCutcheon v. City of St. Paul*, 298 Minn. 443, 216 N.W.2d 137 (1974).

ARTICLE IV Sec. 6

Court could render opinion that legislative candidate had violated election laws, but House of Representatives had the final decision on whether person should be seated. *Scheibel v. Pavlak,* 282 N.W.2d 843 (Minn. 1979).

Person whose election was invalidated for unfair campaign could not be prevented from running in a special election for same seat. *Pavlak v. Growe*, 284 N.W.2d 174 (Minn. 1979).

ARTICLE IV Sec. 7

A legislator must be 21 years of age when he takes office. *Jude v. Erdahl*, 207 N.W.2d 715 (1973).

ARTICLE V - EXECUTIVE DEPARTMENT

Section 1. **Executive officers.**

The executive department consists of a governor, lieutenant governor, secretary of state, auditor, treasurer and attorney general, who shall be chosen by the electors of the state. The governor and lieutenant governor shall be chosen jointly by a single vote applying to both offices in a manner prescribed by law.

Sec. 2. **Term of governor and lieutenant governor; qualifications.**

The term of office for the governor and lieutenant governor is four years and until a successor is chosen and qualified. Each shall have attained the age of 25 years and, shall have been a bona fide resident of the state for one year next preceding his election, and shall be a citizen of the United States.

Sec. 4. **Terms and salaries of executive officers.**

The term of office of the secretary of state, treasurer, attorney general and state auditor is four years and until a successor is chosen and qualified. The duties and salaries of the executive officers shall be prescribed by law.

Sec. 5. **Succession to offices of governor and lieutenant governor.**

In case a vacancy occurs from any cause whatever in the office of governor, the lieutenant governor shall be governor during such vacancy. The compensation of the lieutenant governor shall be prescribed by law. The last elected presiding officer of the senate shall become lieutenant governor in case a vacancy occurs in that office. In case the governor is unable to discharge the powers and duties of his office, the same devolves on the lieutenant governor. The legislature may provide by law for the case of the removal, death, resignation, or inability both of the governor and lieutenant governor to discharge the duties of governor and may provide by law for continuity of government in periods of emergency resulting from disasters caused by enemy attack in this state, including but not limited to, succession to the powers and duties of public office and change of the seat of government.

Sec. 6. **Oath of office of state officers.**

Each officer created by this article before entering upon his duties shall take an oath or affirmation to support the constitution of the United States and of this state and to discharge faithfully the duties of his office to the best of his judgment and ability.

NOTES AND DECISIONS

ARTICLE V Sec. 1

After withdrawal of gubernatorial candidate, lieutenant governor candidate not entitled to have name on ballot. *Clark v. Growe*, 461 N.W.2d 385 (Minn. 1990).

As of January 6, 2003, the Office of Treasurer is abolished. *See, e.g.,* Minn. Const. art. V, §1. NOTE: Vol. 1, 2000 Minn. Stat. p. 1xxxi.

ARTICLE VI - JUDICIARY

Sec. 5. **Qualifications; compensation.**

Judges of the supreme court, the court of appeals and the district court shall be learned in the law. The qualifications of all other judges and judicial officers shall be prescribed by law. The compensation of all judges shall be prescribed by the legislature and shall not be diminished during their term of office.

Sec. 6. **Holding other office.**

A judge of the supreme court, the court of appeals or the district court shall not hold any office under the United States except a commission in a reserve component of the military forces of the United States and shall not hold any other office under this state. His term of office shall terminate at the time he files as a candidate for an elective office of the United States or for a nonjudicial office of this state.

Sec. 7. **Term of office; election.**

The term of office of all judges shall be six years and until their successors are qualified. They shall be elected by the voters from the area which they are to serve in the manner provided by law.

Sec. 8. **Vacancy.**

Whenever there is a vacancy in the office of judge the governor shall appoint in the manner provided by law a qualified person to fill the vacancy until a successor is elected and qualified. The successor shall be elected for a six year term at the next general election occurring more than one year after the appointment.

NOTES AND DECISIONS

ARTICLE VI Sec. 5

Minimum age for holding office of court commissioner is 21. *Meyers v. Roberts*, 246 N.W.2d 186 (1976).

Candidates not admitted to practice law in Minnesota or who have been disbarred are not "learned in the law" for purposes of meeting judicial qualifications. *In re Daly*, 294 Minn. 351, 200 N.W.2d 913 (1972).

ARTICLE VI Sec. 7

Provisions of former M.S. 205.82 that justices shall be deemed to hold separate offices held not repugnant to this article. *Gustafson v. Holm*, 232 Minn. 118, 44 N.W.2d 443 (1950).

No constitutional requirement that justices are to be elected as a group. Id.

Municipal judge elected in 1957 for 6 year term pursuant to Constitution, art VI, s 4. Printing "2 year term" on ballot will not change term or invalidate election. Op. Atty. Gen. 307K, August 12, 1957.

ARTICLE VI Sec. 8

Vacancy in judicial office arising two months before scheduled election to be filled by gubernatorial appointment until general election more than one year later. *Diemer v. Carlson*, 550 N.W.2d 875 (Minn. 1996).

Section 8 takes precedence over former M.S. 202A.53 in filling vacancies for judicial office between primary and general election. *State ex rel. Hennepin Co. Bar Ass'n. v. Amdahl*, 264 Minn. 350, 119 N.W.2d 169 (1963). *See* M.S. 204B.13.

As justice of peace is no longer constitutional officer, legislature is free to abolish office and to substitute any system of inferior courts it deems suitable. *Smith v. Tuman*, 262 Minn. 149, 114 N.W.2d 73 (1962).

No constitutional requirement that justices are to be elected as a group. *Gustafson v. Holm*, 232 Minn. 118, 44 N.W.2d 443 (1950).

Provisions of former M.S. 205.82 that justices shall be deemed to hold separate offices held not repugnant to this article. *Gustafson v. Holm*, 232 Minn. 118, 44 N.W.2d 443 (1950).

Prospective vacancy in Office of Supreme Court Chief Justice through mandatory retirement one month after scheduled election for the office must be filled by gubernatorial appointment until first election, occurring more than one year later. Op. Atty. Gen. 184D, July 17, 1990.

Where vacancy occurs in office of district judge after election of someone other than incumbent but before time for new judge to take office, regularly elected judge takes office on first Monday in January for full six-year term. Op. Atty. Gen. 141D-2, June 20, 1986.

Probate judge appointed to fill unexpired term and then subsequently elected is entitled to serve full term. Op. Atty. Gen. 347F, June 8, 1966.

Municipal judge elected in 1957 for 6 year term pursuant to Constitution, art VI, s 4. Printing "2 year term" on ballot will not change term or invalidate election. Op. Atty. Gen. 307K, August 12, 1957.

Legislature cannot consolidate office of judge of probate or clerk of district with other elective offices because such offices are created by the constitution. Op. Atty. Gen. April 8, 1933.

Vacancies in office of village justice are to be filled by village council. Op. Atty. Gen. December 20, 1929.

ARTICLE VII - ELECTIVE FRANCHISE

Section 1. **Eligibility; place of voting; ineligible persons.**

Every person 18 years of age or more who has been a citizen of the United States for three months and who has resided in the precinct for 30 days next preceding an election shall be entitled to vote in that precinct. The place of voting by one otherwise qualified who has changed his residence within 30 days preceding the election shall be prescribed by law. The following persons shall not be entitled or permitted to vote at any election in this state: A person not meeting the above requirements; a person who has been convicted of treason or felony, unless restored to civil rights; a person under guardianship, or a person who is insane or not mentally competent.

Sec. 2. **Residence.**

For the purpose of voting no person loses residence solely by reason of his absence while employed in the service of the United States; nor while engaged upon the waters of this state or of the United States; nor while a student in any institution of learning; nor while kept at any almshouse or asylum; nor while confined in any public prison. No soldier, seaman or marine in the army or navy of the United States is a resident of this state solely in consequence of being stationed within the state.

Sec. 3. **Uniform oath at elections.**

The legislature shall provide for a uniform oath or affirmation to be administered at elections and no person shall be compelled to take any other or different form of oath to entitle him to vote.

Sec. 4. **Civil process suspended on election day.**

During the day on which an election is held no person shall be arrested by virtue of any civil process.

Sec. 5. **Elections by ballot.**

All elections shall be by ballot except for such town officers as may be directed by law to be otherwise chosen.

Sec. 6. **Eligibility to hold office.**

Every person who by the provisions of this article is entitled to vote at any election and is 21 years of age is eligible for any office elective by the people in the district wherein he has resided 30 days previous to the election, except as otherwise provided in this constitution, or the constitution and law of the United States.

Sec. 7. **Official year of state.**

The official year for the state of Minnesota commences on the first Monday in January in each year and all terms of office terminate at that time. The general election shall be held on the first Tuesday after the first Monday in November in each even numbered year.

Sec. 8. **Election returns to secretary of state; board of canvassers.**

The returns of every election for officeholders elected statewide shall be made to the secretary of state who shall call to his assistance two or more of the judges of the supreme court and two disinterested judges of the district courts. They shall constitute a board of canvassers to canvass the returns and declare the result within three days after the canvass.

NOTES AND DECISIONS

ARTICLE VII Sec. 1

See also M.S. 200.02, subd. 15, 200.031, 201.014.

The statutory and constitutional six-month residency requirement for voting eligibility is unconstitutional as violative of equal protection. *Kepel v. Donovan*, 326 F. Supp. 15 (D. Minn. 1970), *affirmed* 405 U.S. 1034 (1972).

Members of Red Lake Band of Chippewa are citizens and residents entitled to vote. *Beltrami Co. v. Hennepin Co*., 264 Minn. 406, 119 N.W.2d 25 (1963).

Conviction of conspiracy to overthrow the government of the United States did not disqualify a candidate for representative in Congress from Minnesota, notwithstanding this section since provisions of the United States Constitution prescribing the qualification of representatives in Congress are controlling. *Danielson v. Fitzsimmons*, 232 Minn. 149, 44 N.W.2d 484 (1950).

Conviction under federal law or law of another state which makes offense a felony but such offense is only a misdemeanor under Minnesota law does not result in forfeiture of civil rights. *State ex rel. Arpagaus v. Todd*, 225 Minn. 91, 29 N.W.2d 810 (1948).

A district court has ruled that a person who is eighteen years old, a citizen of the United States and a resident of Minnesota for twenty days is qualified to vote. The decision was not appealed. Erdahl v. Spannaus, et al, No. 393442, Ramsey District Court, May 9, 1974.

Person who is naturalized citizen on Election Day is entitled to vote and hold office. Op. Atty. Gen. 184I, August 2, 1982.

Minnesota law provides automatic restoration of civil rights for federal as well as state ex-felons upon final discharge of sentence, Op. Atty. Gen. 68H, December 27, 1971.

By virtue of the 26th Amendment to the United States Constitution and the supremacy clause of Article VI, the voting age in all municipal, school district, state or federal elections, whether special, primary or general, is eighteen. Op. Atty. Gen. 490B, August 6, 1971.

Residents of area annexed to city were no longer eligible to vote in Town. Op. Atty. Gen. 4346-27, March 5, 1965.

Meaning of term "resident" is a judicial question; its meaning cannot be changed by statute. Op. Atty. Gen. 490J-2, October 3, 1958.

Person not having qualifications stated in this section cannot vote in school election. Op. Atty. Gen. 490H, May 16, 1955.

A construction of this section should not be adopted which will result in the disfranchisement of a considerable number of voters, unless such construction is rendered necessary by express and unequivocal language. Op. Atty. Gen. 64S, March 19, 1954.

Mental capacity is a question of fact for judges of election. Op. 82, Atty. Gen. Rep. 1942, October 22, 1942.

Suspension of imposition of sentence by federal court does not disqualify. Op. Atty. Gen. May 29, 1941.

Conviction for liquor offense does not prohibit one from holding office of councilman of city of Chaska unless right of citizenship has been lost and not restored. Op. Atty. Gen. 63A, February 15, 1937.

Governor may not restore a person convicted of a felony in federal court, who can only be restored to his civil rights in the state by a presidential pardon. Op. Atty. Gen. 68H, February 1, 1937.

A federal mail fraud is a felony, but conviction results only in loss of right to vote, and not loss of citizenship. Op. Atty. Gen. May 11, 1933.

A resident of Minnesota imprisoned in the reformatory for a felony continues to be a resident of Minnesota but is not a citizen until restored as provided by law. Op. Atty. Gen. April 7, 1933.

Secretary of state cannot refuse to place name of candidate upon ballot where he files usual affidavit, though he has been advised that candidate served term in federal prison and has not be restored to civil rights. Op. Atty. Gen. May 5, 1932.

Plea of guilty insufficient without convictions. Op. Atty. Gen. March 29, 1932.

One not adjudged insane or mentally incompetent by the court is entitled to vote, notwithstanding that his property might be subject to the control of a guardian. Op. Atty. Gen. March 18, 1931.

A guardianship of the person, as distinguished from guardianship of the estate, disqualifies from voting. Op. Atty. Gen. 256, 1930.

The right to vote should not be denied on account of mere technicalities, such as the failure to designate a polling place and election of officers. Op. Atty. Gen. 246, 1930.

Person confined in jail for a misdemeanor may cast his ballot under the absent voters' law. Op. Atty. Gen. 229, 1930.

Conviction of felony was complete when sentence imposed, but right to vote is reinstated if conviction set aside. Op. Atty. Gen. 1928, No. 205, p. 196.

For effect of rejecting qualified voters upon validity of elections, see 15 MINN. L. REV. 832.

ARTICLE VII Sec. 6

See also M.S. 204B.06.

City charter may not impose limitation on number of terms local officials may serve. *Minneapolis Term Limits Coalition v. Keefe*, 535 N.W.2d 306 (Minn. 1995).

Member of House of Representatives excluded from office due to election law violation not ineligible to run in subsequent special election. *Pavlak v. Growe*, 287 N.W.2d 174 (Minn. 1979).

This section requiring that persons holding office of court commissioner be at least twenty-one years of age does not violate equal protection or 26th amendment to U.S. Constitution. *Meyers v. Roberts*, 246 N.W.2d 186 (Minn. 1976).

Officeholders must be twenty-one years of age when they take office. *Jude v. Erdahl*, 207 N.W.2d 715 (Minn. 1973).

Elective officeholders must be 21 years of age. *Opatz v. City of St. Cloud*, 293 Minn. 379, 196 N.W.2d 298 (1972).

Office of representative in congress is one whose qualifications are set by U.S. Constitution and state may not add to or modify same. *Danielson v. Fitzsimmons*, 232 Minn. 149, 44 N.W.2d 484 (1950).

Office of county commissioner and treasurer of school district are incompatible. 157 Minn. 263, 196 N.W. 467 (1923).

Corrupt practices act does not add to voters' qualifications. *Saari v. Gleason*, 126 Minn. 378, 148 N.W. 293 (1914).

Art IV, sec. 5, creates an exception to this section. *State ex rel. v. Erickson*, 180 Minn. 246, 230 N.W. 637 (1912).

Legislature may enact qualifications for local elected officers pursuant to Article 12, Section 3. *Elbers v. Growe*, 502 N.W.2d 810 (Minn. Ct. App. 1993).

Where candidate for local office has resided within state for six months and within ward for thirty days, he is entitled to have his name placed on the ballot. Op. Atty. Gen. 63B-5, October 10, 1966.

A judge of probate court is not prohibited by statutory or constitutional provision from being a candidate for any other state office, whether such office is compatible with that of probate judge. Op. Atty. Gen. 280H, July 8, 1966.

Office of town supervisor is incompatible with the offices of village mayor, trustee or clerk. Op. Atty. Gen. 358C-6, December 23, 1963.

Offices of the village treasurer and town constable are not incompatible. Id.

Office of town clerk is not incompatible with offices of village mayor, trustee or clerk. Id.

Office of town board member not vacated if incumbent removes from township with intent to return to permanent residence therein prior to expiration of term of office. Op. Atty. Gen. 437A-17, October 24, 1962.

Offices of county coroner and member of county board of health are incompatible. Op. Atty. Gen. 358A-4, August 24, 1962.

Offices of town board supervisor and local civil defense director are incompatible. Op. atty. Gen. 385E-6, May 22, 1962.

Candidate for office need not be a registered voter. Op. Atty. Gen. 1841, November 28, 1958.

Charter which provides that no person shall be member of city council who has not resided within the city three years prior to election held unconstitutional. Op. Atty. Gen. 64D-5, February 4, 1958.

Eligibility of member of state legislature, Minn. Const. art 4, s 5, is without application to representative in Congress. Member of legislature is eligible to become candidate for office of congressman and need not resign as member of state legislature to do so. Op. Atty. Gen. 280C, January 16, 1958.

Resident in territory which was annexed to city less than thirty days before Election Day may be candidate for city office in such election. Op. Atty. Gen. 64-N, May 16, 1957.

If school board member was a qualified voter of town, he was eligible to be elected to office of town clerk, and question of incompatibility, if there was any such question involved, would not arise unless and until he was elected to the office of town clerk and qualified therefor. Op. Atty. Gen. 358F, March 2, 1956.

The question of eligibility to an elective public office should not be confused with the question of incompatibility between offices. By virtue of the provisions of Minn. Const., art 7, s 6, every person entitled to vote at any election is eligible to any office, elective by the people in the district wherein he shall have resided thirty days previous to such election, except as otherwise provided in the Constitutions of the State of Minnesota and the United States and the laws of the United States. Op. Atty. Gen. 348F, March 2, 1956.

City charter provision insofar as it declares member of city council ineligible to any other elective city office is violative of this section and cannot be given effect. Op. Atty. Gen. 64, February 10, 1956.

Candidate for mayor who prior to his candidacy leased property to village to house its municipal liquor store was not disqualified to hold office. Op. Atty. Gen. 90A-1, December 1, 1949.

Office of member of park commission in village is not incompatible with office of member of county planning board. Op. Atty. Gen. 358E-1, June 15, 1948.

Offices of village attorney and school director are not incompatible, unless attorney's duties as fixed by village council are inconsistent with those of school director. Op. Atty. Gen. 358-F, May 4, 1948.

Offices of school director and veterans service officer are not incompatible. Id.

Offices of village attorney and veterans service officer are not incompatible. Op. Atty. Gen. 358E-3, May 4, 1948.

Offices of town clerk and of member of school board are not incompatible. Op. Atty. Gen. 358-F, April 28, 1948.

Person holding office or employment under "Federal Triple A" program is not officer under laws of Minnesota and he may hold office in school district. Id.

Offices of city clerk and of secretary and member of the water and light commission are incompatible under the Windom city charter. Op. Atty. Gen. 358E-1, April 23, 1948.

County commissioner may run for office of probate judge and may continue to be a commissioner until he is elected and qualifies for office of probate judge. Op. Atty. Gen. 184C-1, July 16, 1937.

Sale of home by alderman and his removal to another city did not create vacancy in the office of alderman, if he intends to return to his ward and build a new home, ultimate test being whether he still remains a resident for purposes of voting. Op. Atty. Gen. 63A-1, June 4, 1937.

This section applies to municipal officers. Op. Atty. Gen. 1841, November 12, 1935.

Offices of county attorney and examiner of titles are not incompatible. Op. Atty. Gen. 358A-1, October 7, 1935.

Offices of municipal court judge and director of independent school district are not incompatible Op. Atty. Gen. 358B-2, August 28, 1935.

Offices of special municipal judge and school director are not incompatible. Op. Atty. Gen. August 1, 1933.

One having home in village may be resident entitled to hold office of councilman, though he has a home in another city where he stays most of the year, it being a matter of intent. Op. Atty. Gen. July 12, 1933.

Offices of alderman and constable are incompatible. Op. Atty. Gen. May 9, 1933.

Offices of constable and councilman of LeSueur are incompatible. Op. Atty. Gen. May 1, 1933; May 9, 1933.

Where government of city and government of school district are separate in all things, office of city attorney and member of school board are not incompatible. Op. Atty. Gen. April 25, 1933.

Offices of justice of the peace and city clerk are not incompatible where the city clerk is not a member of the city council. Op. Atty. Gen. April 17, 1933.

Special municipal judge need not resign before becoming candidate for regular position as municipal judge. Op. Atty. Gen. March 25, 1933.

The offices of city auditor and poor commissioner of city of Breckenridge would be incompatible. Op. Atty. Gen. February 16, 1933.

One defeated in primary cannot be prohibited by legislative act from running as sticker candidate at general election. Op. Atty. Gen. February 4, 1933.

Offices of game warden and constable are not incompatible. Op. Atty. Gen. August 25, 1932. *See* Dun. Dig. 7995.

Offices of member of city council and school board are incompatible where city furnishes water to school district at rate fixed by city council. Op. Atty. Gen. July 15, 1932.

County commissioner may also hold office of district boiler inspector. Op. Atty. Gen. May 27, 1932.

Member of water, light and power commission of a village may also hold village office of justice of the peace. Op. Atty. Gen. February 11, 1932.

The offices of village trustee and village assessor are incompatible. Op. Atty. Gen. December 19, 1931.

Offices of village attorney and state representative are incompatible. Op. Atty. Gen. December 4, 1931.

The offices of justice of the peace and town supervisor are incompatible. Op. Atty. Gen. September 11, 1931.

Positions of member of library board and member of school board are not incompatible. Op. Atty. Gen. August 1, 1931.

A county commissioner, or any other county officer, may accept employment from a school board as driver of a school bus. Op. Atty. Gen. July 15, 1931.

Office of county attorney and city or village attorney of a municipality within the county are incompatible, but a city or village may employ a county attorney on a specific case which does not affect the county. Op. Atty. Gen. May 7, 1931. *But see* M.S. 388.04.

Offices of city attorney and member of board of regents of state university are not incompatible. Op. Atty. Gen. April 27, 1931.

Office of judge of municipal court organized under Laws 1895, c 229, s 34, is not incompatible with office of member of school board of an independent school district. Op. Atty. Gen. April 15, 1931.

Offices of village marshal and street commissioner are not incompatible. Op. Atty. Gen. February 25, 1931.

Offices of county commissioner and court bailiff, deputy sheriff, are incompatible. Op. Atty. Gen. December 31, 1930.

The office of village recorder is incompatible with that of county auditor. Op. Atty. Gen. April 16, 1930.

The office of city attorney and that of judge of probate are not incompatible. Op. Atty. Gen. March 7, 1930.

The office of deputy clerk of the district court and the office of court commissioner are not incompatible. Op. Atty. Gen. January 31, 1930.

The office of member of state livestock sanitary board and the office of member of state fair board of managers are not compatible. Op. Atty. Gen. January 18, 1930.

Offices of county surveyor and county highway engineer are incompatible. Op. Atty. Gen. January 10, 1930.

Person who moves from one election precinct to another within thirty days prior to an election thereby deprives himself of the right to be elected to any office at said election. 1928 Elec. Op. 210.

For discussion concerning effect of election where candidate receiving high vote is ineligible, see 7 MINN. L. REV. 511.

ARTICLE VII - Section 9

Limits on election campaign contributions may be imposed without violating rights secured under the First Amendment to the United States Constitution. *Buckley v. Valeo*, 424 U.S. 1 (1976).

Limits on a candidate's campaign expenditures may be imposed as a condition of receiving state campaign financing funds. Id.

For discussion of issue advocacy advertising's effects on campaign finance regulations, *see* 87 MINN. L. REV. 1663.

ARTICLE VIII - IMPEACHMENT AND REMOVAL FROM OFFICE

Section 1. **Impeachment powers.**

The house of representatives has the sole power of impeachment through a concurrence of a majority of all its members. All impeachments shall be tried by the senate. When sitting for that purpose, senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators present.

Sec. 2. **Officers subject to impeachment; grounds; judgment.**

The governor, secretary of state, treasurer, auditor, attorney general and the judges of the supreme court, court of appeals and district courts may be impeached for corrupt conduct in office or for crimes and misdemeanors; but judgment shall not extend further than to removal from office and disqualification to hold and enjoy an office of honor, trust or profit in this state. The party convicted shall also be subject to indictment, trial, judgment and punishment according to law. [Amended, November 2, 1982]

Sec. 5. **Removal of inferior officers.**

The legislature of this state may provide for the removal of inferior officers for malfeasance or nonfeasance in the performance of their duties.

Sec. 6. **Recall.**

A member of the senate or the house of representatives, an executive officer of the state identified in section 1 of article V of the constitution, or a judge of the supreme court, the court of appeals, or a district court is subject to recall from office by the voters. The grounds for recall of a judge shall be established by the supreme court. The grounds for recall of an officer other than a judge are serious malfeasance or nonfeasance during the term of office in the performance of the duties of the office or conviction during the term of office of a serious crime. A petition for recall must set forth the specific conduct that may warrant recall. A petition may not be issued until the supreme court has determined that the facts alleged in the petition are true and are sufficient grounds for issuing a recall petition. A petition must be signed by a number of eligible voters who reside in the district where the officer serves and who number not less than 25 percent of the number of votes cast for the office at the most recent general election. Upon a determination by the secretary of state that a petition has been signed by at least the minimum number of eligible voters, a recall election must be conducted in the manner provided by law. A recall election may not occur less than six months before the end of the officer's term. An officer who is removed from office by a recall election or who resigns from office after a petition for recall issues may not be appointed to fill the vacancy that is created. [Adopted, November 5, 1996]

NOTES AND DECISIONS

ARTICLE VIII - Section 5

Willful violations of Open Meeting Law may justify removal from office. *Claude v. Collins,* 518 N.W.2d 836 (Minn. 1994).

Power of legislature to provide manner for removal of officers is exclusive. *State ex rel. Todd v. Essling*, 268 Minn. 151, 128 N.W.2d 307 (1964).

This section is applicable to removal of elective municipal officers by recall, and they may not be so removed except for malfeasance or nonfeasance in office. *Jacobsen v. Nagel*, 255 Minn. 300, 96 N.W.2d 569 (1959).

To constitute malfeasance of nonfeasance in office, such as will warrant removal of public officer, conduct must be such as affects performance of official duties, rather than conduct which affects official's personal character as private individual, and, although affecting performance of official duties, conduct must relate to something of substantial nature directly affecting rights and interest of public. Id.

Recall of an elected public officer is essentially a form of removal by which final determination is left to elector, and hence process of recall is governed by provisions applicable to removal. Id.

ARTICLE IX - AMENDMENTS TO THE CONSTITUTION

Section 1. **Amendments; ratification.**

A majority of the members elected to each house of the legislature may propose amendments to this constitution. Proposed amendments shall be published with the laws passed at the same session and submitted to the people for their approval or rejection at a general election. If a majority of all the electors voting at the election vote to ratify an amendment, it becomes a part of this constitution. If two or more amendments are submitted at the same time, voters shall vote for or against each separately.

Sec. 2. **Constitutional convention.**

Two-thirds of the members elected to each house of the legislature may submit to the electors at the next general election the question of calling a convention to revise this constitution. If a majority of all the electors voting at the election vote for a convention, the legislature at its next session, shall provide by law for calling the convention. The convention shall consist of as many delegates as there are members of the house of representatives. Delegates shall be chosen in the same manner as members of the house of representatives and shall meet within three months after their election. Section 5 of Article IV of the constitution does not apply to election to the convention.

Sec. 3. **Submission to people of constitution drafted at convention.**

A convention called to revise this constitution shall submit any revision to the people for approval or rejection at the next general election held not less than 90 days after submission of the revision. If three-fifths of all the electors voting on the question vote to ratify the revision, it becomes a new constitution of the state of Minnesota.

NOTES AND DECISIONS

ARTICLE IX - Section 1

Right to amend constitution rests exclusively with the people. *State v. Pett*, 253 Minn, 429, 92 N.W. 2d 203 (1958).

Proposed amendment to state constitution could be submitted to the electors of the state only at the time of the general election as defined within Constitution art. 7, s 7, Op. Atty. Gen. 86A-20, February 14, 1961.

A constitutional amendment may be submitted to the electors with or without approval of the governor, and if adopted by majority of electors voting at general election at which proposed amendment is submitted, it will be valid. Op. Atty. Gen. 86A, November 12, 1946.

Casting a blank ballot on constitutional amendment equivalent to a negative vote. Op. Atty. Gen. 28A-3, November 8, 1928.

2016 MINNESOTA ELECTION LAWS

CHAPTER 200 - GENERAL PROVISIONS; DEFINITIONS

200.01 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

200.01 CITATION, MINNESOTA ELECTION LAW.

This chapter and chapters 201, 202A, 203B, 204B, 204C, 204D, 205, 205A, 206, 208, 209, 211A, 211B, and 211C shall be known as the Minnesota election law.

History: *1959 c 675 art 1 s 1; 1981 c 29 art 1 s 1; 1987 c 266 art 1 s 1; 1988 c 578 art 1 s 1; 1996 c 469 art 2 s 1*

200.015 APPLICATION.

The Minnesota election law applies to all elections held in this state unless otherwise specifically provided by law.

History: *1981 c 29 art 1 s 2; 1987 c 266 art 1 s 2*

NOTES AND DECISIONS

200.015

The statutory canons of construction applicable to general elections, as embodied in these statutes, are also given effect in school district elections. *Ganske v. Independent School District No. 84*, 271 Minn. 531, 136 N.W.2d 405 (1965).

200.02 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

200.02 DEFINITIONS.

Changes effective August 1, 2016

Subdivision 1. Application. **The terms defined in this section apply to the Minnesota Election Law.**

Subd. 2. **General election.** "General election" means an election held at regular intervals on a day determined by law or charter at which the voters of the state or any of its subdivisions choose by ballot public officials or presidential electors.

Subd. 3. **Primary.** "Primary" means an election at which the voters of the state or any of its subdivisions choose by ballot the nominees for the offices to be filled at a general election.

Subd. 4. **Special election**. "Special election" means:

(a) An election held at any time to fill vacancies in public offices; or

(b) An election held by a subdivision of the state for a special purpose.

Subd. 5. **Special primary**. "Special primary" means an election held to choose the nominees for vacant public offices to be filled at a special election.

Subd. 6. **Political party.** "Political party" means an association of individuals under whose name a candidate files for partisan office.

Subd. 7. **Major political party.** (a) "Major political party" means a political party that maintains a party organization in the state, political division or precinct in question and that has presented at least one candidate for election to the office of:

(1) governor and lieutenant governor, secretary of state, state auditor, or attorney general at the last preceding state general election for those offices; or

(2) presidential elector or U.S. senator at the last preceding state general election for presidential electors; and whose candidate received votes in each county in that election and received votes from not less than five percent of the total number of individuals who voted in that election.

(b) "Major political party" also means a political party that maintains a party organization in the state, political subdivision, or precinct in question and that has presented at least 45 candidates for election to the office of state representative, 23 candidates for election to the office of state senator, four candidates for election to the office of

representative in Congress, and one candidate for election to each of the following offices: governor and lieutenant governor, attorney general, secretary of state, and state auditor, at the last preceding state general election for those offices.

(c) "Major political party" also means a political party that maintains a party organization in the state, political subdivision, or precinct in question and whose members present to the secretary of state at any time before the close of filing for the state partisan primary ballot a petition for a place on the state partisan primary ballot, which petition contains valid signatures of a number of the party members equal to at least five percent of the total number of individuals who voted in the preceding state general election. A signature is valid only if signed no more than one year prior to the date the petition was filed.

(d) A political party whose candidate receives a sufficient number of votes at a state general election described in paragraph (a) or a political party that presents candidates at an election as required by paragraph (b) becomes a major political party as of January 1 following that election and retains its major party status for at least two state general elections even if the party fails to present a candidate who receives the number and percentage of votes required under paragraph (a) or fails to present candidates as required by paragraph (b) at subsequent state general elections.

(e) A major political party whose candidates fail to receive the number and percentage of votes required under paragraph (a) and that fails to present candidates as required by paragraph (b) at each of two consecutive state general elections described by paragraph (a) or (b), respectively, loses major party status as of December 31 following the later of the two consecutive state general elections.

Subd. 8. **City.** "City" means a home rule charter or statutory city.

Subd. 9. MS 1971 [Repealed, 1973 c 123 art 3 s 7]

Subd. 9. **Municipality.** "Municipality" means any city or town.

Subd. 10. **Governing body.** "Governing body" means the board of commissioners of a county, the elected council of a city, or the board of supervisors of a town.

Subd. 11. **Precinct.** "Precinct" means a geographical area the boundaries of which are established for election purposes in accordance with section 204B.14.

Subd. 12. **Polling place.** "Polling place" means the place of voting.

Subd. 13. **Convention.** "Convention" means an organized body of delegates assembled for the purpose of transacting the business of a major political party.

Subd. 14. **Election board.** "Election board" means the election judges serving in a precinct.

Subd. 15. **Eligible voter.** "Eligible voter" means an individual who is eligible to vote under section 201.014.

Subd. 16. **County auditor.** "County auditor" means the county auditor or, in counties where that office does not exist, the principal county officer charged with duties relating to elections.

Subd. 17. **Member of a major political party**. "Member of a major political party" means an individual who:

(a) Supports the general principles of that party's constitution;

(b) Voted for a majority of that party's candidates in the last general election; or

(c) Intends to vote for a majority of that party's candidates in the next general election.

Subd. 18. **Oath, swear, sworn**. "Oath" means an oath or affirmation, as the conscience of the individual dictates. If an affirmation is given instead of an oath, "swear" means to affirm and "sworn" means affirmed.

Subd. 19. **School district**. "School district" means an independent, special, or county school district.

Subd. 20. **Statewide registration system**. "Statewide registration system" means the computerized central statewide voter registration system and database developed and maintained by the secretary of state pursuant to section 201.022.

Subd. 21. **Local election official**. "Local election official" means the municipal clerk or principal officer charged with duties relating to elections.

Subd. 22. [Expired.]

Subd. 23. **Minor political party**. (a) "Minor political party" means a political party that has adopted a state constitution, designated a state party chair, held a state convention in the last two years, filed with the secretary of state no later than December 31 following the most recent state general election a certification that the party has met the foregoing requirements, and met the requirements of paragraph (b) or (e), as applicable.

(b) To be considered a minor party in all elections statewide, the political party must have presented at least one candidate ~~for election to the office of~~:

(1) for election to the office of governor and lieutenant governor, secretary of state, state auditor, or attorney general, at the last preceding state general election for those offices; or

(2) for election to the office of presidential elector or U.S. senator at the preceding state general election for presidential electors; and

(3) who received votes in each county that in the aggregate equal at least one percent of the total number of individuals who voted in the election, or its members must have presented to the secretary of state at any time before the close of filing for the state partisan primary ballot a nominating petition in a form prescribed by the secretary of state containing the valid signatures of party members in a number equal to at least one percent of the total number of individuals who voted in the preceding state general election. A signature is valid only if signed no more than one year prior to the date the petition was filed.

(c) A political party whose candidate receives a sufficient number of votes at a state general election described in paragraph (b) becomes a minor political party as of January 1 following that election and retains its minor party status for at least two state general elections even if the party fails to present a candidate who receives the number and percentage of votes required under paragraph (b) at subsequent state general elections.

(d) A minor political party whose candidates fail to receive the number and percentage of votes required under paragraph (b) at each of two consecutive state general elections described by paragraph (b) loses minor party status as of December 31 following the later of the two consecutive state general elections.

(e) A minor party that qualifies to be a major party loses its status as a minor party at the time it becomes a major party. Votes received by the candidates of a major party must be counted in determining whether the party received sufficient votes to qualify as a minor party, notwithstanding that the party does not receive sufficient votes to retain its major party status. To be considered a minor party in an election in a legislative district, the political party must have presented at least one candidate for a legislative office in that district who received votes from at least ten percent of the total number of individuals who voted for that office, or its members must have presented to the secretary of state a nominating petition in a form prescribed by the secretary of state containing the valid signatures of party members in a number equal to at least ten percent of the total number of individuals who voted in the preceding state general election for that legislative office. A signature is valid only if signed no more than one year prior to the date the petition was filed.

Subd. 24. **Metropolitan area.** "Metropolitan area" means the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright.

Subd. 25. **Polling place roster.** "Polling place roster" or "roster" refers to a roster in (1) printed format; or (2) electronic format as permitted by section 201.225.

Subd. 26. **Voter signature certificate.** "Voter signature certificate" means a printed form or label generated from an electronic polling place roster that contains the voter's name, address of residence, date of birth, voter identification number, the oath required by section 204C.10, and a space for the voter's original signature. A voter signature certificate is not a "voter certificate" under section 204C.12.

Subd. 27. **Partisan offices.** "Partisan offices" means federal offices, presidential electors, constitutional offices, and legislative offices.

Subd. 28. **Nonpartisan offices.** "Nonpartisan offices" means all judicial, county, municipal, school district, and special district offices.

History: *1959 c 675 art 1 s 2; Ex1961 c 10 s 1; 1973 c 123 art 3 s 1; art 5 s 7; 1973 c 576 s 1; 1973 c 676 s 1,2; 1973 c 725 s 37; 1978 c 725 s 2; 1981 c 29 art 1 s 3; 1984 c 560 s 1; 1987 c 266 art 1 s 3; 1990 c 585 s 1; 1991 c 227 s 3; 1996 c 419 s 2,3,10; 1999 c 220 s 48; 1Sp2001 c 10 art 18 s 4,5; 1Sp2003 c 9 art 2 s 41,42; 1Sp2003 c 17 s 1; 2005 c 156 art 6 s 11-13; 2014 c 288 art 2 s 1; 2014 c 288 art 2 s 2; 2015 c 70 art 1 s 4-7; 2016 c 158 art 1 s 77*

NOTES AND DECISIONS

200.02

Minnesota's "antifusion" law prohibiting a person from being a candidate for more than one political party is not unconstitutional. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 117 S. Ct. 1364 (1997), *reversing Twin Cities New Party v. McKenna*, 73 F.3d 196 (8th Cir. 1996).

Attempt of party to "present" candidate for nonpartisan judicial office insufficient to qualify party for major party designation. *Gay Survival Fund of Target City v. Growe*, 274 N.W. 2 d 491 (Minn. 1979).

A political party not having legal status in Minnesota may appear on general election ballot only by nominating petition. Op. Atty. Gen. 672B-7, July 29, 1948.

200.03 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

200.031 DETERMINATION OF RESIDENCE.

Residence shall be determined in accordance with the following principles, so far as they may be applicable to the facts of the case:

(a) The residence of an individual is in the precinct where the individual's home is located, from which the individual has no present intention of moving, and to which, whenever the individual is absent, the individual intends to return;

(b) An individual does not lose residence if the individual leaves home to live temporarily in another state or precinct;

(c) An individual does not acquire a residence in any precinct of this state if the individual is living there only temporarily, without the intention of making that precinct home;

(d) If an individual goes into another state or precinct with the intention of making it home or files an affidavit of residence there for election purposes, the individual loses residence in the former precinct;

(e) If an individual moves to another state with the intention of living there for an indefinite period, the individual loses residence in this state, notwithstanding any intention to return at some indefinite future time;

(f) Except as otherwise provided in this section, an individual's residence is located in the precinct where the individual's family lives, unless the individual's family is living in that precinct only temporarily;

(g) If an individual's family lives in one precinct and the individual lives or does business in another, the individual's residence is located in the precinct where the individual's family lives, unless the individual establishes a home in the other precinct and intends to remain there, with or without the individual's family;

(h) The residence of a single individual is in the precinct where the individual lives and usually sleeps;

(i) The mere intention to acquire a new residence, is not sufficient to acquire a new residence, unless the individual moves to that location; moving to a new location is not sufficient to acquire a new residence unless the individual intends to remain there;

(j) The residence of an individual who is working temporarily in any precinct of this state is in the precinct where the individual's permanent home is located;

(k) The residence of an individual who is living permanently in a soldiers' home or nursing home is in the precinct where the home is located.

(l) If an individual's home lies in more than one precinct or political subdivision, the residence of the individual is in the precinct in which a majority of the room in which the individual usually sleeps is located.

(m) If an individual's home is destroyed or rendered uninhabitable by fire or natural disaster, the individual does not lose residence in the precinct where the home is located if the individual intends to return to the home when it is reconstructed or made habitable.

History: *1981 c 29 art 1 s 4; 1986 c 444; 1997 c 147 s 1; 1999 c 132 s 2*

NOTES AND DECISIONS

200.031

Vacation home for which owner receives homestead tax benefit not determinative of residence for purpose of qualifying for public office. *Pope v. McKenna*, No. C2-86-1230 (Minn. Sup. Ct. Referee's Findings, August 5, 1986). Order, No. C2-86-1230 (Minn. Sup. Ct., August 7, 1986) (denying petition to strike name from ballot).

Residence, for purposes of voting, is based on considerations of physical presence and intent. *Bell v. Gannaway*, 227 N.W. 2d 797 (Minn. 1975).

Determination of whether an individual is a resident involves matters of fact. Id.

Question of residence is not a legal inquiry, it is one of fact, and the attorney general cannot determine questions of fact. The question is one for the proper election board to determine. Op. Atty. Gen. 590J-2, February 26, 1955.

That construction of this section should not be adopted which will result in the disfranchisement of a considerable number of voters, unless such construction is rendered necessary by express and unequivocal language. Op. Atty. Gen. 64-S, March 19, 1954.

When a man enters military service and his wife lives with him outside of Minnesota, neither loses his residence for purpose of voting. Op. Atty. Gen. 490J-1, June 19, 1952. *See also* Op. Atty. Gen. 490K, September 2, 1944; Op. Atty. Gen. 490K, October 6, 1936.

Residence of wife ordinarily follows residence of husband. Op. Atty. Gen. 490J-2, March 28, 1952.

Ordinarily, and in absence of facts negating a person's statement of his intentions in regard to his residence, his statement should be accepted. Op. Atty. Gen. 226A-8, May 14, 1941.

Residency of school teachers and students is largely a matter of intention of permanent home. Op. Atty. Gen. 490L, December 1, 1938. *See also* Op. Atty. Gen. 490L, October 22, 1934; Op. Atty. Gen. 424B-19, March 16, 1934.

Even though a man is only temporarily employed in election district, if he intends permanent habitation, he may be a resident for voting purposes. Op. Atty. Gen. 490J-2, March 29, 1938. See also Op. Atty. Gen. 490A, September 2, 1938.

Persons receiving relief are not disqualified from exercising their right to vote. Op Atty. Gen. 339N, October 17, 1936.

Residence for voting purposes of person employed by the federal government in Washington, D.C. is not lost by reason of new tenant moving into building in Minnesota where such person formerly lived. All facts must be considered. Op. Atty. Gen. 490J-2, September 23, 1936.

Where the circumstances are such that a person may claim his legal residence at either one of two places, the place he regards as his home will be his residence for the purpose of voting. Ops. Atty. Gen. 490J-1, February 14, 1936; 440D, June 25, 1934; 28C-1, August 12, 1938; 274, P. 218, 1922.

Persons living on tax exempt property can vote if they have constitutional qualifications. Op. Atty. Gen. 187A-9, April 29, 1935.

Persons on relief rolls of a municipality may establish residence in another municipality for voting purposes. Op. Atty. Gen. 490L, November 28, 1934.

Commissioner should sustain a challenge and thereby annul the registration after considering all the evidence submitted by both sides only when it clearly appears from the evidence that the registrant is disqualified. Op. Atty. Gen. 183R, January 23, 1928.

A person should not be deprived of his right to vote in a doubtful case without at least giving him time to appeal before election. Id.

See also Minn. Const. art VII, s 2 and notes thereunder.

200.039 PETITION REQUIREMENTS FOR BALLOT QUESTIONS.

If a statute:

(1) provides that a ballot question may or must be placed on the ballot when a specified number of individuals have signed a petition; and

(2) specifies the number of individuals required under the statute as a percentage of the individuals who voted in a previous election, the statute must be construed to mean that the petition must be signed by a number of current voters equal to the required percentage specified in the statute. The statute must not be construed to restrict the eligibility to sign the petition to only those individuals who were eligible to cast ballots or who did cast ballots in the previous election.

History: *1Sp2001 c 10 art 18 s 6*

200.04 HELP AMERICA VOTE ACT COMPLAINTS.

Subdivision 1. **Procedure.** The secretary of state shall establish a procedure for the review of complaints regarding the administration of Title III of the Help America Vote Act of 2002, Public Law 107-252, including complaints about voting system standards, computerized statewide registration lists and equipment, voter registration requirements, and other features of state implementation of that act. The secretary of state shall provide a complaint form that requires the signature of the complainant, an affidavit and notarization, and the

attachment of any supporting documentation. The form must indicate that any election judge, while serving, is deemed a notary public for purposes of Public Law 107-252, section 402.

Subd. 2. **Political subdivisions.** (a) The procedure in this subdivision applies if a complaint under subdivision 1 pertains to a town, city, school, or county employee or official.

(b) The secretary of state must provide the town clerk, city clerk, school district clerk, or county auditor with a copy of the complaint within three business days of receiving it.

(c) The town clerk, city clerk, school district clerk, or county auditor has 20 days to either reach an agreement with the complainant or file a written response to the complaint with the secretary of state.

(d) The secretary of state shall provide the complainant with a copy of the response and an opportunity for a hearing on the record.

(e) If a hearing on the record is requested, the town clerk, city clerk, school district clerk, or county auditor must be given notice and the opportunity to participate.

(f) The secretary of state shall issue a final determination, and, if necessary, a remedial plan, no later than 90 days after the filing of the complaint. If the secretary of state fails to issue the determination within 90 days, the secretary of state must provide alternative dispute resolution for the disposition of the complaint. That process must be completed within 60 days of its commencement.

Subd. 3. **Secretary of state.** (a) The procedure in this subdivision applies if a complaint under subdivision 1 pertains to the secretary of state.

(b) The secretary of state must forward the complaint to the Office of Administrative Hearings within three business days after receiving it.

(c) The secretary of state has 20 days to either reach an agreement with the complainant or file a written response to the complaint with the Office of Administrative Hearings.

(d) The Office of Administrative Hearings must provide the complainant with a copy of the response and an opportunity for a hearing on the record.

(e) If a hearing on the record is requested, the secretary of state must be given notice and an opportunity to participate.

(f) The Office of Administrative Hearings must issue a final determination and remedial plan if necessary no later than 90 days after the filing of the complaint. If the Office of Administrative Hearings fails to issue the determination within 90 days, it must provide alternative dispute resolution for the disposition of the complaint. That process must be completed within 60 days of its commencement.

Subd. 4**. Application of chapter 14.** Proceedings under this section are not subject to chapter 14.

Subd. 5. **Appeal.** A determination made under subdivision 2 is not an agency determination subject to appellate review. Either party may initiate an appeal from the secretary of state's final order in the district court in the county where the town, city, or county employee or official is employed.

Subd. 6. **Review.** A determination made under subdivision 3 is subject to appellate review.

History: *1Sp2003 c 7 s 2*

NOTES AND DECISIONS

200.04

Registered voters and organizations representing registered voters failed to exhaust their adequate state law remedies, as required to bring their action alleging that various Minnesota state and county officials responsible for election administration or enforcement of election laws violated their rights under United States and the Minnesota Constitutions by not taking sufficient steps to ensure that election day registrants were eligible to vote. *Minnesota Voters Alliance v. Ritchie*, 890 F.Supp.2d 1106 (D. Minn. 2012).

Complainants' complaint pursuant to statute failed to allege facts to support a claim that Respondent Secretary of State violated the federal Help America Vote Act (HAVA) or the state laws enacted to implement it. *McGrath v. Minnesota Secretary of State,* OAH 15-3500-21801-HV (March 7, 2011).

200.04-200.38 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

CHAPTER 201 - REGISTRATION AND ELIGIBILITY OF VOTERS

201.01 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.01 DEFINITIONS.

The definitions in chapter 200 apply to this chapter.

History: *1959 c 675 art 2 s 1; 1981 c 29 art 2 s 1*

201.013 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.014 ELIGIBILITY TO VOTE.

Subdivision 1. **Requirements.** Except as provided in subdivision 2, an individual who meets the following requirements at the time of an election is eligible to vote. The individual must:

(a) Be 18 years of age or older;

(b) Be a citizen of the United States; and

(c) Maintain residence in Minnesota for 20 days immediately preceding the election.

Subd. 2. **Not eligible.** The following individuals are not eligible to vote. Any individual:

(a) Convicted of treason or any felony whose civil rights have not been restored;

(b) Under a guardianship in which the court order revokes the ward's right to vote; or

(c) Found by a court of law to be legally incompetent.

Subd. 3. **Penalty.** Any individual who votes who knowingly is not eligible to vote is guilty of a felony.

History: *1981 c 29 art 2 s 2; 1986 c 444; 2003 c 12 art 2 s 2; 2005 c 10 art 4 s 3; 2005 c 156 art 6 s 14*

NOTES AND DECISIONS

201.014

Provision of Minnesota Constitution prohibiting a person under guardianship from voting at any election in the state did not violate the Equal Protection Clauses of the U.S. and Minnesota Constitutions, since pursuant to Minnesota statute, persons under guardianship were presumed to retain the right to vote, and the constitutional prohibition against voting based on guardianship status applied only when there had been an individualized judicial finding of incapacity to vote. *Minnesota Voters Alliance v. Ritchie*, 890 F. Supp.2d 1106 (D. Minn. 2012).

A district court has ruled that a person who is eighteen years old, a citizen of the United States and a resident of Minnesota for twenty days is qualified to vote. The decision was not appealed. *Erdahl v. Spannaus*, et. al., No. 393442, Ramsey District Court, May 9, 1974. *See* M.S. 253B.23, subd. 2 (voting rights of persons in commitment status); M.S. 525.54, subd. 4 (voting rights of conservatee). NOTE: The *Erdahl* decision concerned the validity of the 30 day residence and three months citizenship requirements under Minn. Const. art VII, s 1.

Definition of "eligible voter" in this statute rather than in Minn. Const. art VII, s 6 applies to eligibility of naturalized citizen for elective office. Op. Atty. Gen. 1841, August 2, 1982.

For additional notes concerning voter eligibility, *see* Minn. Const. art. VII, s 1 and notes thereunder.

201.016 RESIDENCE REQUIREMENTS FOR VOTING; VIOLATIONS; PENALTY.

Subdivision 1. **Determination of residence**. An eligible voter may vote only in the precinct in which the voter maintains residence. The residence of a voter shall be determined in accordance with section 200.031.

Subd. 1a. **Violations; penalty**. (a) The county auditor shall mail a notice to any voter who the county auditor can determine has (1) provided the address at which the voter maintains residence, but was allowed to vote in a precinct other than the precinct in which the voter maintains residence; and (2) not voted in the wrong precinct previously. The notice must be in the form provided by the secretary of state.

(b) The county auditor shall mail a violation notice to any voter who otherwise voted in a precinct in which the voter did not maintain residence on election day. The county auditor shall also change the status of the voter in the statewide registration system to "challenged" and the voter shall be required to provide proof of residence to either the county auditor or to the election judges in the voter's precinct before voting in the next election. Any of the forms authorized by section 201.061 for registration at the polling place may be used for this purpose.

(c) A voter who votes in a precinct other than the precinct in which the voter maintains residence after receiving an initial violation notice as provided in this subdivision is guilty of a petty misdemeanor.

(d) A voter who votes in a precinct other than the precinct in which the voter maintains residence after having been found to have committed a petty misdemeanor under paragraph (b) is guilty of a misdemeanor.

(e) Reliance by the voter on inaccurate information regarding the location of the voter's polling place provided by the state, county, or municipality is an affirmative defense to a prosecution under this subdivision.

Subd. 2. [Repealed, 2014 c 264 s 31].

History: *1981 c 29 art 2 s 3; 1986 c 444; 1987 c 266 art 1 s 4; 1999 c 132 s 3,4; 1Sp2001 c 10 art 18 s 7; 2010 c 201 s 1; 2014 c 264 s 31*

201.018 REGISTRATION FOR VOTING.

Subdivision 1. [Repealed, 1984 c 560 s 26]

Subd. 2. **Registration required.** An eligible voter must register in a manner specified by section 201.054, in order to vote in any primary, special primary, general, school district, or special election held in the county.

History: *1981 c 29 art 2 s 4; 1986 c 475 s 2; 1987 c 266 art 1 s 5*

201.02 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.02 MS 1971 [Repealed, 1973 c 676 s 33]

201.021 PERMANENT REGISTRATION SYSTEM

A permanent system of voter registration by county is established, with a single, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state, and assigns a unique identifier to each legally registered voter in the state. The interactive computerized statewide voter registration list constitutes the official list of every legally registered voter in the state. The county auditor shall be chief registrar of voters and the chief custodian of the official registration records in each county. The secretary of state is responsible for defining, maintaining, and administering the centralized system.

History: *1973 c 676 s 3; 1975 c 204 s 94; 1981 c 29 art 2 s 5; 1984 c 560 s 2; 1987 c 361 s 2; 2004 c 293 art 1 s 1*

201.022 STATEWIDE REGISTRATION SYSTEM

Subdivision 1. **Establishment.** The secretary of state shall maintain a statewide voter registration system to facilitate voter registration and to provide a central database

containing voter registration information from around the state. The system must be accessible to the county auditor of each county in the state. The system must also:

(1) provide for voters to submit their voter registration applications to any county auditor, the secretary of state, or the Department of Public Safety;

(2) provide for the definition, establishment, and maintenance of a central database for all voter registration information;

(3) provide for entering data into the statewide registration system;

(4) provide for electronic transfer of completed voter registration applications from the Department of Public Safety to the secretary of state or the county auditor;

(5) assign a unique identifier to each legally registered voter in the state;

(6) provide for the acceptance of the Minnesota driver's license number, Minnesota state identification number, and last four digits of the Social Security number for each voter record;

(7) coordinate with other agency databases within the state;

(8) allow county auditors and the secretary of state to add or modify information in the system to provide for accurate and up-to-date records;

(9) allow county auditors, municipal and school district clerks, and the secretary of state to have electronic access to the statewide registration system for review and search capabilities;

(10) provide security and protection of all information in the statewide registration system and ensure that unauthorized access is not allowed;

(11) provide access to municipal clerks to use the system;

(12) provide a system for each county to identify the precinct to which a voter should be assigned for voting purposes;

(13) provide daily reports accessible by county auditors on the driver's license numbers, state identification numbers, or last four digits of the Social Security numbers submitted on voter registration applications that have been verified as accurate by the secretary of state; and

(14) provide reports on the number of absentee ballots transmitted to and returned and cast by voters under section 203B.16.

The appropriate state or local official shall provide security measures to prevent unauthorized access to the computerized list established under section 201.021.

Subd. 2. **Rules.** The secretary of state shall make permanent rules necessary to administer the system required in subdivision 1.

Subd. 3. **Consultation with local officials.** The secretary of state must consult with representatives of local election officials in the development of the statewide voter registration system.

History: *1987 c 361 s 1; 1988 c 646 s 1; 1990 c 585 s 2; 1995 c 233 art 2 s 56; 1Sp2001 c 10 art 18 s 8; 2004 c 293 art 1 s 2; 2005 c 162 s 1*

201.023 VOTER REGISTRATION.

Amounts received by the secretary of state to pay the cost of producing lists of registered voters under section 201.091, subdivision 5, by the statewide registration system must be deposited in the state treasury and credited to the general fund.

History: *1988 c 646 s 2; 1990 c 585 s 3; 1990 c 594 art 3 s 8*

201.03 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.03 MS 1971 [Repealed, 1973 c 676 s 33]

201.04 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.04 MS 1971 [Repealed, 1973 c 676 s 33]

201.05 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.05 MS 1971 [Repealed, 1973 c 676 s 33]

201.054 METHODS OF REGISTERING; PENALTY.

Subdivision 1. **Registration.** An individual may register to vote:

(1) at any time before the 20th day preceding any election as provided in section 201.061, subdivision 1;

(2) on the day of an election as provided in section 201.061, subdivision 3; or

(3) when submitting an absentee ballot, by enclosing a completed registration application as provided in section 203B.04, subdivision 4.

Subd. 2. **Prohibitions; penalty.** No individual shall intentionally:

(a) Cause or attempt to cause the individual's name to be registered in any precinct if the individual is not eligible to vote;

(b) Cause or attempt to cause the individual's name to be registered for the purpose of voting in more than one precinct;

(c) Misrepresent the individual's identity when attempting to register to vote; or

(d) Aid, abet, counsel, or procure any other individual to violate this subdivision.

A violation of this subdivision is a felony.

Subd. 3. **Prohibited methods of compensation; penalty.** (a) No individual may be compensated for the solicitation, collection, or acceptance of voter registration applications from voters for submission to the secretary of state, a county auditor, or other local election official in a manner in which payment is calculated by multiplying (1) either a set or variable payment rate, by (2) the number of voter registration applications solicited, collected, or accepted.

(b) No individual may be deprived of compensation or have compensation automatically reduced exclusively for failure to solicit, collect, or accept a minimum number of voter registration applications, and no individual may receive additional compensation for reaching or exceeding a minimum number of voter registration applications.

(c) A person who violates this subdivision is guilty of a petty misdemeanor.

History: *1981 c 29 art 2 s 6; 1986 c 444; 1987 c 361 s 3; 1990 c 585 s 4; 1999 c 132 s 5; 2008 c 244 art 1 s 2; 2008 c 244 art 2 s 2;*

NOTES AND DECISIONS

201.054

Conclusory allegations of registered voters and organizations representing registered voters, that various Minnesota state and county officials responsible for election administration or enforcement of election laws had taken insufficient steps to ensure that election day registrants were eligible to vote and that defendants violated the rights of eligible voters by diluting their votes with the votes of ineligible EDRs, were insufficient to state claims for violations of the First, Fifth, Ninth, and Fourteenth Amendments, and the Minnesota Constitution, in the absence of allegations that defendants had denied the right of citizens to vote for reasons of race, or fraudulent interference with a free election by stuffing of the ballot box, or other unlawful conduct which interfered with the right to vote or other constitutionally protected right. *Minnesota Voters Alliance v. Ritchie*, 890 F. Supp. 2d 1106 (D. Minn. 2012).

201.056 SIGNATURE OF REGISTERED VOTER; MARKS ALLOWED.

An individual who is unable to write the individual's name shall be required to sign a registration application in the manner provided by section 645.44, subdivision 14. If the individual registers in person and signs by making a mark, the clerk or election judge accepting the registration shall certify the mark by signing the individual's name. If the individual registers by mail and signs by making a mark, the mark shall be certified by having a voter registered in the individual's precinct sign the individual's name and the voter's own name and give the voter's own address.

History: *1981 c 29 art 2 s 7; 1986 c 444; 2008 c 244 art 1 s 3*

201.06 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.06 MS 1971 [Repealed, 1973 c 676 s 33]

201.061 REGISTRATION ON OR BEFORE ELECTION DAY.

Subdivision 1. **Prior to election day.** (a) At any time except during the 20 days immediately preceding any regularly scheduled election, an eligible voter or any individual who will be an eligible voter at the time of the next election may register to vote in the precinct in which the voter maintains residence by completing a voter registration application as described in section 201.071, subdivision 1. A completed application may be submitted:

(1) in person or by mail to the county auditor of that county or to the Secretary of State's Office; or

(2) electronically through a secure Web site that shall be maintained by the secretary of state for this purpose, if the applicant has an e-mail address and provides the applicant's verifiable Minnesota driver's license number, Minnesota state identification card number, or the last four digits of the applicant's Social Security number.

A registration that is received in person or by mail no later than 5:00 p.m. on the 21st day preceding any election, or a registration received electronically through the secretary of state's secure Web site no later than 11:59 p.m. on the 21st day preceding any election, shall be accepted. An improperly addressed or delivered registration application shall be forwarded within two working days after receipt to the county auditor of the county where the voter maintains residence. A state or local agency or an individual that accepts completed voter

registration applications from a voter must submit the completed applications to the secretary of state or the appropriate county auditor within ten calendar days after the applications are dated by the voter.

(b) An application submitted electronically under paragraph (a), clause (2), may only be transmitted to the county auditor for processing if the secretary of state has verified the application information matches the information in a government database associated with the applicant's driver's license number, state identification card number, or Social Security number. The secretary of state must review all unverifiable voter registration applications submitted electronically for evidence of suspicious activity and must forward any such application to an appropriate law enforcement agency for investigation.

An individual may not electronically submit a voter registration application on behalf of any other individual.

(c) For purposes of this section, mail registration is defined as a voter registration application delivered to the secretary of state, county auditor, or municipal clerk by the United States Postal Service or a commercial carrier.

Subd. 1a. **Incomplete registration by mail.** If the county auditor determines that a voter who has submitted a voter registration application by mail has not previously voted in this state for a federal office and has also not presented a document authorized for election day registration in section 201.061, subdivision 3, to the auditor, and the county auditor is unable to verify the voter's driver's license, state identification, or last four digits of the voter's Social Security number as provided by the voter on the voter registration application, then the county auditor must notify the voter that the registration is incomplete and to complete registration by using one of the following methods:

(1) presenting to the auditor more than 20 days before the election a document authorized for election day registration in section 201.061, subdivision 3;

(2) registering in person before or on election day;

(3) if voting by absentee ballot or by mail, following election day registration procedures for absentee voters as described in section 203B.04, subdivision 4; or

(4) providing proof of residence by any of the methods authorized for election day registration in section 201.061, subdivision 3.

Subd. 2. [Repealed, 1990 c 585 s 34]

Subd. 3. **Election day registration.** (a) An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, by completing a registration application, making an oath in the form prescribed by the secretary of state and providing proof of residence. An individual may prove residence for purposes of registering by:

(1) presenting a driver's license or Minnesota identification card issued pursuant to section 171.07;

(2) presenting any document approved by the secretary of state as proper identification;

(3) presenting one of the following:

(i) a current valid student identification card from a postsecondary educational institution in Minnesota, if a list of students from that institution has been prepared under section 135A.17 and certified to the county auditor in the manner provided in rules of the secretary of state; or

(ii) a current student fee statement that contains the student's valid address in the precinct together with a picture identification card; or

(4) having a voter who is registered to vote in the precinct, or an employee employed by and working in a residential facility in the precinct and vouching for a resident in the facility, sign an oath in the presence of the election judge vouching that the voter or employee personally knows that the individual is a resident of the precinct. A voter who has been vouched for on election day may not sign a proof of residence oath vouching for any other individual on that election day. A voter who is registered to vote in the precinct may sign up to eight proof-of-residence oaths on any election day. This limitation does not apply to an employee of a residential facility described in this clause. The secretary of state shall provide a form for election judges to use in recording the

number of individuals for whom a voter signs proof-of-residence oaths on election day. The form must include space for the maximum number of individuals for whom a voter may sign proof-of-residence oaths. For each proof-of-residence oath, the form must include a statement that the individual: (i) is registered to vote in the precinct or is an employee of a residential facility in the precinct, (ii) personally knows that the voter is a resident of the precinct, and (iii) is making the statement on oath. The form must include a space for the voter's printed name, signature, telephone number, and address.

(b) The operator of a residential facility shall prepare a list of the names of its employees currently working in the residential facility and the address of the residential facility. The operator shall certify the list and provide it to the appropriate county auditor no less than 20 days before each election for use in election day registration.

(c) "Residential facility" means transitional housing as defined in section 119A.43, subdivision 1; a supervised living facility licensed by the commissioner of health under section 144.50, subdivision 6; a nursing home as defined in section 144A.01, subdivision 5; a residence registered with the commissioner of health as a housing with services establishment as defined in section 144D.01, subdivision 4; a veterans home operated by the board of directors of the Minnesota Veterans Homes under chapter 198; a residence licensed by the commissioner of human services to provide a residential program as defined in section 245A.02, subdivision 14; a residential facility for persons with a developmental disability licensed by the commissioner of human services under section 252.28; group residential housing as defined in section 256I.03, subdivision 3; a shelter for battered women as defined in section 611A.37, subdivision 4; or a supervised publicly or privately operated shelter or dwelling designed to provide temporary living accommodations for the homeless.

(d) For tribal band members, an individual may prove residence for purposes of registering by:

(1) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, address, signature, and picture of the individual; or

(2) presenting an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, signature, and picture of the individual and also presenting one of the documents listed in Minnesota Rules, part 8200.5100, subpart 2, item B.

(e) A county, school district, or municipality may require that an election judge responsible for election day registration initial each completed registration application.

Subd. 4. **Registration by election judges; procedures.** Registration at the polling place on election day shall be conducted by the election judges. Before registering an individual to vote at the polling place, the election judge must review any list of absentee election day registrants provided by the county auditor or municipal clerk to see if the person has already voted by absentee ballot. If the person's name appears on the list, the election judge must not allow the individual to register or to vote in the polling place. The election judge who registers an individual at the polling place on election day shall not handle that voter's ballots at any time prior to the opening of the ballot box after the voting ends. Registration applications and forms for oaths shall be available at each polling place. If an individual who registers on election day proves residence by oath of a registered voter, the form containing the oath shall be attached to the individual's registration application. Registration applications completed on election day shall be forwarded to the county auditor who shall add the name of each voter to the registration system unless the information forwarded is substantially deficient. A county auditor who finds an election day registration substantially deficient shall give written notice to the individual whose registration is found deficient. An election day registration shall not be found deficient solely because the individual who provided proof of residence was ineligible to do so.

Subd. 5. **Unregistered voters; penalty.** No election judge in any precinct in which registration is required may receive the vote at any election of any individual whose name is not registered in a manner specified in section 201.054, subdivision 1 or not recorded under section 203B.19. A violation of this subdivision is a felony.

Subd. 6. **Precinct map.** Except as otherwise provided by this subdivision, the county auditor shall provide each precinct with an accurate precinct map or precinct finder to assist the election judges in determining whether an address is located in that precinct. A county auditor may delegate this responsibility as provided in section 201.221, subdivision 4, to a municipal or school district clerk who prepares precinct maps as provided in section 204B.14, subdivision 5.

Subd. 7. **Record of attempted registrations.** The election judge responsible for election day registration shall attempt to keep a record of the number of individuals who attempt to register on election day but who cannot provide proof of residence as required by this section. The record shall be forwarded to the county auditor with the election returns for that precinct.

Subd. 8. **Web site security.** (a) The secretary of state shall maintain a log of each Internet Protocol address used to submit a voter registration application electronically under subdivision 1, paragraph (a), clause (2), and must monitor the log, volume of Web site use, and other appropriate indicators for suspicious activity. Evidence of suspicious activity that cannot be resolved by the secretary of state must be forwarded to an appropriate law enforcement agency for investigation.

(b) The electronic registration system must be secure. The Web site shall maintain the confidentiality of all users and preserve the integrity of the data submitted. The secretary of state shall employ security measures to ensure the accuracy and integrity of voter registration applications submitted electronically pursuant to this section. All data sent and received through the Web site must be encrypted.

(c) The secretary of state must provide ongoing testing and monitoring to ensure continued security. The secretary of state must work with the chief information officer as defined in section 16E.01, subdivision 1, or another security expert to annually assess the security of the system. The security assessment must include a certification signed by the secretary of state that states that adequate security measures are in place. The certification must also be signed by the chief information officer or another security expert affirming that the assessment is accurate. The secretary of state must submit the security assessment to the legislative auditor and to the chairs and ranking minority members of the committees in the senate and house of representatives with primary jurisdiction over elections by January 1 of each year, except that the first annual security assessment must be submitted by September 30, 2014, and no report is required for January 1, 2015.

(d) In developing the electronic voter registration system, the secretary of state must consult with the chief information officer or the chief's designee to ensure the site is secure.

History: *1973 c 676 s 4; 1974 c 583 s 1,2; 1977 c 395 s 1,2; 1978 c 714 s 1,30; 1981 c 29 art 2 s 8; 1981 c 217 s 3; 2Sp1981 c 2 s 1; 1983 c 253 s 1; 1984 c 560 s 3; 1986 c 444; 1987 c 266 art 1 s 6,7; 1987 c 361 s 4; 1990 c 585 s 5; 1991 c 227 s 4; 1997 c 147 s 2; 2000 c 467 s 5; 2004 c 293 art 1 s 3-5; 2006; 2008 c 244 art 2 s 3; 2010 c 194 s 1; 2010 c 201 s 2; 2013 c 131 art 2 s 7; 2014 c 185 s 2 & 3; 2014 c 264 s 3 & 4*

NOTES AND DECISIONS

201.061

Conclusory allegations of registered voters and organizations representing registered voters, that various Minnesota state and county officials responsible for election administration or enforcement of election laws had taken insufficient steps to ensure that election day registrants were eligible to vote and that defendants violated the rights of eligible voters by diluting their votes with the votes of ineligible EDRs, were insufficient to state claims for violations of the First, Fifth, Ninth, and Fourteenth Amendments, and the Minnesota Constitution, in the absence of allegations that defendants had denied the right of citizens to vote for reasons of race, or fraudulent interference with a free election by stuffing of the ballot box, or other unlawful conduct which interfered with the right to vote or other constitutionally protected right. *Minnesota Voters Alliance v. Ritchie*, 890 F. Supp. 2d 1106 (D. Minn. 2012).

201.07 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.07 MS 1971 [Repealed, 1973 c 676 s 33]

201.071 REGISTRATION APPLICATIONS.

Subdivision 1. **Form.** Both paper and electronic voter registration applications must contain the same information unless otherwise provided by law. A voter registration application must contain spaces for the following required information: voter's first name, middle name, and last name; voter's previous name, if any; voter's current address; voter's previous address, if any; voter's date of birth; voter's municipality and county of residence; voter's telephone number, if provided by the voter; date of registration; current and valid Minnesota driver's license number or Minnesota state identification number, or if the voter has no current and valid Minnesota driver's license or Minnesota state identification, the last four digits of the voter's Social Security number; and voter's signature. The paper registration application may include the voter's e-mail address, if provided by the voter. The electronic voter registration application must include the voter's e-mail address. The registration application may include the voter's interest in serving as an election judge, if indicated by the voter. The application must also contain the following certification of voter eligibility:

"I certify that I:

(1) will be at least 18 years old on election day;

(2) am a citizen of the United States;

(3) will have resided in Minnesota for 20 days immediately preceding election day;

(4) maintain residence at the address given on the registration form;

(5) am not under court-ordered guardianship in which the court order revokes my right to vote;

(6) have not been found by a court to be legally incompetent to vote;

(7) have the right to vote because, if I have been convicted of a felony, my felony sentence has expired (been completed) or I have been discharged from my sentence; and

(8) have read and understand the following statement: that giving false information is a felony punishable by not more than five years imprisonment or a fine of not more than $10,000, or both."

The certification must include boxes for the voter to respond to the following questions:

"(1) Are you a citizen of the United States?" and

"(2) Will you be 18 years old on or before election day?"

And the instruction:

"If you checked 'no' to either of these questions, do not complete this form."

The form of the voter registration application and the certification of voter eligibility must be as provided in this subdivision and approved by the secretary of state. Voter registration forms authorized by the National Voter Registration Act must also be accepted as valid. The federal postcard application form must also be accepted as valid if it is not deficient and the voter is eligible to register in Minnesota.

Subd. 2. **Instructions.** A registration application shall be accompanied by instructions specifying the manner and method of registration, the qualifications for voting, the penalties for false registration, and the availability of registration and voting assistance for elderly and handicapped individuals and residents of health care facilities and hospitals. The instructions must indicate that if the voter does not have a valid Minnesota driver's license or identification card, the last four digits of the voter's Social Security number must be provided, unless the voter does not have a Social Security number. If, prior to election day, a person requests the instructions in Braille, audio format, or in a version printed in 16-point bold type with 24-point leading, the county auditor shall provide them in the form requested. The secretary of state shall prepare Braille and audio copies and make them available.

Subd. 3. **Deficient registration.** No voter registration application is deficient if it contains the voter's name, address, date of birth, current and valid Minnesota driver's license number or Minnesota state identification number, or if the voter has no current and valid Minnesota driver's license or Minnesota state identification number, the last four digits of the voter's Social Security number, if the voter has been issued a Social Security number, prior registration, if any, and signature. The absence of a zip code number does not cause the registration

to be deficient. Failure to check a box on an application form that a voter has certified to be true does not cause the registration to be deficient. The election judges shall request an individual to correct a voter registration application if it is deficient or illegible. No eligible voter may be prevented from voting unless the voter's registration application is deficient or the voter is duly and successfully challenged in accordance with section 201.195 or 204C.12.

A voter registration application accepted prior to August 1, 1983, is not deficient for lack of date of birth. The county or municipality may attempt to obtain the date of birth for a voter registration application accepted prior to August 1, 1983, by a request to the voter at any time except at the polling place. Failure by the voter to comply with this request does not make the registration deficient.

A voter registration application accepted before January 1, 2004, is not deficient for lack of a valid Minnesota driver's license or state identification number or the last four digits of a Social Security number. A voter registration application submitted by a voter who does not have a Minnesota driver's license or state identification number, or a Social Security number, is not deficient for lack of any of these numbers.

A voter registration application submitted electronically through the Web site of the secretary of state prior to the effective date of this section is not invalid as a result of its electronic submission.

Subd. 4. **Change of registration.** A county auditor who receives a registration application indicating that an individual was previously registered in a different county in Minnesota shall update the voter's record electronically through the statewide registration system in the manner prescribed by the secretary of state. A county auditor who receives a registration application or notification requiring a change of registration records under this subdivision as a result of an election day registration shall also check the statewide registration system to determine whether the individual voted in more than one precinct in the most recent election.

Subd. 5. [Repealed, 1990 c 585 s 34]

Subd. 6. [Repealed, 1990 c 585 s 34]

Subd. 7. [Repealed, 1983 c 124 s 6]

Subd. 8. **School district assistance.** School districts shall assist county auditors in determining the school district in which a voter resides.

History: *1973 c 676 s 5; 1974 c 583 s 3,4; 1977 c 395 s 3; 1978 c 714 s 2,30; 1981 c 29 art 2 s 9; 1981 c 92 s 1; 1983 c 124 s 1-3; 1983 c 303 s 1; 1984 c 471 s 1; 1984 c 628 art 3 s 11; 1986 c 444; 1987 c 175 s 1; 1987 c 266 art 1 s 8,9; 1987 c 361 s 5; 1988 c 646 s 3; 1990 c 453 s 1; 1990 c 585 s 6,7; 1993 c 223 s 1; 1997 c 147 s 3; 2004 c 293 art 1 s 6-8; 2005 c 10 art 4 s 4; 2005 c 56 s 1; 2005 c 156 art 6 s 16; 2008 c 244 art 2 s 4; 2008 c 244 art 2 s 5; 2013 c 131 art 2 s 8; 2014 c 185 s 4 & 5; 2015 c 70 art 1 s 8*

NOTES AND DECISIONS

201.071

Conclusory allegations of registered voters and organizations representing registered voters, that various Minnesota state and county officials responsible for election administration or enforcement of election laws had taken insufficient steps to ensure that election day registrants were eligible to vote and that defendants violated the rights of eligible voters by diluting their votes with the votes of ineligible EDRs, were insufficient to state claims for violations of the First, Fifth, Ninth, and Fourteenth Amendments, and the Minnesota Constitution, in the absence of allegations that defendants had denied the right of citizens to vote for reasons of race, or fraudulent interference with a free election by stuffing of the ballot box, or other unlawful conduct which interfered with the right to vote or other constitutionally protected right. *Minnesota Voters Alliance v. Ritchie*, 890 F. Supp. 2d 1106 (D. Minn. 2012).

201.08 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.08 MS 1971 [Repealed, 1973 c 676 s 33]

201.081 REGISTRATION FILES.

Subdivision 1. **Statewide registration system.** (a) The statewide registration system is the official record of registered voters. The voter registration applications and the terminal providing access to the statewide registration system must be under the control of the county auditor or the public official to whom the county auditor has delegated the responsibility for maintaining voter registration records. The voter registration applications and terminals providing access to the statewide registration system must not be removed from the control of the county auditor except as provided in this section. The county auditor may make photographic copies of voter registration applications in the manner provided by section 138.17.

(b) A properly completed voter registration application that has been submitted electronically or in paper form to the secretary of state or a county auditor must be maintained by the secretary of state or the county auditor for at least 22 months after the date that the information on the application is entered into the database of the statewide registration system. The secretary of state or the county auditor may dispose of the applications after retention for 22 months in the manner provided by section 138.17.

(c) Data contained on a voter registration application submitted electronically through the secure Web site established in section 201.061, subdivision 1, must be maintained in its original form, in a manner suitable for printing, for the period required by this section. The Internet Protocol address used to submit an application electronically must be maintained with the voter registration application data.

Subd. 2. **Exception.** The secretary of state may maintain voter records of participants of the Safe at Home program for the purposes of chapter 5B.

History: *1973 c 676 s 6; 1976 c 223 s 4; 1978 c 714 s 30; 1981 c 29 art 2 s 10; 1987 c 361 s 6; 1990 c 585 s 8; 1993 c 223 s 2; 1997 c 147 s 4; 2008 c 244 art 2 s 6; 2009 c 86 a 1 s 29; 2014 c 185 s 6; 2014 c 264 s 5*

201.09 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.09 MS 1971 [Repealed, 1973 c 676 s 33]

201.091 REGISTERED VOTER LISTS; REPORTS; REGISTRATION PLACES.

Changes effective July 1, 2017, and applies to elections conducted on or after that date

Subdivision 1. **Master list.** Each county auditor shall prepare and maintain a current list of registered voters in each precinct in the county which is known as the master list. The master list must be created by entering each completed voter registration application received by the county auditor into the statewide registration system. It must show the name, residence address, and date of birth of each voter registered in the precinct. The information contained in the master list may only be made available to public officials for purposes related to election administration, jury selection, and in response to a law enforcement inquiry concerning a violation of or failure to comply with any criminal statute or state or local tax statute.

Subd. 2. **Corrected list.** By February 15 of each year, the secretary of state shall prepare the master list for each county auditor. The records in the statewide registration system must be periodically corrected and updated by the county auditor. An updated master list for each precinct must be available for absentee voting at least 46 days before each election. A final corrected master list must be available seven days before each election.

Subd. 3. [Repealed, 1990 c 585 s 34]

Subd. 4. **Public information lists.** The county auditor shall make available for inspection a public information list which must contain the name, address, year of birth, and voting history of each registered voter in the county. The list must include the party choice of any voter who voted in the most recent presidential nomination primary. The telephone number must be included on the list if provided by the voter. The public information list may also include information on voting districts. The county auditor may adopt reasonable rules governing access to the list. No individual inspecting the public information list shall tamper with or alter it in any manner. No individual who inspects the public information list or who acquires a list of registered voters prepared from the public information

list may use any information contained in the list for purposes unrelated to elections, political activities, or law enforcement. The secretary of state may provide copies of the public information lists and other information from the statewide registration system for uses related to elections, political activities, or in response to a law enforcement inquiry from a public official concerning a failure to comply with any criminal statute or any state or local tax statute.

Before inspecting the public information list or obtaining a list of voters or other information from the list, the individual shall provide identification to the public official having custody of the public information list and shall state in writing that any information obtained from the list will not be used for purposes unrelated to elections, political activities, or law enforcement. Requests to examine or obtain information from the public information lists or the statewide registration system must be made and processed in the manner provided in the rules of the secretary of state.

Upon receipt of a statement signed by the voter that withholding the voter's name from the public information list is required for the safety of the voter or the voter's family, the secretary of state and county auditor must withhold from the public information list the name of a registered voter.

Subd. 5. **Copy of list to registered voter.** The county auditors and the secretary of state shall provide copies of the public information lists in electronic or other media to any voter registered in Minnesota within ten days of receiving a written or electronic request accompanied by payment of the cost of reproduction. The county auditors and the secretary of state shall make a copy of the list available for public inspection without cost. An individual who inspects or acquires a copy of a public information list may not use any information contained in it for purposes unrelated to elections, political activities, or law enforcement.

Subd. 6. [Repealed, 1983 c 303 s 24]

Subd. 7. [Repealed, 1983 c 303 s 24]

Subd. 8. **Registration places.** Each county auditor shall designate a number of public buildings in those political subdivisions of the county where pre-registration of voters is allowed as provided in section 201.061, subdivision 1, where eligible voters may register to vote.

An adequate supply of registration applications and instructions must be maintained at each designated location, and a designated individual must be available there to accept registration applications and transmit them to the county auditor.

A person who, because of handicap, needs assistance in order to determine eligibility or to register must be assisted by a designated individual. Assistance includes but is not limited to reading the registration form and instructions and filling out the registration form as directed by the eligible voter.

Subd. 9. **Restricted data.** A list provided for public inspection or purchase, for jury selection, or in response to a law enforcement inquiry, must not include a voter's date of birth or any part of a voter's Social Security number, driver's license number, or identification card number, military identification card number, or passport number.

History: *1973 c 676 s 7; 1974 c 55 s 1; 1976 c 223 s 1-3; 1977 c 96 s 1; 1977 c 395 s 4-6; 1978 c 714 s 30; 1981 c 29 art 2 s 11; 1984 c 471 s 2; 1985 c 31 s 1; 1986 c 444; 1987 c 175 s 2; 1988 c 646 s 4,5; 1990 c 585 s 9; 1991 c 227 s 5,6; 1991 c 349 s 28; 2004 c 293 art 1 s 9-11; 2008 c 190 s 1; 2012 c 208 s 1; 2013 c 131 art 2 s 9; 2014 c 264 s 6; 2016 c 162 s 1*

NOTES AND DECISIONS

201.091

Under Minnesota law, voters' e-mail addresses were not part of the public information list containing the name and registration information of every legally registered voter, and thus, unsuccessful third-party candidate for the United States House of Representatives did not have a property interest protected by the Due Process Clause in obtaining the e-mail addresses; refusal of Minnesota Secretary of State and agency official to provide e-mail addresses to candidate, who purchased public information list with the name and registration information of every legally registered voter in the congressional district, also did not violate candidate's First Amendment rights to freedom of speech and association. *Carlson v. Ritchie,* 960 F.Supp.2d 943 (D. Minn. 2013), *aff'd* 573 Fed.Appx. 608 (8th Cir. 2014).

201.095 [Repealed, 1987 c 266 art 1 s 68]

201.096 SCHOOL ELECTIONS; USE OF VOTER REGISTRATION SYSTEM.

The county auditor shall allow independent or special school districts to use the necessary portions of the statewide registration system for school district elections. The county auditor may impose reasonable requirements to preserve the security and integrity of the system. The county auditor and the school district shall provide by agreement for the details of the use of the system by the school district. The school board may designate a member of the board or an employee as registration officer. The provisions of this chapter and chapter 203B relating to registration of voters apply to school district elections in which the statewide registration system is used.

History: *1990 c 585 s 10*

201.10 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.10 MS 1971 [Repealed, 1973 c 676 s 33]

201.11 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.11 PRECINCT BOUNDARIES; HOUSE NUMBER; STREET ADDRESS CHANGED, CHANGE OF FILES.

Subdivision 1. **Precinct boundaries changed.** When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the statewide voter registration system to accurately reflect those changes.

Subd. 2. **House number or street address changed.** If a municipality administratively changes the number or name of a street address of an existing residence, the municipal clerk shall promptly notify the county auditor and the county auditor shall immediately update the voter records of registered voters in the statewide voter registration system to accurately reflect that change. A municipality must not make a change to the number or name of a street address of an existing residence effective during the 45 days prior to any election in a jurisdiction which includes the affected residence.

History: *1959 c 675 art 2 s 11; 1973 c 676 s 8; 1981 c 29 art 2 s 13; 1993 c 223 s 3; 2010 c 201 s 3*

201.12 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.12 PROPER REGISTRATION, VERIFICATION BY MAIL, CHALLENGES.

Subdivision 1. **Notice of registration.** To prevent fraudulent voting and to eliminate excess names, the county auditor may mail to any registered voter a notice stating the voter's name and address as they appear in the registration files. The notice shall request the voter to notify the county auditor if there is any mistake in the information.

Subd. 2. **Moved within state.** If any nonforwardable mailing from an election official is returned as undeliverable but with a permanent forwarding address in this state, the county auditor may change the voter's status to "inactive" in the statewide registration system and shall transmit a copy of the mailing to the auditor of the county in which the new address is located. If an election is scheduled to occur in the precinct in which the voter resides in the next 47 days, the county auditor shall promptly update the voter's address in the statewide voter registration system If there is not an election scheduled, the auditor may wait to update the voter's address until after the next list of address changes is received from the secretary of state. Once updated, the county auditor shall mail to the voter a notice stating the voter's name, address, precinct, and polling place, except that if the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, the auditor must not mail the notice. The notice must advise the voter that the voter's voting address has been changed and that the voter must notify the county auditor within 21 days if the new address is not the voter's address of residence. The notice must state that it must be returned if it is not deliverable to the voter at the named address.

Subd. 3. **Moved out of State.** If any nonforwardable mailing from an election official is returned as undeliverable but with a permanent forwarding address outside this state, the county auditor shall promptly mail to the voter at the voter's new address a notice advising the voter that the voter's status in the statewide

voter registration system will be changed to "inactive" unless the voter notifies the county auditor within 21 days that the voter is retaining the former address as the voter's address of residence. If the voter's record is challenged due to a felony conviction, lack of United States citizenship, legal incompetence, or court-ordered revocation of voting rights of persons under guardianship, the county auditor must not mail this notice. If the notice is not received by the deadline, the county auditor shall change the voter's status to "inactive" in the statewide voter registration system.

Subd. 4. **Challenges.** If any nonforwardable mailing from an election official is returned as undeliverable but with no forwarding address, the county auditor shall change the registrant's status to "challenged" in the statewide voter registration system. An individual challenged in accordance with this subdivision shall comply with the provisions of section 204C.12, before being allowed to vote. If a notice mailed at least 60 days after the return of the first nonforwardable mailing is also returned by the postal service, the county auditor shall change the registrant's status to "inactive" in the statewide voter registration system.

History: *1959 c 675 art 2 s 12; 1973 c 676 s 9; 1981 c 29 art 2 s 14; 1986 c 444; 1986 c 475 s 3; 1990 c 585 s 11; 1997 c 147 s 5; 1999 c 132 s 6; 2008 c 165 s 1*; *2010 c 201 s 4; 2013 c 131 art 2 s 10*

201.121 ENTRY OF NAMES; MAILED NOTICE.

Subdivision 1. **Entry of registration information.** (a) At the time a voter registration application is properly completed, submitted, and received in accordance with sections 201.061 and 201.071, the county auditor shall enter the information contained on it into the statewide registration system. Voter registration applications completed before election day must be entered into the statewide registration system within ten days after they have been submitted to the county auditor. Voter registration applications completed on election day must be entered into the statewide registration system within 42 days after the election, unless the county auditor notifies the secretary of state before the 42-day deadline has expired that the deadline will not be met.

(b) Upon receiving a completed voter registration application, the secretary of state may electronically transmit the information on the application to the appropriate county auditor as soon as possible for review by the county auditor before final entry into the statewide registration system. The secretary of state may mail the voter registration application to the county auditor.

(c) Within ten days after the county auditor has entered information from a voter registration application into the statewide registration system, the secretary of state shall compare the voter's name, date of birth, and driver's license number, state identification number, or the last four digits of the Social Security number with the same information contained in the Department of Public Safety database.

(d) The secretary of state shall provide a report to the county auditor on a weekly basis that includes a list of voters whose name, date of birth, or identification number have been compared with the same information in the Department of Public Safety database and cannot be verified as provided in this subdivision. The report must list separately those voters who have submitted a voter registration application by mail and have not voted in a federal election in this state.

(e) The county auditor shall compile a list of voters for whom the county auditor and the secretary of state are unable to conclude that information on the voter registration application and the corresponding information in the Department of Public Safety database relate to the same person.

(f) The county auditor shall send a notice of incomplete registration to any voter whose name appears on the list and change the voter's status to "incomplete." A voter who receives a notice of incomplete registration from the county auditor may either provide the information required to complete the registration at least 21 days before the next election or at the polling place on election day.

Subd. 2. **Notice of registration; challenges.** The county auditor shall mail a notice indicating the individual's name, address, precinct and polling place to each registered voter. The notice shall indicate that it must be returned if it is not deliverable to the voter at the named address. Upon return of the notice by the postal service, the county auditor shall change the registrant's status to "challenged" in the statewide

registration system. An individual challenged in accordance with this subdivision shall comply with the provisions of section 204C.12, before being allowed to vote.

Subd. 3. **Postelection sampling.** Within ten days after an election, the county auditor shall send the notice required by subdivision 2 to a random sampling of the individuals registered on election day. The random sampling shall be determined in accordance with the rules of the secretary of state. As soon as practicable after the election, the county auditor shall mail the notice required by subdivision 2 to all other individuals registered on election day. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall immediately notify the county attorney of all of the relevant information and the secretary of state of the numbers by precinct. By March 1 of every odd-numbered year, the secretary of state shall report to the chair and ranking minority members of the legislative committees with jurisdiction over elections the number of notices reported under this subdivision to the secretary of state for the previous state general election by county and precinct.

History: *1973 c 676 s 10; 1978 c 714 s 3,30; 1981 c 29 art 2 s 15; 1986 c 444; 1987 c 361 s 7; 1990 c 585 s 12,13; 1997 c 147 s 6; 2004 c 293 art 1 s 12; 2010 c 201 s 5*

201.13 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.13 REPORT OF DECEASED VOTERS; CHANGES TO VOTER RECORDS.

Subdivision 1. **Commissioner of health, reports of deceased residents.** Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the commissioner of health shall report monthly by electronic means to the secretary of state the name, address, date of birth, and county of residence of each individual 18 years of age or older who has died while maintaining residence in Minnesota since the last previous report. The secretary of state shall determine if any of the persons listed in the report are registered to vote and shall prepare a list of those registrants for each county auditor. Within 60 days after receiving the list from the secretary of state, the county auditor shall change the status of those registrants to "deceased" in the statewide voter registration system.

Subd. 1a. **Social Security Administration; other reports of deceased residents.** The secretary of state may determine if any of the persons listed on the Social Security Death Index or reported as deceased by the vital records department of another state are registered to vote and prepare a list of those registrants for each county auditor. The county auditor shall change the status of those registrants to "deceased" in the statewide voter registration system.

Subd. 2. **Deceased nonresidents.** After receiving notice of death of a voter who has died outside the county, the county auditor shall change the voter's status to "deceased." Notice must be in the form of a printed obituary or a written statement signed by a registered Minnesota voter.

Subd. 3. **Use of change of address system.** (a) At least once each month the secretary of state shall obtain a list of individuals registered to vote in this state who have filed with the United States Postal Service a change of their permanent address. The secretary of state may also periodically obtain a list of individuals with driver's licenses or state identification cards to identify those who are registered to vote who have applied to the Department of Public Safety for a replacement driver's license or state identification card with a different address, and a list of individuals for whom the Department of Public Safety received notification of a driver's license or state identification card cancellation due to a change of residency out of state. However, the secretary of state shall not load data derived from these lists into the statewide voter registration system within the 47 days before the state primary or 47 days before a November general election.

(b) If the address is changed to another address in this state, the secretary of state shall locate the precinct in which the voter resides, if possible. If the secretary of state is able to locate the precinct in which the voter resides, the secretary must transmit the information about the changed address by electronic means to the county auditor of the county in which the new address is located. For addresses for which the secretary of state is unable to determine the precinct, the secretary of state may forward information to the appropriate county auditors for individual review. If the voter has not voted or submitted a voter registration application since the

address change, upon receipt of the information, the county auditor shall update the voter's address in the statewide voter registration system. The county auditor shall mail to the voter a notice stating the voter's name, address, precinct, and polling place, unless the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, in which case the auditor must not mail the notice. The notice must advise the voter that the voter's voting address has been changed and that the voter must notify the county auditor within 21 days if the new address is not the voter's address of residence. The notice must state that it must be returned if it is not deliverable to the voter at the named address.

(c) If the change of permanent address is to an address outside this state, the secretary of state shall notify by electronic means the auditor of the county where the voter formerly resided that the voter has moved to another state. If the voter has not voted or submitted a voter registration application since the address change, the county auditor shall promptly mail to the voter at the voter's new address a notice advising the voter that the voter's status in the statewide voter registration system will be changed to "inactive" unless the voter notifies the county auditor within 21 days that the voter is retaining the former address as the voter's address of residence, except that if the voter's record is challenged due to a felony conviction, noncitizenship, name change, incompetence, or a court's revocation of voting rights of individuals under guardianship, the auditor must not mail the notice. If the notice is not received by the deadline, the county auditor shall change the voter's status to "inactive" in the statewide voter registration system.

(d) If, in order to maintain voter registration records, the secretary of state enters an agreement to share information or data with an organization governed exclusively by a group of states, the secretary must first determine that the data security protocols are sufficient to safeguard the information or data shared. If required by such an agreement, the secretary of state may share the following data from the statewide voter registration system and data released to the secretary of state under section 171.12, subdivision 7a:

(1) name;

(2) date of birth;

(3) address;

(4) driver's license or state identification number;

(5) the last four digits of an individual's Social Security number; and

(6) the date that an individual's record was last updated.

If the secretary of state enters into such an agreement, the secretary and county auditors must process changes to voter records based upon the data in accordance with this section. Except as otherwise provided in this subdivision, when data is shared with the secretary of state by another state, the secretary of state must maintain the same data classification that the data had while it was in the possession of the state providing data.

Subd. 4. **Request for removal of voter record.** If a voter makes a written request for removal of the voter's record, the county auditor shall inactivate the record of the voter in the statewide voter registration system.

History: *1959 c 675 art 2 s 13; 1973 c 676 s 11; 1981 c 29 art 2 s 16; 1987 c 361 s 8; 1989 c 7 s 1; 1991 c 227 s 7; 1993 c 101 s 1; 1993 c 223 s 4,5; 1994 c 465 art 3 s 63; 1997 c 147 s 7,8; 1999 c 132 s 7; 2004 c 293 art 1 s 13; 2008 c 165 s 2; 2010 c 201 s 6; 2013 c 131 art 2 s 11; 2014 c 238 s 2; 2014 c 264 s 7*

201.14 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.14 COURT ADMINISTRATOR OF DISTRICT COURT, REPORT CHANGES OF NAMES.

The state court administrator shall regularly report by electronic means to the secretary of state the name, address, and, if available, driver's license or state identification card number of each individual, 18 years of age or over, whose name was changed since the last report, by marriage, divorce or any order or decree of the court. The secretary of state shall determine if any of the persons in the report are registered to vote under their previous name and shall prepare a list of those registrants for each county auditor. Upon receipt of the list, the county auditor shall make the change in the voter's record and mail to the voter the notice of registration

required by section 201.121, subdivision 2. A notice must not be mailed if the voter's record is challenged due to a felony conviction, lack of United States citizenship, legal incompetence, or court-ordered revocation of voting rights of persons under guardianship.

History: *1959 c 675 art 2 s 14; 1973 c 676 s 12; 1973 c 725 s 38; 1977 c 395 s 7; 1981 c 29 art 2 s 17; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 2010 c 201 s 7; 2013 c 131 art 2 s 12*

201.15 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.15 DISTRICT JUDGE, REPORT GUARDIANSHIPS AND COMMITMENTS.

Subdivision 1. **Guardianships and incompetents.** Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report regularly by electronic means to the secretary of state the name, address, date of birth, and, if available, driver's license or state identification card number of each individual 18 years of age or over, who since the last report:

(1) was placed under a guardianship in which the court order revokes the ward's right to vote; or

(2) was adjudged legally incompetent.

The court administrator shall also report the same information for each individual transferred to the jurisdiction of the court who meets a condition specified in clause (1) or (2). The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for the county auditor. The county auditor shall change the status on the record in the statewide registration system of any individual named in the report to indicate that the individual is not eligible to reregister or vote.

Subd. 2. **Guardianship termination or modification.** Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report regularly by electronic means to the secretary of state the name, address, date of birth, and, if available, driver's license or state identification card number of each individual whose guardianship was modified to restore the ward's right to vote or whose guardianship was terminated by order of the court under section 524.5-317 after being ineligible to vote for any of the reasons specified in subdivision 1. The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for the county auditor. The county auditor shall change the status on the voter's record in the statewide registration system to "active."

History: *1959 c 675 art 2 s 15; 1961 c 697 s 1; 1967 c 839 s 2; 1973 c 676 s 13; 1973 c 725 s 39; 1978 c 714 s 4; 1979 c 43 s 1; 1981 c 29 art 2 s 18; 1986 c 475 s 4; 1987 c 361 s 9; 1993 c 223 s 6; 1Sp1994 c 1 art 2 s 20; 1995 c 186 s 50; 1995 c 189 s 8; 1996 c 277 s 1; 1997 c 147 s 9; 1998 c 376 s 1; 2003 c 12 art 2 s 3; 2004 c 293 art 1 s 14; 2010 c 201 s 8, 9*

NOTES AND DECISIONS

201.15

See M.S. 253B.23, subd. 2 (voting rights of person in commitment status); M.S. 525.54, subd. 4 (voting rights of conservatee).

201.155 REPORT ON FELONY CONVICTIONS.

Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report regularly by electronic means to the secretary of state the name, address, date of birth, and, if available, driver's license or state identification card number, date of sentence, effective date of the sentence, and county in which the conviction occurred of each person who has been convicted of a felony. The state court administrator shall also report the name, address, and date of birth of each person previously convicted of a felony whose civil rights have been restored. The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for each county auditor. The county auditor shall change the status of those registrants in the appropriate manner in the statewide registration system.

History: *1997 c 147 s 10; 2004 c 293 art 1 s 15; 2010 c 201 s 10*

201.157 USE OF DEPARTMENT OF CORRECTIONS DATA

(a) The commissioner of corrections shall make electronic data available to the secretary of state on individuals 18 years of age or older who are currently:

(1) serving felony sentences under the commissioner's jurisdiction; or

(2) on probation for felony offenses that would result in the loss of civil rights, as indicated by the statewide supervision system established under section 241.065.

The data must include the name, date of birth, last known residential address that is not a correctional facility, and, if available, corrections' state identification number and the driver's license or state identification card number, and, if an individual has completed the sentence, the date of discharge.

(b) The secretary of state must determine if any data newly indicates that:

(1) an individual with an active voter registration in the statewide voter registration system is currently serving a felony sentence under the commissioner's jurisdiction or is on probation for a felony offense that would result in the loss of civil rights and the individual's voter record does not already have a challenged status due to a felony conviction;

(2) an individual with an active voter registration in the statewide voter registration system who is currently serving a felony sentence under the commissioner's jurisdiction or who is on probation for a felony offense that would result in the loss of civil rights appears to have registered to vote or to have voted during a period when the individual's civil rights were revoked; and

(3) an individual with a voter record that has a challenged status due to a felony conviction who was serving a felony sentence under the commissioner's jurisdiction or who has been on probation for a felony offense that would result in the loss of civil rights has been discharged from a sentence.

The secretary of state shall prepare a list of the registrants included under clause (1), (2), or (3) for each county auditor. For individuals under clause (1), the county auditor shall challenge the individual's record in the statewide voter registration system. The county auditor must provide information to the county attorney about individuals under clause (2) for the county attorney's investigation. For individuals under clause (3), the county auditor must determine if the challenge status should be removed from the voter record for the individual, and if so, must remove the challenge.

The secretary of state must make the required determinations and provide the required lists to the county auditors at least monthly.

For each state general election that occurs prior to the statewide voter registration system being programmed to generate lists as required by this section, the secretary of state must make the determination and provide lists to the county auditors between 30 and 60 days before the election and again between six and ten weeks after the election. In the year following that state election, the secretary of state must make this determination and provide lists to the county auditors again as part of the annual list maintenance.

History: *2010 c 201 s 11; 2013 c 131 art 3 s 2*

201.158 USE OF DEPARTMENT OF PUBLIC SAFETY DATA.

As required by the Help America Vote Act of 2002, Public Law 107-252, the commissioner of public safety shall make electronic data on citizenship available to the secretary of state. The secretary of state must determine whether the data newly indicates that any individuals who have active records in the statewide voter registration system are not citizens. The secretary of state shall prepare a list of those voters for each county auditor at least monthly. The county auditor shall change the status of those registrants in the statewide voter registration system to reflect that they are challenged based upon their citizenship and must notify the county attorney.

History: *2010 c 201 s 12; 2015 c 70 art 1 s 9*

201.16 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.16 MS 1971 [Repealed, 1973 c 676 s 33]

201.161 DRIVER'S LICENSE AND IDENTIFICATION CARD APPLICATIONS.

The Department of Public Safety shall change its applications for an original, duplicate, or change of address driver's license or identification card so that the forms may also serve as voter registration applications. The forms must contain spaces for all information collected by voter registration applications prescribed by the secretary of state. Applicants for driver's licenses or identification cards must be asked if they want to register to vote at the same time and that information must be transmitted at least weekly by electronic means to the secretary of state. Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the computerized driver's license record containing the voter's name, address, date of birth, driver's license number or state identification number, county, town, and city must be made available for access by the secretary of state and interaction with the statewide voter registration system.

History: *1977 c 395 s 8; 1981 c 29 art 2 s 19; 1987 c 361 s 10; 2004 c 293 art 1 s 16; art 2 s 9*

201.1611 POST-SECONDARY INSTITUTION VOTER REGISTRATION.

Subdivision 1. **Forms.** All postsecondary institutions that enroll students accepting state or federal financial aid shall provide voter registration forms to each student as early as possible in the fall quarter. All school districts shall make available voter registration applications each May and September to all students registered as students of the school district who will be eligible to vote at the next election after those months. A school district has no obligation to provide voter registration applications to students who participate in a postsecondary education option program or who otherwise reside in the district but do not attend a school operated by the district. A school district fulfills its obligation to a student under this section if it provides a voter registration application to the student one time. The forms must contain spaces for the information required in section 201.071, subdivision 1, and applicable rules of the secretary of state. The institutions and school districts may request these forms from the secretary of state. Institutions shall consult with their campus student government in determining the most effective means of distributing the forms and in seeking to facilitate election day registration of students under section 201.061, subdivision 3. School districts must advise students that completion of the voter registration application is not a school district requirement.

Subd. 2. **Student voter registration.** A copy of each completed voter registration form must be sent to the county auditor of the county in which the voter maintains residence or to the secretary of state as soon as possible. All completed voter registration forms must be forwarded no later than 21 days before the general election.

History: *1991 c 227 s 8; 1996 c 398 s 57; 2004 c 293 art 2 s 10*

201.1615 INFORMATION SHARING; USE OF SOCIAL SECURITY NUMBER.

The secretary of state shall enter into an agreement with the commissioner of public safety to match information in the statewide voter registration system with information in the Department of Public Safety database to verify the accuracy of the information provided on applications for voter registrations.

The commissioner of public safety shall enter into an agreement with the commissioner of the United States Social Security Administration under section 205(r)(8) of the Social Security Act to allow the use of the last four digits of

the Social Security number to be used to verify voter registration information, to ensure the maintenance of the confidentiality of any applicable information disclosed, and to establish procedures to permit the department to use the information for purposes of maintaining its records.

History: *2004 c 293 art 1 s 17*

201.162 DUTIES OF STATE AGENCIES.

The commissioner or chief administrative officer of each state agency or community-based public agency or nonprofit corporation that contracts with the state agency to carry out obligations of the state agency shall provide voter registration services for employees and the public. A person may complete a voter registration application or apply to change a voter registration name or address if the person has the proper qualifications on the date of application. Nonpartisan voter registration assistance, including routinely asking members of the public served by the agency whether they would like to register to vote and, if necessary, assisting them in preparing the registration forms must be part of the job of appropriate agency employees.

History: *1987 c 361 s 11*

201.17 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.17 MS 1971 [Repealed, 1973 c 676 s 33]

201.171 POSTING VOTING HISTORY; FAILURE TO VOTE; REGISTRATION REMOVED.

Within six weeks after every election, the county auditor shall post the voting history for every person who voted in the election. After the close of the calendar year, the secretary of state shall determine if any registrants have not voted during the preceding four years. The secretary of state shall perform list maintenance by changing the status of those registrants to "inactive" in the statewide registration system. The list maintenance performed must be conducted in a manner that ensures that the name of each registered voter appears in the official list of eligible voters in the statewide registration system. A voter must not be removed from the official list of eligible voters unless the voter is not eligible or is not registered to vote. List maintenance must include procedures for eliminating duplicate names from the official list of eligible voters.

The secretary of state shall also prepare a report to the county auditor containing the names of all registrants whose status was changed to "inactive."

Registrants whose status was changed to "inactive" must register in the manner specified in section 201.054 before voting in any primary, special primary, general, school district, or special election, as required by section 201.018.

Although not counted in an election, a late or rejected absentee or mail ballot must be considered a vote for the purpose of continuing registration under this section, but is not considered voting history for the purpose of public information lists available under section 201.091, subdivision 4.

History: *1973 c 676 s 14; 1981 c 29 art 2 s 20; 1987 c 361 s 12; 1990 c 585 s 14; 1997 c 147 s 11; 2004 c 293 art 1 s 18; art 2 s 11; 2008 c 244 art 1 s 5; 2010 c 201 s 13*

201.18 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.18 MS 1980 [Repealed, 1981 c 217 s 11]

201.19 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.19 MS 1971 [Repealed, 1973 c 676 s 33]

201.191 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.195 CHALLENGES.

Subdivision 1. **Petition; hearing.** Upon petition filed with the county auditor, any voter registered within a county may challenge the eligibility or residence of any other voter registered within that county. The petition shall state the grounds for challenge and be accompanied by an affidavit stating that the challenge is based on the challenger's personal knowledge. Within five days after receipt of the petition, the county auditor shall set a

date for a hearing on the challenge and notify the challenger by mail. A copy of the petition and notice of the hearing shall be served on the challenged voter by the county auditor in the same manner as in a civil action. The hearing shall be held before the county auditor or the auditor's designee who shall then make findings and affirm or dismiss the challenge.

Subd. 2. **Appeal.** If a challenge is affirmed, the voter whose registration has been challenged may appeal the ruling to the secretary of state. The appeal shall be heard within five days but in any case before election day. Upon hearing the appeal the secretary of state shall affirm or reverse the ruling and shall give appropriate instructions to the county auditor.

Subd. 3. **Hearing procedures.** A hearing before the secretary of state shall be conducted as a contested case and determined in accordance with chapter 14.

History: *1981 c 29 art 2 s 22; 1982 c 424 s 130; 1986 c 444*

201.20 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.20 MS 1971 [Repealed, 1973 c 676 s 33]

201.21 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.21 MS 1971 [Repealed, 1973 c 676 s 33]

201.211 COSTS.

The office required to perform the functions and duties of this chapter shall bear the costs incurred. If these functions and duties are delegated to another office, that office shall bear the costs. The secretary of state shall pay the costs of operating and maintaining the statewide registration system. The secretary of state shall also pay the costs of preparing polling place rosters and master lists from the money appropriated for this purpose.

History: *1973 c 676 s 16; 1981 c 29 art 2 s 23; 1990 c 585 s 15*

201.22 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.22 MS 1971 [Repealed, 1973 c 676 s 33]

201.221 RULES.

Subdivision 1. **Adoption of rules.** To implement the provisions of this chapter, the secretary of state shall adopt rules consistent with federal and state election laws.

Subd. 2. **Uniform procedures for counties.** The secretary of state shall assist local election officers by devising uniform forms and procedures. The secretary of state shall provide uniform rules for maintaining voter registration records on the statewide registration system. The secretary of state shall supervise the development and use of the statewide registration system to insure that it conforms to applicable federal and state laws and rules.

Subd. 3. **Procedures for polling place rosters.** The secretary of state shall prescribe the form of paper polling place rosters that include the voter's name, address, date of birth, school district number, and space for the voter's signature. An electronic roster and the voter signature certificate together must include the same information as a paper polling place roster. The secretary of state may prescribe additional election-related information to be placed on the polling place rosters on an experimental basis for one state primary and general election cycle; the same information may not be placed on the polling place roster for a second state primary and general election cycle unless specified in this subdivision. The polling place roster must be used to indicate whether the voter has voted in a given election. The secretary of state shall prescribe procedures for transporting the polling place rosters to the election judges for use on election day. The secretary of state shall prescribe the form for a county or municipality to request the date of birth from currently registered voters. The county or municipality shall not request the date of birth from currently registered voters by any communication other than the prescribed form and the form must clearly indicate that a currently registered voter does not lose registration status by failing to

provide the date of birth. In accordance with section 204B.40, the county auditor shall retain the prescribed polling place rosters used on the date of election for 22 months following the election.

Subd. 4. **County rules.** The county auditor of each county may adopt rules that delegate to the secretary of state or municipal officials in that county the duties assigned to county auditors by this chapter. Delegation of duties to the secretary of state requires the approval of the secretary of state. Delegation to a municipal official requires the approval of the governing body of the municipality. Delegation by the county auditor of the duty to accept registrations does not relieve the county auditor of the duty to accept registrations. Each delegation agreement must include a plan to allocate the costs of the duties to be delegated.

History: *1973 c 676 s 17; 1978 c 714 s 30; 1981 c 29 art 2 s 24; 1981 c 92 s 2; 1986 c 444; 1987 c 266 art 1 s 10; 1987 c 361 s 13,14; 1990 c 585 s 16; 2004 c 293 art 1 s 19,20; 2014 c 288 art 2 s 3*

201.225 ELECTRONIC ROSTER AUTHORIZATION.

Changes effective August 1, 2016

Subdivision 1. **Authority.** A county, municipality, or school district may use electronic rosters for any election. In a county, municipality, or school district that uses electronic rosters, the head elections official may designate that some or all of the precincts use electronic rosters. An electronic roster must comply with all of the requirements of this section. An electronic roster must include information required in section 201.221, subdivision 3, and any rules adopted pursuant to that section.

Subd. 2. **Technology requirements.** An electronic roster must:

(1) be able to be loaded with a data file that includes voter registration data in a file format prescribed by the secretary of state;

(2) allow for data to be exported in a file format prescribed by the secretary of state;

(3) allow for data to be entered manually or by scanning a Minnesota driver's license or identification card to locate a voter record or populate a voter registration application that would be printed and signed and dated by the voter. The printed registration application can be either a printed form, labels printed with voter information to be affixed to a preprinted form, or a combination of both;

(4) allow an election judge to update data that was populated from a scanned driver's license or identification card;

(5) cue an election judge to ask for and input data that is not populated from a scanned driver's license or identification card that is otherwise required to be collected from the voter or an election judge;

(6) immediately alert the election judge if the voter has provided information that indicates that the voter is not eligible to vote;

(7) immediately alert the election judge if the electronic roster indicates that a voter has already voted in that precinct, the voter's registration status is challenged, or it appears the voter resides in a different precinct;

(8) provide immediate instructions on how to resolve a particular type of challenge when a voter's record is challenged;

(9) provide for a printed voter signature certificate, containing the voter's name, address of residence, date of birth, voter identification number, the oath required by section 204C.10, and a space for the voter's original signature. The printed voter signature certificate can be either a printed form or a label printed with the voter's information to be affixed to the oath;

(10) contain only preregistered voters within the precinct, and not contain preregistered voter data on voters registered outside of the precinct;

(11) be only networked within the polling location on election day, except for the purpose of updating absentee ballot records;

(12) meet minimum security, reliability, and networking standards established by the Office of the Secretary of State in consultation with the Office of MN.IT Services;

(13) be capable of providing a voter's correct polling place; and

(14) perform any other functions necessary for the efficient and secure administration of the participating election, as determined by the secretary of state.

Electronic rosters used only for election day registration do not need to comply with clauses (1), (8), and (10). Electronic rosters used only for preregistered voter processing do not need to comply with clauses (4) and (5).

Subd. 3. **Minnesota Election Law; other law.** Unless otherwise provided, the provisions of the Minnesota Election Law apply to the use of electronic rosters. Voters participating in the safe at home program must be allowed to vote pursuant to section 5B.06. Nothing in this section shall be construed to amend absentee voting provisions in chapter 203B.

Subd. 4. **Election records retention.** All voter signature certificates and voter registration applications printed from an electronic roster must be retained pursuant to section 204B.40. The electronic rosters must print voter signature certificates and voter registration applications on material that will remain legible through the period prescribed by section 204B.40. Data on election day registrants and voter history must be uploaded to the statewide voter registration system for processing by county auditors.

Subd. 5. **Election day.** (a) Precincts may use electronic rosters for election day registration, to process preregistered voters, or both. The printed election day registration applications must be reviewed when electronic records are processed in the statewide voter registration system. The election judges shall determine the number of ballots to be counted by counting the number of original voter signature certificates or the number of voter receipts.

(b) Each precinct using electronic rosters shall have a paper backup system approved by the secretary of state present at the polling place to use in the event that the election judges are unable to use the electronic roster.

Subd. 6. **Reporting; certification. (**a) A county, municipality, or school district that intends to use electronic rosters in an upcoming election must notify the Office of the Secretary of State at least 90 days before the first election in which the county, municipality, or school district intends to use electronic rosters. The notification must specify whether all precincts will use electronic rosters, and if not, specify which precincts will be using electronic rosters. The notification is valid for all subsequent elections, unless revoked by the county, municipality, or school district. If precincts within a county, municipality, or school district that were not included in the initial notification intend to use electronic rosters, a new notification must be submitted.

(b) The county, municipality, or school district that intends to use electronic rosters must certify to the Office of the Secretary of State at least 30 days before the election that the electronic rosters meet all of the requirements in this section.

Note: EVALUATION OF ELECTRONIC ROSTER USE; 2014 STATE GENERAL ELECTION. The secretary of state must evaluate the use of electronic rosters in the 2014 state general election, and submit a report detailing the results of the evaluation to the chairs and ranking minority members of the committees in the house of representatives and the senate with primary jurisdiction over elections no later than April 1, 2015.

History: *2014 c 288 art 1 s 1; 2016 c 158 art 1 s 78*

201.23 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.23 MS 1971 [Repealed, 1973 c 676 s 33]

201.231 [Repealed, 1981 c 29 art 7 s 39]

201.24 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.24 MS 1971 [Repealed, 1973 c 676 s 33]

201.25 MS 1957 Renumbered 201.28

201.25 MS 1971 [Repealed, 1973 c 676 s 33]

201.26 MS 1957 Renumbered 201.29

201.26 MS 1980 [Repealed, 1981 c 29 art 7 s 39]

201.261 [Repealed, 1973 c 676 s 33]

201.27 MS 1957 Renumbered 201.30

201.27 VIOLATIONS; PENALTY.

Subdivision 1. **Intentional violation.** No officer, deputy, clerk, or other employee shall intentionally:

(1) fail to perform or enforce any of the provisions of this chapter except subdivision 2;

(2) remove a registration application or record from its proper place in the registration files in a manner or for a purpose not authorized by law;

(3) destroy or make an unauthorized change to a record required to be kept by this chapter; or

(4) add a name or names to the voter registration files, records, or applications, except as authorized by law.

An individual who violates this subdivision is guilty of a felony.

Subd. 2. **Knowledge of violation.** A deputy, clerk, employee, or other subordinate of a county auditor or municipal or school district clerk who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the county auditor or municipal or school district clerk, together with any possessed evidence of the violation. Any county auditor or municipal or school district clerk who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the county attorney of the county where the violation is thought to have occurred, together with any possessed evidence of the violation. The county auditor or municipal or school district clerk shall also immediately send a copy of the report to the secretary of state. A violation of this subdivision is a misdemeanor.

Subd. 3. **General penalty.** An individual who intentionally violates any provision of this chapter is guilty of a felony, unless a different penalty is specifically provided by law.

History: *1959 c 675 art 2 s 27; 1973 c 676 s 20; 1978 c 714 s 5,30; 1981 c 29 art 2 s 25; 1986 c 444; 1987 c 266 art 1 s 11; 1990 c 585 s 17* ; *2008 c 244 art 2 s 9*

201.275 INVESTIGATIONS; PROSECUTIONS.

(a) A law enforcement agency that is notified by affidavit of an alleged violation of this chapter shall promptly investigate. Upon receiving an affidavit alleging a violation of this chapter, a county attorney shall promptly forward it to a law enforcement agency with jurisdiction for investigation. If there is probable cause for instituting a prosecution, the county attorney shall proceed according to the generally applicable standards regarding the prosecutorial functions and duties of a county attorney, provided that the county attorney is not required to proceed with the prosecution if the complainant withdraws the allegation. A county attorney who refuses or intentionally fails to faithfully perform this or any other duty imposed by this chapter is guilty of a misdemeanor and upon conviction shall forfeit office

(b) Willful violation of this chapter by any public employee constitutes just cause for suspension without pay or dismissal of the public employee.

(c) Where the matter relates to a voter registration application submitted electronically through the secure Web site established in section 201.061, subdivision 1, alleged violations of this chapter may be investigated and prosecuted in the county in which the individual registered or attempted to register.

History: *1978 c 714 s 6; 1981 c 29 art 2 s 26; 1986 c 444; 1988 c 578 art 1 s 2; 2004 c 277 s 2; 2013 c 131 art 3 s 3; 2014 c 185 s 7; 2015 c 70 art 1 s 10*

201.28 MS 1957 Renumbered 201.31

201.28 MS 1971 [Repealed, 1973 c 676 s 33]

201.29 MS 1957 Renumbered 201.32

201.29 MS 1971 [Repealed, 1973 c 676 s 33]

201.30 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.30 MS 1971 [Repealed, 1973 c 676 s 33]

201.31 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.31 MS 1971 [Repealed, 1973 c 676 s 33]

201.32 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.32 MS 1971 [Repealed, 1973 c 676 s 33]

201.33 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.33 MS 1980 [Repealed, 1981 c 29 art 7 s 39]

201.34 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

201.34 MS 1974 [Repealed, 1975 c 204 s 106]

CHAPTER 202A - CAUCUSES AND CONVENTIONS

202A.001 MS 2006 Renumbered 15.001

202A.01 DEFINITIONS.

The words used in this chapter have the meanings prescribed to them in chapter 200.

History: *1975 c 5 s 1*

202A.11 PARTY NAME.

Subdivision 1. **Change.** Any major political party may change its name by complying with the following conditions:

The state central committee of the party may call a convention, and shall state in its call that a convention is called for a certain time and place, for the purpose of changing the name of the party to some specific name given in the call. The convention shall be held not less than 70 days before the state primary, and the change shall be agreed upon by resolution of a majority of the convention. A copy of the resolution determining the change of the name, certified by the chair and secretary of the convention, shall be filed with the secretary of state within five days after the holding of the convention. Thereafter the political party shall be known by the new name called for by the resolution, and the party under its new name shall have all the rights that it had under its former name.

Subd. 2. **Right to use.** A major political party which has adopted a party name is entitled to the exclusive use of that name for the designation of its candidates on all ballots, and no candidate of any other political party is entitled to have printed on a ballot as a party designation any part of that name.

History: *1975 c 5 s 2; 1981 c 29 art 7 s 4; 1986 c 444; 1986 c 475 s 5*

NOTES AND DECISIONS

202A.11

Party name protection law applies only to names of major political parties. *Scofield v. Kiffmeyer*, 620 N.W.2d 24 (Minn. 2000).

A nonparty candidate for state senator could be designated as "Independent" on the ballot even though one of the political parties within the state used the word "Independent" in its name. *Shaw v Johnson*, 247 N.W. 2d 921 (Minn. 1976).

In determining whether prohibition of the Party Name Protection act should be applied to a nonparty candidate, court will examine whether confusion would result from the designation desired by the nonparty candidate. Id.

202A.12 STATE CONVENTION, AUTHORITY OF.

Subdivision 1. **Time of convention.** The final authority over the affairs of each major political party is vested in the party's state convention to be held at least once every state general election year at the call of the state central committee.

Subd. 2. **State central committee.** Subject to the control of the state convention the general management of the affairs of the state party is vested in the party's state central committee.

Subd. 3. **State executive committee.** The state executive committee of the party shall have charge of the administration of the party's affairs, subject to the direction and control of the state convention and the state central committee.

Subd. 4. **Constitution, filing.** The chair of the state central committee of each party shall file with the secretary of state a copy of the party's constitution and all amendments to the constitution as they are enacted.

History: *1975 c 5 s 3; 1981 c 29 art 7 s 38; 1986 c 444*

NOTES AND DECISIONS

202A.12

The "one man-one vote" principle was satisfied by according every political party member his vote at precinct caucus level and malapportionment of state party convention because each county was accorded minimum of six votes did not violate the equal portion clause of the Fourteenth Amendment. *Irish v. Democratic-Farmer-Labor Party*, 287 F. Supp. 794 (D. Minn.), *aff'd*, 399 F.2d 119 (8th Cir. 1968).

202A.13 COMMITTEES, CONVENTIONS.

Changes effective August 1, 2016

The rules of each major political party shall provide that for each congressional district and each county or legislative district a convention shall be held at least once every state general election year. Each major political party shall also provide for each congressional district and each county or legislative district an executive committee consisting of a chair and such other officers as may be necessary. The party rules may provide for only one executive committee and one convention where any county and congressional district have the same territorial limits.

A delegate or alternate who is deaf, deafblind, or hard-of-hearing who needs interpreter services at a county, legislative district, congressional district, or state convention shall so notify the executive committee of the major political party unit whose convention the delegate or alternate plans to attend. Written notice must be given by certified mail <u>or electronic mail</u> to the executive committee at least 30 days before the convention date. The major political party, not later than 14 days before the convention date, shall secure the services of one or more interpreters if available and shall assume responsibility for the cost of the services. The state central committee of the major political party shall determine the process for reimbursing interpreters.

A visually impaired delegate or alternate to a county, legislative district, congressional district, or state convention may notify the executive committee of the major political party unit that the delegate or alternate requires convention materials in audio tape, Braille, or large print format. Upon receiving the request, the executive committee shall provide all official written convention materials as soon as they are available, so that the visually impaired individual may have them converted to audio tape, Braille, or large print format, prior to the convention.

History: *1975 c 5 s 4; 1981 c 29 art 7 s 38; 1986 c 444; 1989 c 308 s 1; 1990 c 585 s 18; 2013 c 62 s 11; <u>2016 c 161 art 1 s 1</u>*

202A.135 LEAVE TIME FROM EMPLOYMENT; PARTY OFFICERS; DELEGATES TO PARTY CONVENTIONS.

If an employee gives at least ten days written notice to the employer, the employee may be absent from work to attend any meeting of the state central committee or executive committee of a major political party if the employee is a member of the committee, or may attend any convention of major political party delegates including meetings of official convention committees if the employee is a delegate or alternate delegate to that convention. An employee who gives proper notice as provided in this section shall suffer no penalty or deduction from salary or wages on account of absence other than a deduction in salary or wages for the actual time of absence from employment. A violation of this section by an employer is a misdemeanor.

History: *1980 c 400 s 1; 1981 c 29 art 7 s 38; 1986 c 444*

202A.14 PRECINCT CAUCUS.

Changes effective August 1, 2016

Subdivision 1. **Time and manner of holding; postponement** (a) In every state general election year, beginning at 7:00 p.m. on the date established pursuant to paragraph (b), there shall be held for every election precinct a party caucus in the manner provided in sections 202A.14 to 202A.19.

(b) (1) The chairs of the two largest major political parties shall jointly submit to the secretary of state, no later than March 1 of each odd-numbered year, the single date on which the two parties have agreed to conduct their precinct caucuses in the next even-numbered year. <u>For a year when a presidential nomination primary is scheduled, the date submitted must not be the date of the presidential nomination primary, or the town general election date provided in section 205.075, subdivision 1.</u>

(2) Within two business days after the parties have agreed on a single date on which to conduct their precinct caucuses, the secretary of state shall publicly announce the official state precinct caucus date for the following general election year.

(3) If the chairs of the two largest major political parties do not jointly submit a single date for conducting their precinct caucuses as provided in this paragraph, then for purposes of the next general election year, one of the ~~first Tuesday in February~~ following dates shall be considered the day of a major political party precinct caucus and sections 202A.19 and 202A.192 shall only apply on that date:

(i) the first Tuesday in February in a year when no presidential nomination primary is required; or

(ii) the Tuesday immediately prior to the presidential nomination primary in a year when a presidential nomination primary is required.

(4) For purposes of this paragraph, the two largest major political parties shall be the parties whose candidates for governor received the greatest and second-greatest number of votes at the most recent gubernatorial election.

(c) In the event of severe weather a major political party may request the secretary of state to postpone caucuses. If a major political party makes a request, or upon the secretary of state's own initiative, after consultation with all major political parties and on the advice of the federal weather bureau and the department of transportation, the secretary of state may declare precinct caucuses to be postponed for a week in counties where weather makes travel especially dangerous. The secretary of state shall submit a notice of the postponement to news media covering the affected counties by 6:00 p.m. on the scheduled day of the caucus. A postponed caucus may also be postponed pursuant to this subdivision.

Subd. 2. **Caucus call.** The chair of the county or legislative district executive committee, whichever is provided for by party rules, shall issue the call for the precinct caucus at least 20 days before the time set for holding the caucus, and the call shall contain the following:

(a) Name of party;

(b) Precinct number;

(c) Date caucus is to be held;

(d) Place caucus is to be held;

(e) Hours during which caucus shall be held;

(f) Statutory rules governing the caucus;

(g) A statement of business to be conducted including the election of a chair and such other officers as may be provided by party rules, and the election of delegates to county or district conventions;

(h) Number of delegates to be elected;

(i) Name of the county or legislative district chair issuing the call;

(j) Name of the present precinct chair or other person who will be the convener of the caucus;

(k) A space for entering the names of the officers and delegates elected by the caucus.

Subd. 3. **Notice.** The county or legislative district chair shall give at least six days' published notice of the holding of the precinct caucus, stating the place, date, and time for holding the caucus, and shall deliver the same information to the municipal clerk and county auditor at least 20 days before the precinct caucus. The county auditor shall make this information available at least ten days before the date of the caucuses to persons who request it.

History: *1975 c 5 s 5; 1975 c 292 s 1,2; 1981 c 29 art 7 s 38; 1983 c 168 s 1; 1986 c 324 s 1; 1986 c 444; 1987 c 263 s 1; 1991 c 349 s 29; 1993 c 150 s 1; 2004 c 293 art 2 s 12; 2008 c 263 s 1; 2013 c 131 art 2 s 13; 2016 c 162 s 2*

NOTES AND DECISIONS

202A.14

Political party did not violate "one man-one vote" principle with respect to precinct caucuses where anyone who wished could appear at precinct caucus and if he certified that he was or would be a qualified voter and was in agreement with principles of the party he might vote for the election of delegates to the county convention. *Irish v. Democratic-Farmer-Labor Party*, 287 F. Supp. 794 (D. Minn.), *aff'd*, 399 F.2d 119 (8th Cir. 1968).

202A.15 TIME AND PLACE OF CAUCUS.

Subdivision 1. **Time.** Precinct caucuses within a county shall be held on the day established pursuant to section 202A.14, subdivision 1, and the caucuses shall remain open for at least one hour.

Subd. 2. **Place.** The precinct caucuses shall be held at the regular polling places for each precinct or other suitable places designated in the call, and no caucus may be adjourned to any other place or time.

In the event that there is only one suitable meeting place in the precinct polling place and the major political parties cannot agree as to its use, the county auditor shall decide by lot prior to January 15, 1970, the party which is to receive the use of the meeting place in years evenly divisible by four and which party shall receive the use of the meeting place in other years in which a state general election is held. The report of such selections by lot in the county shall be filed by the auditor with the county board which shall publish the same as a part of the minutes of the board meeting at which the report is filed.

A precinct caucus must be held at a place that meets the accessibility standards for precinct polling places specified in section 204B.16, subdivision 5. In addition, the place where a precinct caucus is held must contain restrooms that conform to the standards in the state building code for accessibility by handicapped persons. If a precinct caucus is held on a floor of a building that is either above or below the entrance level for the building, an elevator must be available. Any elevators used for access to the room where the precinct caucus is held must conform to the standards in the state building code for accessibility by handicapped persons.

If there are not enough places within a precinct that are or can be made accessible as provided by this subdivision and section 204B.16, subdivision 5, for each major party to hold its precinct caucus, a major party may hold its caucus at a place outside one of the boundaries of the precinct in order to comply with accessibility requirements.

If only one place satisfies the accessibility and location requirements of this subdivision, the major parties shall alternate use of the place. Prior to January 1, 1990, the county auditor shall decide by lot which party is to use the accessible place in years evenly divisible by four and which party is to use the place in other years when a state general election is held.

History: *1975 c 5 s 6; 1975 c 292 s 3; 1981 c 29 art 7 s 38; 1989 c 308 s 2; 2008 c 263 s 2*

202A.155 INTERPRETER SERVICES; CAUCUS MATERIALS.

An individual who is deaf, deafblind, or hard-of-hearing who needs interpreter services at a precinct caucus shall so notify the major political party whose caucus the individual plans to attend. Notice must be given by letter or electronic mail to the state office of the major political party before the precinct caucus date. The major political party shall promptly attempt to secure the services of one or more interpreters if available and shall assume responsibility for the cost of the services. The state central committee of the major political party shall determine the process for reimbursing interpreters.

A visually impaired individual may notify the county or legislative district committee of the major political party whose precinct caucus the individual plans to attend, that the individual requires caucus materials in audio tape, Braille, or large type format. Upon receiving the request, the county or legislative district committee shall provide all official written caucus materials as soon as they are available, so that the visually impaired individual may have them converted to audio tape, Braille, or large print format prior to the precinct caucus.

History: *1989 c 308 s 3; 2006 c 242 s 15; 2013 c 62 s 12*

202A.156 INTERPRETER SERVICES AND ACCESSIBLE PRECINCT CAUCUS EXEMPTIONS.

A major political party is not required to:

(1) provide an interpreter for a convention or precinct caucus if it has made documented good faith efforts to locate and assign an interpreter, including contacting an interpreter referral center or regional service center for people who are deaf, deafblind, and hard-of-hearing, and no interpreters are available; or

(2) hold a precinct caucus at a place that meets the accessibility standards for precinct polling places specified in section 204B.16, subdivision 5, if it has made documented good faith efforts to locate and secure an available accessible site within a reasonable distance of the precinct, and no accessible site is available.

History: *1989 c 308 s 4; 2013 c 62 s 13*

202A.16 CAUCUS, WHO MAY PARTICIPATE AND VOTE.

Subdivision 1. **Eligible voters.** Only those individuals who are or will be eligible to vote at the time of the next state general election, may vote or be elected a delegate or officer at the precinct caucus. An eligible voter may vote or be elected a delegate or officer only in the precinct where the voter resides at the time of the caucus.

Subd. 2. **Agreement with party principles.** Only those persons who are in agreement with the principles of the party as stated in the party's constitution, and who either voted or affiliated with the party at the last state general election or intend to vote or affiliate with the party at the next state general election, may vote at the precinct caucus.

Subd. 3. **Decision by caucus vote.** In case the right of a person to participate at the caucus is challenged, the question of the right to participate shall be decided by a vote of the whole caucus. A person so challenged may not vote on the question of the person's right to participate.

Subd. 4. **One caucus per year.** No person may vote or participate at more than one party's caucuses in any one year.

History: *1975 c 5 s 7; 1981 c 29 art 7 s 5,38; 1986 c 444; 1986 c 475 s 6*

NOTES AND DECISIONS

202A.16

See Minn. Const. art VII, s 1, and notes to M.S. 201.014.

Candidate's post-election claim that precinct caucus participation statute violated the First Amendment was barred by doctrine of laches. *Carlson v. Ritchie,* 830 N.W.2d 887 (Minn. 2013).

"One man-one vote" principle would not be extended to alleviate alleged malapportionment in state delegation to National Democratic Convention where malapportionment, if any, had come about by action of properly elected precinct delegates to the county conventions and by action in party structure after county conventions. *Irish v. Democratic-Farmer-Labor Party*, 399 F2d 119 (8th Cir. 1968), *aff'g*, 287 F.Supp. 794 (D. Minn. 1968).

202A.17 [Repealed, 1996 c 310 s 1]

202A.18 CAUCUS, PROCEDURE.

Changes effective July 1, 2017, and applies to elections conducted on or after that date

Subdivision 1. **Temporary chair.** The convener shall be the temporary chair of the caucus.

Subd. 2. **Nominations; time of election of officers and delegates.** Nominations for the election of permanent officers and delegates shall remain open for at least the first quarter hour of the caucus. Election of delegates and alternates must begin within one hour of convening a caucus. Election of delegates and alternates may begin one-half hour after the convening of the caucus.

Subd. 2a. **Preference ballot.** Prior to the opening of nominations for the election of permanent offices and delegates, a ballot must be distributed to permit caucus participants to indicate their preference for the ~~offices of president of the United States or~~ office of the governor. The results of preference voting must be reported to the secretary of state immediately upon conclusion of the voting, in the manner provided by the secretary of state. The secretary of state shall provide the appropriate forms to the party for reporting the results.

Subd. 3. **Secret ballot.** All voting shall be by secret ballot.

Subd. 4. **Announcement and certification of election results.** Upon completion of the counting of votes the chair shall announce the names of persons who are elected, and shall certify the names to the chair of the county or legislative district executive committee and to the chair of the state central committee.

Subd. 5. **Rules of order.** All questions concerning the manner in which a caucus is conducted or called that are not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by party rules.

History: *1975 c 5 s 9; 1975 c 292 s 4; 1986 c 444; 1987 c 263 s 2; 1999 c 250 art 1 s 84; 2016 c 162 s 3*

202A.19 CAUCUS, SCHOOL SCHEDULE PREEMPTION, EXCUSAL FROM EMPLOYMENT TO ATTEND.

Subdivision 1. **Limits on local government meetings**. No special taxing district governing body, school board, county board of commissioners, township board, or city council may conduct a meeting after 6:00 p.m. on the day of a major political party precinct caucus. As used in this subdivision, "special taxing district" has the meaning given in section 275.066.

Subd. 2. **Absence from work**. Every employee who is entitled to attend a major political party precinct caucus is entitled, after giving the employer at least ten days' written notice, to be absent from work for the purpose of attending the caucus during the time for which the caucus is scheduled without penalty or deduction from salary or wages on account of the absence other than a deduction in salary for the time of absence from employment.

Subd. 3. **Limits on college or university meetings**. The University of Minnesota may not schedule an event which will take place after 6:00 p.m. on the day of a major political party precinct caucus unless permission to do so has been received from the board of regents. No Minnesota state college or university may schedule an event which will take place after 6:00 p.m. on the day of a major political party precinct caucus unless permission to do so has been received from the board of trustees of the Minnesota state colleges and universities.

Subd. 4. **Use of public school buildings**. No school official may deny the use of a public school building for the holding of a major political party precinct caucus if the school office has received a written request for the use of the school building 30 days or more prior to the date of the caucus.

Subd. 5. **Limits on public school events**. No public elementary or secondary school may hold a school sponsored event after 6:00 p.m. on the day of a major political party precinct caucus.

Subd. 6. **Limits on state public meetings**. No state agency, board, commission, department or committee shall conduct a public meeting after 6:00 p.m. on the day of a major political party precinct caucus.

History: *1973 c 349 s 2; 1975 c 5 s 10; 1975 c 321 s 1; 1981 c 29 art 7 s 38; 1983 c 168 s 2; 1986 c 444; 1996 c 395 s 9; 1Sp2001 c 10 art 18 s 9*

202A.192 USE OF PUBLIC FACILITIES.

Every statutory city, home rule charter city, county, town, school district and other public agency, including the university of Minnesota and other public colleges and universities, shall make their facilities available for the holding of precinct caucuses and legislative district or county conventions required by this chapter. A charge for the use of the facilities may be imposed in an amount that does not exceed the lowest amount charged to any public or private group.

History: *1978 c 591 s 1*

202A.20 CAUCUS INFORMATION; RESULTS.

Subdivision 1. **Information.** The secretary of state may sponsor or participate in activities designed to provide public information related to the precinct caucuses and to promote participation in the caucus process.

Subd. 2. **Reporting caucus results.** The secretary of state shall promptly report to the public the results of preference balloting at the precinct caucuses.

History: *1989 c 291 art 1 s 2; 1999 c 250 art 1 s 85*

202A.21 [Repealed, 1981 c 29 art 7 s 39]

202A.22 [Repealed, 1981 c 29 art 7 s 39]

202A.23 [Repealed, 1981 c 29 art 7 s 39]

202A.24 [Repealed, 1981 c 29 art 7 s 39]

202A.25 [Repealed, 1981 c 29 art 7 s 39]

202A.26 [Repealed, 1981 c 29 art 7 s 39]

202A.27 [Repealed, 1981 c 29 art 7 s 39]

202A.28 [Repealed, 1981 c 29 art 7 s 39]

202A.29 [Repealed, 1981 c 29 art 7 s 39]

202A.30 [Repealed, 1981 c 29 art 7 s 39]

202A.31 [Repealed, 1981 c 29 art 7 s 39]

202A.32 [Repealed, 1981 c 29 art 7 s 39]

202A.41 [Repealed, 1981 c 29 art 7 s 39]

202A.42 [Repealed, 1981 c 29 art 7 s 39]

202A.51 [Repealed, 1981 c 29 art 7 s 39]

202A.52 [Repealed, 1981 c 29 art 7 s 39]

202A.53 [Repealed, 1981 c 29 art 7 s 39]

202A.61 [Repealed, 1981 c 29 art 7 s 39]

202A.62 [Repealed, 1981 c 29 art 7 s 39]

202A.63 [Repealed, 1981 c 29 art 7 s 39]

202A.64 [Repealed, 1981 c 29 art 7 s 39]

202A.65 [Repealed, 1981 c 29 art 7 s 39]

202A.66 [Repealed, 1981 c 29 art 7 s 39]

202A.67 [Repealed, 1981 c 29 art 7 s 39]

202A.68 [Repealed, 1981 c 29 art 7 s 39]

202A.69 [Repealed, 1981 c 29 art 7 s 39]

202A.70 [Repealed, 1981 c 29 art 7 s 39]

202A.71 [Repealed, 1981 c 29 art 7 s 39]

202A.72 [Repealed, 1978 c 456 s 3]

202A.721 [Repealed, 1981 c 29 art 7 s 39]

CHAPTER 203B - ABSENTEE VOTING

203B.001 ELECTION LAW APPLICABILITY.

The Minnesota election law is applicable to voting by absentee ballot unless otherwise provided in this chapter.

History: *1989 c 291 art 1 s 3*

203B.01 ABSENTEE BALLOTING; DEFINITIONS.

Subdivision 1. **Application.** The definitions in chapter 200 and this section apply to this chapter.

Subd. 2. **Municipal clerk.** "Municipal clerk" means a full-time town or city clerk who is authorized or required to administer the provisions of sections 203B.04 to 203B.15, as provided in section 203B.05. "Municipal clerk" also means clerk of the school district who is authorized or required to administer the provisions of sections 203B.04 to 203B.15, as provided in section 203B.05 for a school district election not held on the same day as a statewide election.

Subd. 3. **Military.** "Military" means the army, navy, air force, marine corps, coast guard or merchant marine of the United States, and all other uniformed services as defined in United States Code, title 52, section 20310, and military forces as defined by section 190.05, subdivision 3.

Subd. 4. **Health care facility.** "Health care facility" means a licensed hospital, sanitarium, or other institution as defined in section 144.50, subdivision 2, or a nursing home licensed to serve adults under section 144A.02.

History: *1981 c 29 art 3 s 1; 1987 c 266 art 1 s 12; 1997 c 147 s 12; 2005 c 156 art 6 s 20; 2015 c 70 art 1 s 11*

203B.02 GENERAL ELIGIBILITY REQUIREMENTS.

Subdivision 1. **Absentee voting; eligibility.** Any eligible voter may vote by absentee ballot as provided in sections 203B.04 to 203B.15.

Subd. 1a. [Repealed, 2008 c 244 art 1 s 24]

Subd. 2. **Military service; temporary absence.** An eligible voter who is either in the military, or is a spouse or dependent of an individual serving in the military, or is temporarily outside the territorial limits of the United States may vote by absentee ballot either as provided in sections 203B.04 to 203B.15 or as provided in sections 203B.16 to 203B.27.

Subd. 3. **Indefinite residence abroad.** A United States citizen living indefinitely outside the United States who is eligible under federal law to vote in federal elections in Minnesota may vote by absentee ballot only as provided in sections 203B.16 to 203B.27.

History: *1981 c 29 art 3 s 2; 1983 c 303 s 2; 1984 c 471 s 3; 1986 c 444; 1991 c 227 s 9; 2006; 2008 c 244 art 1 s 24; 2010 c 201 s 14; 2013 c 131 art 1 s 2*

NOTES AND DECISIONS

203B.02

Provisions pertaining generally to absentee voters are also available to members of the armed forces and their families. *Bell v. Gannaway*, 227 N.W. 2d 797 (Minn. 1975).

Absentee ballots held to strict compliance with legal requirements. Id.

Absentee ballots may not be challenged after deposit in ballot box, except for facial defects. Id.

203B.03 PROHIBITIONS; PENALTIES.

Subdivision 1. **Violation.** No individual shall intentionally:

(a) make or sign any false certificate required by this chapter;

(b) make any false or untrue statement in any application for absentee ballots;

(c) apply for absentee ballots more than once in any election with the intent to cast an illegal ballot;

(d) exhibit a ballot marked by that individual to any other individual;

(e) do any act in violation of the provisions of this chapter for the purpose of casting an illegal vote in any precinct or for the purpose of aiding another to cast an illegal vote;

(f) use information from absentee ballot materials or records for purposes unrelated to elections, political activities, or law enforcement; or

(g) provide assistance to an absentee voter except in the manner provided by section 204C.15, subdivision 1.

(h) solicit the vote of an absentee voter while in the immediate presence of the voter during the time the individual knows the absentee voter is voting; or

(i) alter an absentee ballot application after it has been signed by the voter, except by an election official for administrative purposes.

Before inspecting information from absentee ballot materials or records, an individual shall provide identification to the public official having custody of the material or information.

Subd. 2. **Penalty.** A violation of this section is a felony.

History: *1981 c 29 art 3 s 3; 1987 c 175 s 3; 1997 c 147 s 13; 1999 c 132 s 8*

203B.04 APPLICATION FOR BALLOTS.

Subdivision 1. **Application procedures**. (a) Except as otherwise allowed by subdivision 2 or by section 203B.11, subdivision 4, an application for absentee ballots for any election may be submitted at any time not less than one day before the day of that election. The county auditor shall prepare absentee ballot application forms in the format provided by the secretary of state and shall furnish them to any person on request. By January 1 of each even-numbered year, the secretary of state shall make the forms to be used available to auditors through electronic means. An application submitted pursuant to this subdivision shall be in writing. An application may be submitted in person, by electronic facsimile device, by electronic mail, or by mail to:

(1) the county auditor of the county where the applicant maintains residence; or

(2) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

For a federal, state, or county election, an absentee ballot application may alternatively be submitted electronically through a secure Web site that shall be maintained by the secretary of state for this purpose. Notwithstanding paragraph (b), the secretary of state must require applicants using the Web site to submit the applicant's e-mail address and verifiable Minnesota driver's license number, Minnesota state identification card number, or the last four digits of the applicant's Social Security number.

An application submitted electronically under this paragraph may only be transmitted to the county auditor for processing if the secretary of state has verified the application information matches the information in a government database associated with the applicant's driver's license number, state identification card number, or Social Security number. The secretary of state must review all unverifiable applications for evidence of suspicious activity and must forward any such application to an appropriate law enforcement agency for investigation.

(b) An application shall be approved if it is timely received, signed and dated by the applicant, contains the applicant's name and residence and mailing addresses, date of birth, and at least one of the following:

(1) the applicant's Minnesota driver's license number;

(2) Minnesota state identification card number;

(3) the last four digits of the applicant's Social Security number; or

(4) a statement that the applicant does not have any of these numbers.

(c) To be approved, the application must contain an oath that the information contained on the form is accurate, that the applicant is applying on the applicant's own behalf, and that the applicant is signing the form under penalty of perjury.

(d) An applicant's full date of birth, Minnesota driver's license or state identification number, and the last four digits of the applicant's Social Security number must not be made available for public inspection. An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device. An application mailed or returned in person to the county auditor or municipal clerk on behalf of a voter by a person other than the voter must be deposited in the mail or returned in person to the county auditor or municipal clerk within ten days after it has been dated by the voter and no later than six days before the election. The absentee ballot applications or a list of persons applying for an absentee ballot may not be made available for public inspection until the close of voting on election day, except as authorized in section 203B.12.

(e) An application under this subdivision may contain an application under subdivision 5 to automatically receive an absentee ballot application.

Subd. 2. **Health care patient**. An eligible voter who on the day before an election becomes a resident or patient in a health care facility or hospital located in the municipality in which the eligible voter maintains residence may apply for absentee ballots on election day if the voter:

(a) Requests an application form by telephone from the municipal clerk not later than 5:00 p.m. on the day before election day; or

(b) Submits an absentee ballot application to the election judges engaged in delivering absentee ballots pursuant to section 203B.11.

Subd. 3. **Delivery of application forms**. The election judges designated to deliver absentee ballots pursuant to section 203B.11 shall deliver a blank application form for absentee ballots to any individual who requests one in order to apply for absentee ballots pursuant to subdivision 2.

Subd. 4. **Registration at time of application**. An eligible voter who is not registered to vote but who is otherwise eligible to vote by absentee ballot may register by including a completed voter registration application with the absentee ballot. The individual shall present proof of residence as required by section 201.061, subdivision 3, to the individual who witnesses the marking of the absentee ballots. A military voter, as defined in section 203B.01, may register in this manner if voting pursuant to sections 203B.04 to 203B.15, or may register pursuant to sections 203B.16 to 203B.27.

Subd. 5. **Permanent absentee voter status**. (a) An eligible voter may apply to a county auditor or municipal clerk to automatically receive an absentee ballot application before each election, other than an election by mail conducted under section 204B.45, and to have the status as a permanent absentee voter indicated on the voter's registration record. An eligible voter listed as an ongoing absentee voter as of July 31, 2013, pursuant to laws in effect on that date, shall be treated as if the voter applied for status as a permanent absentee voter pursuant to this subdivision.

(b) A voter who applies under paragraph (a) must automatically be provided an absentee ballot application for each eligible election. A voter's permanent absentee status ends and automatic ballot application delivery must be terminated on:

(1) the voter's written request;

(2) the voter's death;

(3) return of an absentee ballot as undeliverable; or

(4) a change in the voter's status to "challenged" or "inactive" in the statewide voter registration system.

(c) The secretary of state shall adopt rules governing procedures under this subdivision.

Subd. 6. [Repealed, 2013 c 131 art 1 s 9]

Subd. 7. **Web site security.** (a) The secretary of state shall maintain a log of each Internet Protocol address used to submit an absentee ballot application electronically under this section, and must monitor the log, volume of Web site use, and other appropriate indicators for suspicious activity. Evidence of suspicious activity that cannot be resolved by the secretary of state must be forwarded to an appropriate law enforcement agency for investigation.

(b) The electronic absentee ballot application system must be secure. The Web site shall maintain the confidentiality of all users and preserve the integrity of the data submitted. The secretary of state shall employ security measures to ensure the accuracy and integrity of absentee ballot applications submitted electronically pursuant to this section. All data sent and received through the Web site must be encrypted.

(c) The secretary of state must provide ongoing testing and monitoring to ensure continued security. The secretary of state must work with the chief information officer as defined in section 16E.01, subdivision 1, or another security expert to annually assess the security of the system. The security assessment must include a certification signed by the secretary of state that states that adequate security measures are in place. The certification must also be signed by the chief information officer or another security expert affirming that the assessment is accurate. The secretary of state must submit the security assessment to the legislative auditor and to the chairs and ranking minority members of the committees in the senate and house of representatives with primary jurisdiction over elections by January 1 of each year, except that the first annual security assessment must be submitted by September 30, 2014, and no report is required for January 1, 2015.

(d) In developing the electronic absentee ballot application system, the secretary of state must consult with the chief information officer or the chief's designee to ensure the site is secure.

History: *1981 c 29 art 3 s 4; 1983 c 303 s 3; 1984 c 560 s 4; 1987 c 266 art 1 s 13; 1990 c 585 s 19; 1991 c 227 s 10; 1997 c 147 s 14; 1999 c 132 s 9; 2000 c 467 s 6; 1Sp2001 c 10 art 18 s 10,11; 2005 c 156 art 6 s 21-23; 2008 c 244 art 2 s 10, 11; 2010 c 194 s 2; 2010 c 201 s 15; 2013 c 131 art 1 s 3, 4, 9; 2014 c 185 s 8 & 9; 2014 c 264 s 8 & 9*

NOTES AND DECISIONS

203B.04

Section should be construed liberally to give every qualified voter an opportunity to vote. Op. Atty. Gen. 182, February 20, 1946.

203B.05 DESIGNATION OF MUNICIPAL CLERKS TO ADMINISTER ABSENTEE VOTING LAWS.

Subdivision 1. **Generally.** The full-time clerk of any city or town shall administer the provisions of sections 203B.04 to 203B.15 if:

(1)The county auditor of that county has designated the clerk to administer them; or

(2)The clerk has given the county auditor of that county notice of intention to administer them.

The designation or notice must specify whether the clerk will be responsible for the administration of a ballot board as provided in section 203B.121.

A clerk of a city that is located in more than one county may only administer the provisions of sections 203B.04 to 203B.15 if the clerk has been designated by each of the county auditors or has provided notice to each of the county auditors that the city will administer absentee voting. A clerk may only administer the provisions of sections 203B.04 to 203B.15 if the clerk has technical capacity to access the statewide voter registration system in the secure manner prescribed by the secretary of state. The secretary of state must identify hardware, software, security, or other technical prerequisites necessary to ensure the security, access controls, and performance of the statewide voter registration system. A clerk must receive training approved by the secretary of state on the use of the statewide voter registration system before administering this section. A clerk may not use the statewide voter registration system until the clerk has received the required training. The county auditor must notify the secretary of state of any municipal clerk who will be administering the provisions of this section and the duties that the clerk will administer.

Subd. 2. **City, school district, and town elections.** For city, town, and school district elections not held on the same day as a statewide election, applications for absentee ballots shall be filed with the city, school district, or town clerk and the duties prescribed by this chapter for the county auditor shall be performed by the city, school district, or town clerk unless the county auditor agrees to perform those duties on behalf of the city, school district, or town clerk. The costs incurred to provide absentee ballots and perform the duties prescribed by this subdivision shall be paid by the city, town, or school district holding the election.

Notwithstanding any other law, this chapter applies to school district elections held on the same day as a statewide election or an election for a county or municipality wholly or partially within the school district.

History: *1981 c 29 art 3 s 5; 1987 c 62 s 3; 1987 c 266 art 1 s 14; 2008 c 244 art 2 s 12; 2010 c 194 s 3; 2013 c 131 art 2 s 14*

NOTES AND DECISIONS

203B.05

The duties to be performed by the city or town clerk include the office hours provisions of M.S. 203B.085. Op. Atty. Gen. 639B, October 21, 1983.

The requirements for filing an application for absentee ballots in school election, M.S. 123.32, subd. 24(b), are mandatory and failure to comply with one or more of them would require that the applicant's application be disallowed. Op. Atty. Gen. 639A, June 2, 1967.

Former section interpreted as not giving county auditor authority to appoint agent to receive applications for absentee ballots at a place outside county seat. Op. Atty. Gen. 693A, September 15, 1952.

203B.06 APPLICATIONS; FILING WITH COUNTY AUDITOR OR MUNICIPAL CLERK; DELIVERY OF BALLOT.

Subdivision 1. **Printing and delivery of forms**. Each county auditor and municipal clerk shall prepare and print a sufficient number of blank application forms for absentee ballots. The county auditor or municipal clerk shall deliver a blank application form to any voter who requests one pursuant to section 203B.04. Blank application forms must be mailed to eligible voters who have requested an application pursuant to section 203B.04, subdivision 5, at least 60 days before:

(1) each regularly scheduled primary for federal, state, county, city, or school board office;

(2) each regularly scheduled general election for city or school board office for which a primary is not held; and

(3) a special primary to fill a federal or county office vacancy or special election to fill a federal or county office vacancy, if; a primary is not required to be held pursuant to section 204D.03, subdivision 3, or 204D.07, subdivision 3; and

(4) any election held in conjunction with an election described in clauses (1) to (3); or at least 45 days before any other primary or other election for which a primary is not held.

Subd. 2. **Applications to wrong official**. If for any reason an application for absentee ballots is submitted to the wrong county auditor or municipal clerk, that official shall promptly forward it to the proper county auditor or municipal clerk.

Subd. 3. **Delivery of ballots**. (a) The commissioner of corrections must provide the secretary of state with a list of the names and mailing addresses of state adult correctional facilities. An application for an absentee ballot that provides an address included on the list provided by the commissioner of corrections must not be accepted and absentee ballot must not be provided to the applicant. The county auditor or municipal clerk must promptly transmit a copy of the application to the county attorney. The Department of Corrections must implement procedures to ensure that absentee ballots issued under chapter 203B are not received or mailed by offenders incarcerated at state adult correctional facilities.

(b) If an application for absentee ballots is accepted at a time when absentee ballots are not yet available for distribution, the county auditor, or municipal clerk accepting the application shall file it and as soon as absentee ballots are available for distribution shall mail them to the address specified in the application. If an application for absentee ballots is accepted when absentee ballots are available for distribution, the county auditor or municipal clerk accepting the application shall promptly:

(1) mail the ballots to the voter whose signature appears on the application if the application is submitted by mail and does not request commercial shipping under clause (2);

(2) ship the ballots to the voter using a commercial shipper requested by the voter at the voter's expense;

(3) deliver the absentee ballots directly to the voter if the application is submitted in person; or

(4) deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots, as provided in section 203B.11, subdivision 4, to a voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient in a health care facility, a resident of a facility providing assisted living services governed by chapter 144G, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4.

(c) If an application does not indicate the election for which absentee ballots are sought, the county auditor or municipal clerk shall mail or deliver only the ballots for the next election occurring after receipt of the application. Only one set of ballots may be mailed, shipped, or delivered to an applicant for any election, except as provided in section 203B.121, subdivision 2, or when a replacement ballot has been requested by the voter for a ballot that has been spoiled or lost in transit.

Subd. 3a. **Unofficial ballots**. If no official ballots are ready at the time absentee balloting is scheduled to begin or the supply is exhausted before absentee balloting ends, the county auditor or municipal clerk shall prepare unofficial ballots, printed or written as nearly as practicable in the form of the official ballots. These ballots may be used until the official ballots are available.

Subd. 4. **Registration check.** Upon receipt of an application for ballots, the county auditor, municipal clerk, or election judge acting pursuant to section 203B.11, who receives the application shall determine whether the applicant is a registered voter. If the applicant is not registered to vote, the county auditor, municipal clerk or election judge shall include a voter registration application among the election materials provided to the applicant.

Subd. 5. **Preservation of records**. An application for absentee ballots shall be dated by the county auditor or municipal clerk when it is received and shall be initialed when absentee ballots are mailed or delivered to the applicant. All applications shall be preserved by the county auditor or municipal clerk for 22 months.

Subd. 6. **Requests from abroad**. If an application for absentee ballots requests delivery of absentee ballots to a point outside the continental United States, the absentee ballots must be sent by air mail. The transmittal and return envelopes must contain the text or symbol or both prescribed by the United States Postal Service for transmitting election mail outside the continental United States. Priority in mailing shall be given to all ballots sent by air mail.

Subd. 7. **Special postal services**. If the federal government or any of its branches, departments, agencies or other instrumentalities makes any special service available for the mailing of absentee voting materials, any county auditor or municipal clerk may use the service.

Subd. 8. **Names on envelopes, directions**. No envelope, return envelope or directions for casting an absentee ballot shall contain the name of any candidate whose name appears on any of the absentee ballots.

History: *1981 c 29 art 3 s 6; 1984 c 560 s 5; 1987 c 175 s 4; 1987 c 266 art 1 s 15; 1997 c 147 s 15; 2000 c 467 s 7; 1Sp2001 c 10 art 18 s 12; 2004 c 293 art 1 s 21; 2006; 2008 c 295 s 9; 2010 c 184 s 5; 2010 c 201 s 16, 17; 2011 c 76 art 1 s 26; 2013 c 131 art 1 s 5; 2013 c 131 art 3 s 4*

NOTES AND DECISIONS

203B.06

Former provision interpreted as prohibiting auditor who is candidate for reelection from printing his name on envelope, return envelope, or in explanatory note. Op. Atty. Gen. 639A, June 16, 1950.

203B.065 USING THE REGISTRATION SYSTEM

Upon accepting an application for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system the voter's name, date of birth, address of residence in Minnesota, mailing address, Minnesota driver's license or state identification number, or the last four digits of the voter's Social Security number, if provided by the voter. Upon acceptance of an absentee ballot application of a voter who is registered to vote at an address different from the residential address certified on the absentee ballot application, the voter registration record with the previous address shall be challenged. Once the absentee ballot has been transmitted to the voter, the method of transmission and the date of transmission must be recorded.

Upon receipt of a returned absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system that the voter has returned the ballot.

Upon receipt of notice that the ballot board has accepted or rejected the absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system whether the ballot was accepted or rejected, and if rejected, the reason for rejection. If a replacement ballot is transmitted to the voter, the county auditor or municipal clerk shall record this in the statewide voter registration system.

The labels provided for envelopes used for transmitting an absentee ballot to and from an applicant for an absentee ballot for a state primary or state general election must contain bar codes generated by the statewide voter registration system to facilitate the recording required under this section. A county auditor or municipal clerk entering information into the statewide voter registration system under this section must include the information provided on the bar code label whenever information is entered into the system.

History: *2010 c 194 s 4*

203B.07 RETURN AND BALLOT ENVELOPES; DIRECTIONS TO VOTERS.

Subdivision 1. **Delivery of envelopes, directions.** The county auditor or the municipal clerk shall prepare, print, and transmit a return envelope, a ballot envelope, and a copy of the directions for casting an absentee ballot to each applicant whose application for absentee ballots is accepted pursuant to section 203B.04. The county auditor or municipal clerk shall provide first class postage for the return envelope. The directions for casting an absentee ballot shall be printed in at least 14-point bold type with heavy leading and may be printed on the ballot envelope. When a person requests the directions in Braille or on audio file, the county auditor or municipal clerk shall provide them in the form requested. The secretary of state shall prepare Braille and audio file copies and make them available.

When a voter registration application is sent to the applicant as provided in section 203B.06, subdivision 4, the directions or registration application shall include instructions for registering to vote.

Subd. 2. **Design of envelopes.** The return envelope shall be of sufficient size to conveniently enclose and contain the ballot envelope and a folded voter registration application. The return envelope shall be designed to open on the left-hand end. The return envelope must be designed in one of the following ways:

(1) it must be of sufficient size to contain an additional envelope that when sealed, conceals the signature, identification, and other information; or

(2) it must provide an additional flap that when sealed, conceals the signature, identification, and other information.

(3) Election officials may open the flap or the additional envelope at any time after receiving the returned ballot to inspect the returned certificate for completeness or to ascertain other information.

Subd. 3. **Eligibility certificate.** A certificate of eligibility to vote by absentee ballot shall be printed on the back of the return envelope. The certificate shall contain space for the voter's Minnesota driver's license number, state identification number, or the last four digits of the voter's Social Security number, or to indicate that the voter does not have one of these numbers. The space must be designed to ensure that the voter

provides the same type of identification as provided on the voter's absentee ballot application for purposes of comparison. The certificate must also contain a statement to be signed and sworn by the voter indicating that the voter meets all of the requirements established by law for voting by absentee ballot and space for a statement signed by a person who is registered to vote in Minnesota or by a notary public or other individual authorized to administer oaths stating that:

(1) the ballots were displayed to that individual unmarked;

(2) the voter marked the ballots in that individual's presence without showing

(3) how they were marked, or, if the voter was physically unable to mark them, that the voter

(4) directed another individual to mark them; and

(5) if the voter was not previously registered, the voter has provided proof of residence as required by section 201.061, subdivision 3.

History: *1981 c 29 art 3 s 7; 1984 c 471 s 4; 1999 c 132 s 10; 1Sp2001 c 10 art 18 s 13; 2005 c 156 art 6 s 24; 2008 c 244 art 1 s 6; 2008 c 244 art 2 s 13; 2010 c 194 s 5, 6; 2015 c 70 art 1 s12*

NOTES AND DECISIONS

203B.07

Provisions pertaining generally to absentee voters are also available to members of the armed forces and their families. *Bell v. Gannaway*, 227 N.W. 2d 797 (Minn. 1975).

Absentee ballots held to strict compliance with legal requirements. Id.

Absentee ballots may not be challenged after deposit in ballot box, except for facial defects. Id.

203B.08 MARKING AND RETURN OF ABSENTEE BALLOTS

Subdivision 1. **Marking and return by voter.** An eligible voter who receives absentee ballots as provided in this chapter shall mark them in the manner specified in the directions for casting the absentee ballots. The return envelope containing marked ballots may be mailed as provided in the directions for casting the absentee ballots or may be left with the county auditor or municipal clerk who transmitted the absentee ballots to the voter. If delivered in person, the return envelope must be submitted to the county auditor or municipal clerk by 3:00 p.m. on election day.

The voter may designate an agent to deliver in person the sealed absentee ballot return envelope to the county auditor or municipal clerk or to deposit the return envelope in the mail.

An agent may deliver or mail the return envelopes of not more than three voters in any election. Any person designated as an agent who tampers with either the return envelope or the voted ballots or does not immediately mail or deliver the return envelope to the county auditor or municipal clerk is guilty of a misdemeanor.

Subd. 1a. M.S. 1999 [Repealed, 1999 c 132 s 46]

Subd. 2. **Address on return envelopes.** The county auditor or municipal clerk shall address return envelopes to allow direct mailing of the absentee ballots to the county auditor or municipal clerk who has the responsibility to accept and reject the absentee ballots.

Subd. 3. **Procedures on receipt of ballots.** When absentee ballots are returned to a county auditor or municipal clerk, that official shall stamp or initial and date the return envelope and place it in a secure location with other return envelopes received by that office. Within five days after receipt, the county auditor or municipal clerk shall deliver to ballot board all ballots received, except that during the 14 days immediately preceding an election, the county auditor or municipal clerk shall deliver all ballots received to the ballot board within three days. Ballots received on election day either (1) after 3:00 p.m., if delivered in person; or (2) after 8 p.m., if delivered by mail or a package delivery service, shall be marked as received late by the county auditor or municipal clerk, and must not be delivered to the ballot board.

Subd. 3a. M.S. 1999 [Repealed, 1999 c 132 s 46]

Subd. 4. **Rules.** The secretary of state shall adopt rules establishing procedures to be followed by county auditors and municipal clerks to assure accurate and timely return of absentee ballots. The rules of the secretary of state may authorize procedures and methods of return in addition to those specified in this section.

History: *1981 c 29 art 3 s 8; 1983 c 253 s 2,3; 1986 c 362 s 1,2; 1987 c 266 art 1 s 16; 1990 c 453 s 2; 1997 c 147 s 16; 1999 c 132 s 11; 2004 c 293 art 1 s 22; 2008 c 244 art 2 s 14; 2010 c 194 s 7, 8; 2013 c 131 art 2 s 15; 2015 c 70 art 1 s 13, 14*

203B.081 LOCATIONS AND METHODS FOR ABSENTEE VOTING IN PERSON.

Changes effective May 23, 2016

Subdivision 1. **Location; timing.** An eligible voter may vote by absentee ballot in the office of the county auditor and at any other polling place designated by the county auditor during the 46 days before the election, except as provided in this section.

Subd. 2. **Town elections.** Voters casting absentee ballots in person for a town election held in March may do so during the 30 days before the election. The county auditor shall make such designations at least 14 weeks before the election. At least one voting booth in each polling place must be made available by the county auditor for this purpose. The county auditor must also make available at least one electronic ballot marker in each polling place that has implemented a voting system that is accessible for individuals with disabilities pursuant to section 206.57, subdivision 5.

Subd. 3. **Alternative procedure.** (a) The county auditor may make available a ballot counter and ballot box for use by the voters during the seven days before the election. If a ballot counter and ballot box is provided, a voter must be given the option either (1) to vote using the process provided in section 203B.08, subdivision 1, or (2) to vote in the manner provided in this subdivision.

(b) If a voter chooses to vote in the manner provided in this subdivision, the voter must state the voter's name, address, and date of birth to the county auditor or municipal clerk. The voter shall sign a voter's certificate, which must include the voter's name, identification number, and the certification required by section 201.071, subdivision 1. The signature of an individual on the voter's certificate and the issuance of a ballot to the individual is evidence of the intent of the individual to vote at that election.

(c) After signing the voter's certificate, the voter shall be issued a ballot and immediately retire to a voting station or other designated location in the polling place to mark the ballot. The ballot must not be taken from the polling place. If the voter spoils the ballot, the voter may return it to the election official in exchange for a new ballot. After completing the ballot, the voter shall deposit the ballot into the ballot box.

(d) The election official must immediately record that the voter has voted in the manner provided in section 203B.121, subdivision 3.

(e) The election duties required by this subdivision must be performed by the county auditor, municipal clerk, or a deputy of the auditor or clerk.

History: *1997 c 147 s 17; 1999 c 132 s 12; 2008 c 244 art 1 s 7; 2010 c 184 s 6; 2010 c 201 s 18; 2013 c 131 art 2 s 16; 2016 c 161 art 1 s 2*

203B.085 COUNTY AUDITOR'S OFFICE AND TOWN CLERK'S OFFICE TO REMAIN OPEN DURING CERTAIN HOURS PRECEDING ELECTION.

The county auditor's office in each county and the clerk's office in each city or town authorized under section 203B.05 to administer absentee balloting must be open for acceptance of absentee ballot applications and casting of absentee ballots from 10:00 a.m. to 3:00 p.m. on Saturday and until 5:00 p.m. on the day immediately preceding a primary, special, or general election unless that day falls on a Saturday or Sunday. Town clerks' offices must be open for absentee voting from 10:00 a.m. to 12:00 noon on the Saturday before a town general election held in March. The school district clerk, when performing the county auditor's election duties, need not comply with this section.

History: *1983 c 303 s 4; 1991 c 265 art 9 s 61; 1999 c 132 s 13; 2000 c 467 s 8; 2004 c 293 art 2 s 13*

203B.09 FORM AND CONTENT OF REQUIRED MATERIALS; RULES OF SECRETARY OF STATE.

The secretary of state shall adopt rules establishing the form, content, and type size and style for the printing of blank applications for absentee ballots, absentee voter lists, return envelopes, certificates of eligibility to vote by absentee ballot, ballot envelopes and directions for casting an absentee ballot. Any official charged with the duty of printing any of these materials shall do so in accordance with these rules.

History: *1981 c 29 art 3 s 9; 1990 c 585 s 20*

203B.10 M.S. 2008 [Repealed, 2010 c 194 s 27]

203B.11 HOSPITAL PATIENTS AND RESIDENTS OF HEALTH CARE FACILITIES.

Subdivision 1. **Generally.** Each full-time municipal clerk or school district clerk who has authority under section 203B.05 to administer absentee voting laws shall designate election judges to deliver absentee ballots in accordance with this section. The county auditor must also designate election judges to perform the duties in this section. A ballot may be delivered only to an eligible voter who is a temporary or permanent resident or patient in a health care facility or hospital located in the municipality in which the voter maintains residence. The ballots shall be delivered by two election judges, each of whom is affiliated with a different major political party. When the election judges deliver or return ballots as provided in this section, they shall travel together in the same vehicle. Both election judges shall be present when an applicant completes the certificate of eligibility and marks the absentee ballots, and may assist an applicant as provided in section 204C.15. The election judges shall deposit the return envelopes containing the marked absentee ballots in a sealed container and return them to the clerk on the same day that they are delivered and marked.

Subd. 2. **Twenty days before an election.** During the 20 days preceding an election, the election judges shall deliver absentee ballots only to an eligible voter who has applied for absentee ballots to the county auditor or municipal clerk under section 203B.04, subdivision 1.

Subd. 3. **Election day.** On election day, the election judges shall deliver absentee ballots only to an eligible voter who on the day before the election became a resident or patient in a health care facility or hospital and who has applied for absentee ballots under section 203B.04, subdivision 2.

Subd. 4. **Agent delivery of ballots.** During the seven days preceding an election and until 2:00 p.m. on election day, an eligible voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient of a health care facility, a resident of a facility providing assisted living services governed by chapter 144G, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4, may designate an agent to deliver the ballots to the voter from the county auditor or municipal clerk. An agent must have a preexisting relationship with the voter. A candidate at the election may not be designated as an agent. The voted ballots must be returned to the county auditor or municipal clerk no later than 3:00 p.m. on election day. The voter must complete an affidavit requesting the auditor or clerk to provide the agent with the ballots in a sealed transmittal envelope. The affidavit must include a statement from the voter stating that the ballots were delivered to the voter by the agent in the sealed transmittal envelope. An agent may deliver ballots

to no more than three persons in any election. The secretary of state shall provide samples of the affidavit and transmission envelope for use by the county auditors.

History: *1981 c 29 art 3 s 11; 1983 c 253 s 4; 1997 c 147 s 18,19; 1999 c 132 s 14,15; 2005 c 156 art 6 s 25; 2006; 2008 c 295 s 10*

203B.12 ABSENTEE VOTER NAMES.

Subdivision 1. M.S. 2008 [Repealed, 2010 c 194 s 27]

Subd. 2. M.S. 2008 [Repealed, 2010 c 194 s 27]

Subd. 3. M.S. 2008 [Repealed, 2010 c 194 s 27]

Subd. 4. M.S. 2008 [Repealed, 2010 c 194 s 27]

Subd. 5. M.S. 1999 [Repealed, 1999 c 132 s 46]

Subd. 6. M.S. 2008 [Repealed, 2010 c 194 s 27]

Subd. 7. **Names of persons; rejected absentee ballots.** The names of voters who have submitted an absentee ballot to the county auditor or municipal clerk that has not been accepted may not be made available for public inspection until the close of voting on election day.

Subd. 8. **Names of persons; accepted absentee ballots.** For all elections where use of the statewide voter registration system is required, the secretary of state must maintain a list of voters who have submitted absentee ballots that have been accepted. For all other elections, the county auditor or municipal clerk must maintain a list of voters who have submitted absentee ballots that have been accepted. The lists must be available to the public in the same manner as public information lists in section 201.091, subdivision 4, 5, and 9.

History: *1981 c 29 art 3 s 12; 1981 c 185 s 2; 1983 c 253 s 5,6; 1984 c 560 s 6-9; 1987 c 266 art 1 s 18; 1989 c 291 art 1 s 5,6; 1990 c 585 s 21,22; 1991 c 320 s 1; 1997 c 147 s 20,21; 2004 c 293 art 1 s 23; 2005 c 156 art 6 s 26; 1Sp2005 c 7 s 21; 2010 c 194 s 27; 2014 c 264 s 10 & 11*

NOTES AND DECISIONS

203B.12

Trial court order in contest of election for United States Senator, rejecting certain absentee ballots on basis that ballots did not strictly comply with one or more of the statutory requirements for voting by absentee ballot, did not violate contestant's substantive due process rights, because order did not represent a post election change in standards by which the validity of absentee ballots were to be determined; strict compliance with the statutory requirements for absentee voting had always been required, because voting by absentee ballot was a privilege granted by the legislature. Order also did not violate contestant's equal protection rights, absent showing that trial court acted to intentionally or purposefully discriminate against an individual or class. *In re Contest of General Election Held on November 4, 2008, for Purpose of Electing a U.S. Senator from State of Minnesota,* 767 N.W.2d 453 (Minn. 2009).

During automatic administrative recount, absent a voluntary agreement between local election officials and two candidates for seat in United States Senate that absentee ballots had been rejected in error and that the absentee-ballot envelopes should be opened and the ballots should be counted, resolution of whether the absentee ballots were rejected in error would have to await an election contest proceeding. *Coleman v. Ritchie*, 759 N.W.2d 47 (Minn. 2009).

Absentee ballot may not be challenged after deposit in ballot box except for invalidity on the face of the ballot. *Bell v. Gannaway*, 227 N.W. 2d 797 (Minn. 1975).

Absentee ballot, which was torn and had been repaired by tape, was properly allowed on theory that it was mutilated ballot presumed to have been torn after it was received and counted by election officers. *Sperl v. Wegwerth*, 265 Minn. 47, 120 N.W. 2d 355 (1963).

203B.121 BALLOT BOARDS.

Subdivision 1. **Establishment; applicable laws.** (a) The governing body of each county, municipality, and school district with responsibility to accept and reject absentee ballots must, by ordinance or resolution, establish a ballot board. The board must consist of a sufficient number of election judges trained in the handling of absentee ballots and appointed as provided in sections 204B.19 to 204B.22. The board may include deputy county auditors or deputy city clerks who have received training in the processing and counting of absentee ballots.

(b) Each jurisdiction must pay a reasonable compensation to each member of that jurisdiction's ballot board for services rendered during an election.

(c) Except as otherwise provided by this section, all provisions of the Minnesota Election Law apply to a ballot board.

Subd. 2. **Duties of ballot board; absentee ballots.** (a) The members of the ballot board shall take possession of all return envelopes delivered to them in accordance with section 203B.08. Upon receipt from the county auditor, municipal clerk, or school district clerk, two or more members of the ballot board shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. Election judges performing the duties in this section must be of different major political parties, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10, subdivision 2.

(b) The members of the ballot board shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if a majority of the members of the ballot board examining the envelope are satisfied that:

(1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application;

(2) the voter signed the certification on the envelope;

(3) the voter's Minnesota driver's license, state identification number, or the last four digits of the voter's Social Security number are the same as a number on the voter's absentee ballot application or voter record. If the number does not match, the election judges must compare the signature provided by the applicant to determine whether the ballots were returned by the same person to whom they were transmitted;

(4) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope;

(5) the certificate has been completed as prescribed in the directions for casting an absentee ballot; and

(6) the voter has not already voted at that election, either in person or, if it is after the close of business on the seventh day before the election, by absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

(c)(1) If a majority of the members of the ballot board examining a return envelope find that an absentee voter has failed to meet one of the requirements provided in paragraph (b), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," list the reason for the rejection on the envelope, and return it to the county auditor. There is no other reason for rejecting an absentee ballot beyond those permitted by this section. Failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

(2) If an envelope has been rejected at least five days before the election, the envelope must remain sealed and the official in charge of the ballot board shall provide the voter with a replacement absentee ballot and return envelope in place of the rejected ballot.

(3) If an envelope is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

(d) The official in charge of the absentee ballot board must mail the voter a written notice of absentee ballot rejection between six and ten weeks following the election. If the official determines that the voter has otherwise cast a ballot in the election, no notice is required. If an absentee ballot arrives after the deadline for submission provided by this chapter, the notice must be provided between six to ten weeks after receipt of the ballot. A notice of absentee ballot rejection must contain the following information:

(1) the date on which the absentee ballot was rejected or, if the ballot was received after the required deadline for submission, the date on which the ballot was received;

(2) the reason for rejection; and

(3) the name of the appropriate election official to whom the voter may direct further questions, along with appropriate contact information.

(e) An absentee ballot return envelope marked "Rejected" may not be opened or subject to further review except in an election contest filed pursuant to chapter 209.

Subd. 3. **Record of voting.** (a) When applicable, the county auditor or municipal clerk must immediately record that a voter's absentee ballot has been accepted. After the close of business on the seventh day before the election, a voter whose record indicates that an absentee ballot has been accepted must not be permitted to cast another ballot at that election. In a state primary, general, or state special election for federal or state office, the auditor or clerk must also record this information in the statewide voter registration system.

(b) The roster must be marked, and a supplemental report of absentee voters who submitted a voter registration application with their ballot must be created, no later than the start of voting on election day to indicate the voters that have already cast a ballot at the election. The roster may be marked either:

(1) by the county auditor or municipal clerk before election day;

(2) by the ballot board before election day; or

(3) by the election judges at the polling place on election day.

The record of a voter whose absentee ballot was received after the close of business on the seventh day before the election is not required to be marked on the roster or contained in a supplemental report as required by this paragraph.

Subd. 4. **Opening of envelopes.** After the close of business on the seventh day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed in the manner provided in section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box. If more than one ballot is enclosed in the ballot envelope, the ballots must be returned in the manner provided by section 204C.25 for return of spoiled ballots, and may not be counted.

Subd. 5. **Storage and counting of absentee ballots.** (a) On a day on which absentee ballots are inserted into a ballot box, two members of the ballot board must:

(1) remove the ballots from the ballot box at the end of the day;

(2) without inspecting the ballots, ensure that the number of ballots removed from the ballot box is equal to the number of voters whose absentee ballots were accepted that day; and

(3) seal and secure all voted and unvoted ballots present in that location at the end of the day.

(b) After the polls have closed on election day, two members of the ballot board must count the ballots, tabulating the vote in a manner that indicates each vote of the voter and total votes cast for each candidate or question. In state primary and state general elections, the results must indicate the total votes cast for each candidate or question in each precinct and report the vote totals tabulated for each precinct. The count must be recorded on a summary statement in substantially the same format as provided in section 204C.26. The ballot board shall submit at least one completed summary statement to the county auditor or municipal clerk. The county auditor or municipal clerk may require the ballot board to submit a sufficient number of completed summary statements to comply with the provisions of section 204C.27, or the county auditor or municipal clerk may certify reports containing the details of the ballot board summary statement to the recipients of the summary statements designated in section 204C.27.

In state primary and state general elections, these vote totals shall be added to the vote totals on the summary statements of the returns for the appropriate precinct. In other elections, these vote totals may be added to the vote totals on the summary statement of returns for the appropriate precinct or may be reported as a separate total.

The count shall be public. No vote totals from ballots may be made public before the close of voting on election day.

(c) In addition to the requirements of paragraphs (a) and (b), if the task has not been completed previously, the members of the ballot board must verify as soon as possible, but no later than 24 hours after the end of the hours for voting, that voters whose absentee ballots arrived after the rosters were marked or supplemental reports were generated and whose ballots were accepted did not vote in person on election day. An absentee ballot submitted by a voter who has voted in person on election day must be rejected. All other accepted absentee ballots must be opened, duplicated if necessary, and counted by members of the ballot board. The vote totals from these ballots must be incorporated into the totals with the other absentee ballots and handled according to paragraph (b).

History: *2010 c 194 s 9; 2010 c 314 s 4; 2013 c 131 art 1 s 6-8; 2013 c 131 art 2 s 17, 18; 2015 c 70 art 1 s 15*

203B.125 SECRETARY OF STATE TO MAKE RULES.

The secretary of state shall adopt rules establishing methods and procedures for issuing ballot cards and related absentee forms to be used as provided in section 203B.08, subdivision 1a, and for the reconciliation of voters and ballot cards before tabulation under section 204C.20, subdivision 1.

History: *1983 c 253 s 7; 2010 c 194 s 10*

203B.13 ABSENTEE BALLOT BOARDS.

Subdivision 1. M.S. 2008 [Repealed, 2010 c 194 s 27]

Subd. 2. M.S. 2008 [Repealed, 2010 c 194 s 27]

Subd. 3. M.S. 2008 [Repealed, 2010 c 194 s 27]

Subd. 3a. [Repealed, 2008, c 244 art 1 s 24]

Subd. 4. M.S. 2008 [Repealed, 2010 c 194 s 27]

203B.14 COUNTY AUDITOR OR MUNICIPAL CLERK MAY EMPLOY ADDITIONAL HELP.

Each county auditor and each municipal clerk may employ additional clerical assistance as necessary to discharge the responsibilities imposed on the county auditor or municipal clerk as provided in this chapter.

History: *1981 c 29 art 3 s 14*

203B.15 ADMINISTRATIVE EXPENSES.

Each county shall pay the expenses incurred by its county auditor and each municipality or school district shall pay the expenses incurred by its clerk for administering the provisions of sections 203B.04 to 203B.15.

History: *1981 c 29 art 3 s 15; 1987 c 266 art 1 s 20*

203B.16 ABSENT VOTERS IN THE MILITARY OR OUTSIDE THE UNITED STATES.

Subdivision 1. **Military service; temporary residence outside United States**. Sections 203B.16 to 203B.27 provide alternative voting procedures for eligible voters who are absent from the precinct where they maintain residence because they are:

(1) either in the military or the spouses or dependents of individuals serving in the military; or

(2) temporarily outside the territorial limits of the United States.

Sections 203B.16 to 203B.27 are intended to implement the federal Uniformed and Overseas Citizens Absentee Voting Act, United States Code, title 52, sections 20301 to 20310.

Subd. 2. **Indefinite residence outside United States**. Sections 203B.16 to 203B.27 provide the exclusive voting procedure for United States citizens who are living indefinitely outside the territorial limits of the United States who meet all the qualifications of an eligible voter except residence in Minnesota, but who are authorized by federal law to vote in Minnesota because they or, if they have never resided in the United States, a parent maintained residence in Minnesota for at least 20 days immediately prior to their departure from the United States. Individuals described in this subdivision shall be permitted to vote only for the offices of president, vice-president, senator in Congress, and representative in Congress.

Subd. 3. [Repealed, 2008 c 190 s 14]

Subd. 4. **Duties of secretary of state.** The secretary of state shall provide information regarding voter registration and absentee balloting procedures to be used by absent uniformed services voters, their spouses and dependents, and overseas voters.

History: *1981 c 29 art 3 s 16; 1997 c 147 s 24; 1Sp2001 c 10 art 18 s 14; 2004 c 293 art 1 s 24; 2008 c 190 s 14; 2010 c 201 s 19; 2015 c 70 art 1 s 16, 17*

203B.17 APPLICATION FOR BALLOT.

Changes effective August 1, 2016

Subdivision 1. **Submission of application.** (a) An application for absentee ballots for a voter described in section 203B.16 must be in writing and may be submitted in person, by mail, by electronic facsimile device, by electronic mail, or electronically through a secure Web site that shall be maintained by the secretary of state for this purpose, upon determination by the secretary of state that security concerns have been adequately addressed. An application for absentee ballots for a voter described in section 203B.16 may be submitted by that voter or by that voter's parent, spouse, sister, brother, or child over the age of 18 years.

(b) An application for a voter described in section 203B.16, subdivision 1, shall be submitted to the county auditor of the county where the voter maintains residence or through the secure Web site maintained by the secretary of state.

(c) An application for a voter described in section 203B.16, subdivision 2, shall be submitted to the county auditor of the county where the voter or the voter's parent last maintained residence in Minnesota or through the secure Web site maintained by the secretary of state.

(d) An application for absentee ballots shall be valid for any primary, special primary, general election, or special election from the time the application is received through the end of that calendar year <u>or through the next regularly scheduled state general election, whichever is later</u>.

(e) There shall be no limitation of time for filing and receiving applications for ballots under sections 203B.16 to 203B.27.

Subd. 2. **Required information.** An application shall be accepted if it contains the following information stated under oath:

(a) the voter's name, birthdate, and present address of residence in Minnesota, or former address of residence or parent's former address of residence in Minnesota if the voter is living permanently outside the United States;

(b) a statement indicating that the voter is in the military, or is the spouse or dependent of an individual serving in the military, or is temporarily outside the territorial limits of the United States, or is living permanently outside the territorial limits of the United States and voting under federal law;

(c) a statement that the voter expects to be absent from the precinct at the time of the election;

(d) the address to which absentee ballots are to be mailed;

(e) the voter's signature or the signature and relationship of the individual authorized to apply on the voter's behalf;

(f) the voter's passport number, Minnesota driver's license or state identification card number, or the last four digits of the voter's social security number; if the voter does not have access to any of these documents, the voter or other individual requesting absentee ballots may attest to the truthfulness of the contents of the application under penalty of perjury; and

(g) the voter's e-mail address, if the application was submitted electronically through the secure Web site maintained by the secretary of state.

Notwithstanding clause (f), an application submitted through the secretary of state's Web site must include the voter's verifiable Minnesota driver's license number, Minnesota state identification card number, or the last four digits of the voter's Social Security number, and may only be transmitted to the county auditor for processing if the secretary of state has verified the application information matches the information in a government database associated with the applicant's driver's license number, state identification card number, or Social Security number. The secretary of state must review all unverifiable applications for evidence of suspicious activity and must forward any such application to an appropriate law enforcement agency for investigation.

Subd. 3. **Web site security.** (a) The secretary of state shall maintain a log of each Internet Protocol address used to submit an absentee ballot application electronically under this section, and must monitor the log, volume of Web site use, and other appropriate indicators for suspicious activity. Evidence of suspicious activity that cannot be resolved by the secretary of state must be forwarded to an appropriate law enforcement agency for investigation.

(b) The electronic absentee ballot application system must be secure. The Web site shall maintain the confidentiality of all users and preserve the integrity of the data submitted. The secretary of state shall employ security measures to ensure the accuracy and integrity of absentee ballot applications submitted electronically pursuant to this section. All data sent and received through the Web site must be encrypted.

(c) The secretary of state must provide ongoing testing and monitoring to ensure continued security. The secretary of state must work with the chief information officer as defined in section 16E.01, subdivision 1, or another security expert to annually assess the security of the system. The security assessment must include a certification signed by the secretary of state that states that adequate security measures are in place. The

certification must also be signed by the chief information officer or another security expert affirming that the assessment is accurate. The secretary of state must submit the security assessment to the legislative auditor and to the chairs and ranking minority members of the committees in the senate and house of representatives with primary jurisdiction over elections by January 1 of each year, except that the first annual security assessment must be submitted by September 30, 2014, and no report is required for January 1, 2015.

(d) In developing the electronic absentee ballot application system, the secretary of state must consult with the chief information officer or the chief's designee to ensure the site is secure.

History:*1981 c 29 art 3 s 17; 1985 c 72 s 1; 1Sp2001 c 10 art 18 s 15; 2004 c 293 art 1 s 25; 2008 c 190 s 2; 2010 c 184 s 8; 2014 c 185 s 10; 2014 c 264 s 12; 2015 c 70 art 1 s 18, 19; 2016 c 161 art 1 s 3*

NOTES AND DECISIONS

203B.17

Statutes generally applicable to absentee voters are equally available to servicemen. *Bell v. Gannaway*, 303 Minn. 346, 227 N.W.2d 797 (1975).

Former provision interpreted as prohibiting auditor who is candidate for reelection from printing his name on envelope, return envelope, or in explanatory note. Op. Atty. Gen. 639A, June 16, 1950.

Application form supplied by the federal authorities for absentee voting by members of the armed forces should be treated as substantial compliance with former section pertaining to absentee ballot applications from members of armed forces. Op. Atty. Gen. 639F, June 1, 1948.

Liberality should be exercised when considering request for ballots filed by soldiers. Op. Atty. Gen. 639E, March 24, 1944.

203B.18 FORWARDING APPLICATIONS.

If an application for absentee ballots under sections 203B.16 to 203B.27, is received by the secretary of state or by any election official other than the proper county auditor described in section 203B.17, subdivision 1, that official shall forward the application to the appropriate county auditor.

History: *1981 c 29 art 3 s 18*

203B.19 RECORDING APPLICATIONS.

Upon accepting an application, the county auditor shall record in the statewide registration system the voter's name, address of present or former residence in Minnesota, mailing address, school district number, passport number, Minnesota driver's license number or state identification card number, or the last four digits of the voter's social security number, and whether the voter is in the military or the spouse or dependent of an individual serving in the military, is a voter temporarily outside the territorial limits of the United States, or is living permanently outside the territorial limits of the United States and voting under federal law. The county auditor shall retain the record for six years. A voter whose name is recorded as provided in this section shall not be required to register under any other provision of law in order to vote under sections 203B.16 to 203B.27. Persons from whom applications are not accepted must be notified by the county auditor and provided with the reasons for the rejection.

No later than 60 days after the general election, the county auditor shall report to the secretary of state the combined number of absentee ballots transmitted to and the combined number of absentee ballots returned and cast by absent voters described in section 203B.16. The secretary of state may require the information be reported by category under section 203B.16 or by precinct.

No later than 90 days after the general election, the secretary of state shall report to the federal Election Assistance Commission the number of absentee ballots transmitted to voters under section 203B.16.

History: *1981 c 29 art 3 s 19; 1987 c 266 art 1 s 21; 1997 c 147 s 25; 2004 c 293 art 1 s 26; 2008 c 190 s 3; 2010 c 201 s 20*

203B.20 CHALLENGES.

Except as provided in this section, the eligibility or residence of a voter whose application for absentee ballots is recorded under section 203B.19 may be challenged in the manner set forth by section 201.195. The county auditor shall not be required to serve a copy of the petition and notice of hearing on the challenged voter. If the absentee ballot application was submitted on behalf of a voter by an individual authorized under section 203B.17, subdivision 1, paragraph (a), the county auditor must attempt to notify the individual who submitted the application of the challenge. The county auditor may contact other registered voters to request information that may resolve any discrepancies appearing in the application. All reasonable doubt shall be resolved in favor of the validity of the application. If the voter's challenge is affirmed, the county auditor shall provide the challenged voter with a copy of the petition and the decision and shall inform the voter of the right to appeal as provided in section 201.195.

History: *1981 c 29 art 3 s 20; 2005 c 156 art 6 s 27; 2008 c 190 s 3*

203B.21 BALLOTS AND ENVELOPES.

Subdivision 1. **Form.** Absentee ballots under sections 203B.16 to 203B.27 shall conform to the requirements of the Minnesota election law, except that modifications in the size or form of ballots or envelopes may be made if necessary to satisfy the requirements of the United States postal service. The return envelope must be designed in one of the following ways:

(1) it must be of sufficient size to contain an additional envelope that when sealed, conceals the signature, identification, and other information; or

(2) it must provide an additional flap that when sealed, conceals the signature, identification, and other information. The flap or the additional envelope must be perforated to permit election officials to inspect the returned certificate for completeness or to ascertain other information at any time after receiving the returned ballot without opening the return envelope.

Subd. 2. **Mailing of ballots; return.** Ballots and instructions for marking them, ballot envelopes, and return envelopes shall be sent by first class mail to addresses within the continental United States and by air mail to addresses outside the continental United States. The ballot envelope and return envelope shall be marked "Official Ballot," and shall contain sufficient postage to assure proper return delivery. The return envelope shall

be addressed to comply with any method for return of absentee ballots as authorized under section 203B.08, subdivision 2. The requirements of this subdivision do not apply to ballots and related materials provided under section 203B.225.

Subd. 3. **Back of return envelope.** On the back of the return envelope a certificate shall appear with space for:

(1) the voter's address of present or former residence in Minnesota;

(2) the voter's current e-mail address, if the voter has one;

(3) a statement indicating the category described in section 203B.16 to which the voter belongs;

(4) a statement that the voter has not cast and will not cast another absentee ballot in the same election or elections;

(5) a statement that the voter personally marked the ballots without showing them to anyone, or if physically unable to mark them, that the voter directed another individual to mark them; and

(6) the same voter's passport number, Minnesota driver's license or state identification card number, or the last four digits of the voter's social security number as provided on the absentee ballot application; if the voter does not access to any of these documents, the voter may attest to the truthfulness of the contents of the certificate under penalty of perjury.

The certificate shall also contain a signed oath in the form required by section 705 of the Help America Vote Act, Public Law 107-252, which must read:

"I swear or affirm, under penalty of perjury, that:

I am a member of the uniformed services or merchant marine on active duty or an eligible spouse or dependent of such a member; a United States citizen temporarily residing outside the

United States; or other United States citizen residing outside the United States; and I am a United States citizen, at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States

except the jurisdiction cited in this voting form. In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under state or federal law. I have not been influenced.

The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction for perjury."

Subd. 4. **Names on envelopes, instructions.** No envelope, return envelope, or instruction to voters shall contain the name of an individual who appears as a candidate on any enclosed ballot.

History*: 1981 c 29 art 3 s 21; 1983 c 303 s 5; 1985 c 72 s 2; 1991 c 320 s 3; 2005 c 156 art 6 s 28, 29; 2008 c 190 s 5, 6; 2012 c 250 s 1*

203B.22 TRANSMITTING BALLOTS.

(a) The county auditor shall transmit the appropriate ballots, as promptly as possible, to an absent voter whose application has been recorded under section 203B.19. If the county auditor determines that a voter is not eligible to vote at the primary but will be eligible to vote at the general election, only general election ballots shall be transmitted. Only one set of ballots shall be transmitted to any applicant for any election, except that the county auditor may transmit a replacement ballot to a voter whose ballot has been spoiled or lost in transit or whose mailing address has changed after the date on which the original application was submitted as confirmed by the county auditor. Ballots to be sent outside the United States shall be given priority in

transmission. A county auditor may make use of any special service provided by the United States government for the transmission of voting materials under sections 203B.16 to 203B.27.

(b) The county auditor must transmit the appropriate ballots by express mail immediately upon discovery that the ballots were not properly transmitted to the voter as a result of the following circumstances: (1) an application was received by the county auditor by the close of business at least 46 days before the election; (2) the county auditor failed to transmit the appropriate ballots by the 46th day before the election; and (3) the voter did not request that the ballots be electronically transmitted to the voter under section 203B.225, subdivision 1.

History: *1981 c 29 art 3 s 22; 2008 c 190 s 7; 2010 c 184 s 9; 2014 c 264 s 13*

203B.225 TRANSMITTING AND RETURNING BALLOTS.

Subdivision 1. **Transmitting ballot and certificate of voter eligibility.** A voter described in section 203B.16 may include in an application for absentee ballots a request that the ballots, instructions, and a certificate of voter eligibility meeting the requirements of section 203B.21, subdivision 3, be transmitted to the voter electronically. Upon receipt of a properly completed application requesting electronic transmission, the county auditor shall electronically transmit the requested materials to the voter. The county auditor is not required to provide return postage to voters to whom ballots are transmitted electronically.

Subd. 2. **Returning voted ballots.** The voter must return the voted ballots and the certificate of voter eligibility to the county auditor in a sealed envelope.

History: *2008 c 190 s 8; 2010 c 184 s 10*

203B.227 WRITE-IN ABSENTEE BALLOT.

(a) A voter described in section 203B.16, subdivision 1, may use the federal write-in absentee ballot to vote in any federal, state, or local election. In a state or local election, a vote for a political party without specifying the name of a candidate must not be counted.

(b) If a voter submits a Federal Write-in Absentee Ballot for which a Federal Post Card Application was not received, the Federal Write-in Absentee Ballot serves as a voter registration, for voters who are eligible to register, in lieu of the voter's Federal Post Card Application. If the voter has not already voted and the accompanying certificate is properly completed, the absentee ballot board must accept the Federal Write-in Absentee Ballot.

History: *2008 c 190 s 9; 2008 c 336 s 1; 2010 c 201 s 21; 2013 c 131 art 2 s 19*

203B.23 ABSENTEE BALLOT BOARD.

Subdivision 1. **Establishment.** The county auditor must establish an absentee ballot board for ballots issued under sections 203B.16 to 203B.27. The board may consist of staff trained as election judges, in which case, the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties.

Subd. 2. **Duties.** The absentee ballot board must examine all returned absentee ballot envelopes for ballots issued under sections 203B.16 to 203B.27 and accept or reject the absentee ballots in the manner provided in section 203B.24. If the certificate of voter eligibility is not printed on the return or administrative envelope, the certificate must be attached to the ballot secrecy envelope.

The absentee ballot board must immediately examine the return envelopes and mark them "accepted" or "rejected" during the 45 days before the election. If an envelope has been rejected at least five days before the election, the ballots in the envelope must be considered spoiled ballots and the official in charge of the absentee ballot board must provide the voter with a replacement absentee ballot and return envelope in place of the spoiled ballot.

If a county has delegated the responsibility for administering absentee balloting to a municipality under section 203B.05, accepted absentee ballots must be delivered to the appropriate municipality's absentee ballot board. The absentee ballot board with the authority to open and count the ballots must do so in accordance with section 203B.121, subdivisions 4 and 5.

Subd. 3. **Applicable laws.** Except as otherwise provided in this section, all the laws applicable to absentee ballots and absentee voters and all other provisions of the Minnesota Election Law apply to an absentee ballot board.

History: *1981 c 29 art 3 s 23; 1987 c 266 art 1 s 22; 2008 c 190 s 10; 2010 c 184 s 11; 2010 c 194 s 11; 2010 c 194 s 12, 13*

203B.24 DUTIES OF ELECTION JUDGES.

Subdivision 1. **Check of voter eligibility; proper execution of certificate.** Upon receipt of an absentee ballot returned as provided in sections 203B.16 to 203B.27, the election judges shall compare the voter's name with the names recorded under section 203B.19 in the statewide registration system to insure that the ballot is from a voter eligible to cast an absentee ballot under sections 203B.16 to 203B.27. The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges are satisfied that:

(1) the voter's name on the return envelope appears in substantially the same form as on the application records provided to the election judges by the county auditor;

(2) the voter has signed the federal oath prescribed pursuant to section 705(b)(2) of the Help America Vote Act, Public Law 107-252;

(3) the voter has set forth the same voter's passport number, or Minnesota driver's license or state identification card number, or the last four digits of the voter's social security number as submitted on the application, if the voter has one of these documents;

(4) the voter is not known to have died; and

(5) the voter has not already voted at that election, either in person or by absentee ballot.

If the identification number described in clause (3) does not match the number as submitted on the application, the election judges must make a reasonable effort to satisfy themselves through other information provided by the applicant, or by an individual authorized to apply on behalf of the voter, that the ballots were returned by the same person to whom the ballots were transmitted.

An absentee ballot cast pursuant to sections 203B.16 to 203B.27 may only be rejected for the lack of one of clauses (1) to (5). In particular, failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

Election judges must note the reason for rejection on the back of the envelope in the space provided for that purpose.

Failure to return unused ballots shall not invalidate a marked ballot, but a ballot shall not be counted if the certificate on the return envelope is not properly executed. In all other respects the provisions of the Minnesota Election Law governing deposit and counting of ballots shall apply. Notwithstanding other provisions of this section, the counting of the absentee ballot of a deceased voter does not invalidate the election.

Subd. 2. **Recording accepted and rejected ballots.** The election judges shall compare the voter's name with the names recorded under section 203B.19 in the statewide registration system. For each returned ballot, the election judges must indicate on the record in the statewide registration system whether the absentee ballot was accepted or rejected.

History: *1981 c 29 art 3 s 24; 2004 c 293 art 1 s 27; 2005 c 156 art 6 s 30; 1Sp2005 c 7 s 22; 2008 c 190 s 11; 2010 c 194 s 13*

NOTES AND DECISIONS

203B.24

During automatic administrative recount, absent a voluntary agreement between local election officials and two candidates for seat in United States Senate that absentee ballots had been rejected in error and that the absentee-ballot envelopes should be opened and the ballots should be counted, resolution of whether the absentee ballots were rejected in error would have to await an election contest proceeding. *Coleman v. Ritchie,* 759 N.W.2d 47 (Minn. 2009)

203B.25 M.S. 2008 [Repealed, 2010 c 194 s 27]

203B.26 SEPARATE RECORD.

A separate record of the ballots of absent voters cast under sections 203B.16 to 203B.27 must be generated from the statewide registration system for each precinct and retained with the other election materials.

History: *1981 c 29 art 3 s 26; 2004 c 293 art 1 s 28; 2008 c 190 s 13; 2010 c 194 s 14*

203B.27 EXPENSE CHARGEABLE TO GENERAL REVENUE.

Expenses incurred by a county auditor to carry out the provisions of sections 203B.16 to 203B.27 shall be paid by that county from its general revenue fund.

History: *1981 c 29 art 3 s 27*

203B.28 POSTELECTION REPORT TO LEGISLATURE

By January 15 of every odd-numbered year, the secretary of state shall provide to the chair and ranking minority members of the legislative committees with jurisdiction over elections a statistical report related to absentee voting in the most recent general election cycle. The statistics must be organized by county and include:

(1) the number of absentee ballots transmitted to voters;

(2) the number of absentee ballots returned by voters;

(3) the number of absentee ballots that were rejected, categorized by the reason for rejection;

(4) the number of absentee ballots submitted pursuant to sections 203B.16 to 203B.27, along with the number of returned ballots that were accepted, rejected, and the reason for any rejections; and

(5) the number of absentee ballots that were not counted because the ballot return envelope was received after the deadlines provided in this chapter.

History: *2010 c 194 s 1; 2013 c 131 art 2 s 20*

CHAPTER 204B - ELECTIONS; GENERAL PROVISIONS

204B.001 MS 2006 Renumbered 15.001

204B.01 DEFINITIONS.

The definitions in chapter 200 apply to this chapter.

History: *1981 c 29 art 4 s 1*

204B.02 APPLICATION.

This chapter applies to all elections held in this state except as otherwise provided by law.

History: *1981 c 29 art 4 s 2; 1987 c 266 art 1 s 23*

NOTES AND DECISIONS

204B.02

Statutory regulations of election franchise must be construed to insure rather than defeat full exercise when possible. *Flakne v. Erickson*, 213 Minn. 146, 6 N.W.2d 40 (1942).

204B.03 MANNER OF NOMINATION.

Candidates of a major political party for any partisan office except presidential elector and all candidates for nonpartisan office shall apply for a place on the primary ballot by filing an affidavit of candidacy as provided in section 204B.06, and except as otherwise provided in section 204D.07, subdivision 3, shall be nominated by primary. Candidates for any partisan office who do not seek the nomination of a major political party shall be nominated by nominating petition as provided in sections 204B.07 and 204B.08, and, except for presidential elector candidates, shall file an affidavit of candidacy as provided in section 204B.06.

History: *1981 c 29 art 4 s 3; 1986 c 475 s 7*

NOTES AND DECISIONS

204B.03

Write-in candidate was not entitled to have name placed on ballot for general election with no party affiliation following major political party's substitution of a withdrawn candidate with a different party-endorsed candidate following the primary election, where statute required a candidate who did not seek party nomination to be nominated by petition, which criterion candidate failed to meet. *Fosle v. Ritchie*, 824 N.W.2d 618 (Minn. 2012).

Service of a petition seeking to replace withdrawn candidate endorsed by major political party on "all" candidates for an elective office included write-in candidate who had formally requested that write-in votes cast for him be counted, where, as a write-in candidate whose votes were to be counted by the Secretary of State, candidate's interest in the outcome of the underlying litigation was no different than the interest of other candidates on the ballot who were properly served with the petition. *Fosle v. Ritchie*, 824 N.W.2d 618 (Minn. 2012).

Petition requirement was not unconstitutionally burdensome; requirement did not freeze political status quo by locking candidates of non-major parties out of the electoral process, as candidate suggested; and prior decisions stated that such requirements did not violate freedom of speech and association or the right to equal protection. *Beaulieu v. Mack,* 788 N.W. 2d 892 (Minn. 2010).

See also Minn. Const. art VII, s 6.

The requirement that a person filing for office state in his affidavit of candidacy "that he is a qualified voter in the subdivision where he seeks nomination" is not applicable to a person filing for the office of representative in Congress. Affidavit is sufficient insofar as statement of residence is concerned, if, in accordance with the residency qualification of U.S. Constitution, the person filing states in the affidavit that he is a resident of this state. Op. Atty. Gen. 186A, July 24, 1968.

Affidavits of candidacy need not be filed personally by candidate, but the affidavit should be executed during the filing period. Op. Atty. Gen. 437A-6, February 28, 1963.

If affidavit of candidacy omits statement of political subdivision in which candidates are to be voted but such information can be determined from other statements in affidavit, auditor may accept same. Op. Atty. Gen. 28C-11, August 11, 1954.

Affidavit must be signed and sworn by candidate. Op. Atty. Gen. 911L, August 6, 1942.

204B.04 CANDIDACY; PROHIBITIONS.

Changes effective August 1, 2016

Subdivision 1. **Major party candidates.** No individual shall be named on any ballot as the candidate of more than one major political party. No individual who has been certified by a canvassing board as the nominee of any major political party shall be named on any ballot as the candidate of any other major political party at the next ensuing general election.

Subd. 2. **Candidates seeking nomination by primary.** No individual who seeks nomination for any partisan or nonpartisan office at a primary shall be nominated for the same office by nominating petition.

Subd. 2a. [Expired]

Subd. 3. **Nomination for nonpartisan office.** No individual shall be nominated by nominating petition for any nonpartisan office.

Subd. 4. **Prohibition on multiple candidacy.** A candidate who files an affidavit of candidacy for an office to be elected at the general election may not subsequently file another affidavit of candidacy for any other office to be elected on the date of that general election, unless the candidate withdraws the initial affidavit pursuant to section 204B.12. The provisions in section 645.21 do not apply to this subdivision.

Subd. 5. **Ballots; candidates who file by nominating petition.** Candidates who were filed as a team by nominating petition under section 204B.07, subdivision 2, shall not appear on the ballot as minor party or independent candidates if either candidate is certified as a major party candidate for president or vice president pursuant to section 208.03.

History: *1981 c 29 art 4 s 4; 1991 c 320 s 4; 1996 c 419 s 4,5; 2010 c 201 s 22; 2011 c 65 s 1; 2012 c 187 art 1 s 28; 2013 c 131 art 2 s 21; 2016 c 161 art 1 s 4*

NOTES AND DECISIONS

204B.04

Candidate had no colorable claim that First Amendment right of association was violated by statutory requirements for signatures in support of nominating petition. *Idusogie v. Kiffmeyer*, 721 N.W.2d 283 (Minn. 2006).

Prohibition on candidate from appearing on ballot as candidate of more than one political party does not violate First Amendment. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351 (1997).

Petition for independent candidate for Congress containing less than the required number of valid signatures was fatally defective. *Williams v. Donovan*, 253 Minn. 493, 92 N.W. 2d 917 (1958).

Candidates for the office of United States senator may be nominated by petition. *Attlen v. Holm*, 243 Minn. 96, 66 N.W. 2d 610 (1954).

There is no limitation upon the number of candidates who may qualify for an elective office by virtue of nomination by petition where a vacancy occurs. *Flakne v. Erickson*, 213 Minn. 146, 6 N.W. 2d 40 (1942).

Where no person files for a nonpartisan office, no person can be nominated by petition. Write-in votes permitted. Op. Atty. Gen. 28B-3, August 24, 1962.

There is no provision for filing name of candidate for county commissioner by nominating petition in primary election. Op. Atty. Gen. 911K, July 3, 1952.

204B.05 [Repealed, 1987 c 39 s 1]

204B.06 FILING FOR PRIMARY; AFFIDAVIT OF CANDIDACY.

Subdivision 1. **Form of affidavit.** An affidavit of candidacy shall state the name of the office sought and, except as provided in subdivision 4, shall state that the candidate:

(1) is an eligible voter;

(2) has no other affidavit on file as a candidate for any office at the same primary or next ensuing general election, except that a candidate for soil and water conservation district supervisor in a district not located in whole or in part in Anoka, Hennepin, Ramsey, or Washington County, may also have on file an affidavit of candidacy for mayor or council member of a statutory or home rule charter city of not more than 2,500 population contained in whole or in part in the soil and water conservation district or for town supervisor in a town of not more than 2,500 population contained in whole or in part in the soil and water conservation district; and

(3) is, or will be on assuming the office, 21 years of age or more, and will have maintained residence in the district from which the candidate seeks election for 30 days before the general election.

An affidavit of candidacy must include a statement that the candidate's name as written on the affidavit for ballot designation is the candidate's true name or the name by which the candidate is commonly and generally known in the community.

An affidavit of candidacy for partisan office shall also state the name of the candidate's political party or political principle, stated in three words or less.

Subd. 1a. [Repealed, 1Sp2001 c 10 art 18 s 44]

Subd. 1b. **Address and telephone number.** (a) An affidavit of candidacy must state a telephone number where the candidate can be contacted. An affidavit must also state the candidate's address of residence as determined under section 200.031, or at the candidate's request in accordance with paragraph (c), the candidate's campaign contact address. The form for the affidavit of candidacy must allow the candidate to request, if eligible, that the candidate's address of residence be classified as private data, and to provide the certification required under paragraph (c) for classification of that address.

(b) For an office whose residency requirement must be satisfied by the close of the filing period, a registered voter in this state may request in writing that the filing officer receiving the affidavit of candidacy review the address as provided in this paragraph, at any time up to one day after the last day for filing for office. If requested, the filing officer must determine whether the address provided in the affidavit of candidacy is within the area represented by the office the candidate is seeking. If the filing officer determines that the address is not within the area represented by the office, the filing officer must immediately notify the candidate and the candidate's name must be removed from the ballot for that office. A determination made by a filing officer under this paragraph is subject to judicial review under section 204B.44.

(c) If the candidate requests that the candidate's address of residence be classified as private data, the candidate must list the candidate's address of residence on a separate form to be attached to the affidavit. The candidate must also certify on the affidavit that a police report has been submitted or an order for protection has been issued in regard to the safety of the candidate or the candidate's family, or that the candidate's address is otherwise private pursuant to Minnesota law. The address of residence provided by a candidate who makes a request for classification on the candidate's affidavit of candidacy and provides the certification required by this paragraph is classified as private data, as defined in section 13.02, subdivision 12, but may be reviewed by the filing officer as provided in this subdivision.

(d) The requirements of this subdivision do not apply to affidavits of candidacy for a candidate for: (1) judicial office; (2) the office of county attorney; or (3) county sheriff.

Subd. 2. **Major party candidates**. A candidate who seeks the nomination of a major political party for a partisan office shall state on the affidavit of candidacy that the candidate either participated in that party's most recent precinct caucus or intends to vote for a majority of that party's candidates at the next ensuing general election.

Subd. 3. [Repealed, 1983 c 253 s 26]

Subd. 4. **Federal offices**. Candidates for president or vice-president of the United States are not required to file an affidavit of candidacy for office. Candidates who seek nomination for the office of United States senator or representative shall state the following information on the affidavit:

(1) for United States senator, that the candidate will be an inhabitant of this state when elected and will be 30 years of age or older and a citizen of the United States for not less than nine years on the next January 3 or, in the case of an election to fill a vacancy, within 21 days after the special election;

(2) for United States representative, that the candidate will be an inhabitant of this state when elected and will be 25 years of age or older and a citizen of the United States for not less than seven years on the next January 3 or, in the case of an election to fill a vacancy, within 21 days after the special election.

Subd.4a. **State and local offices**. Candidates who seek nomination for the following offices shall state the following additional information on the affidavit:

(1) for governor or lieutenant governor, that on the first Monday of the next January the candidate will be 25 years of age or older and, on the day of the state general election, a resident of Minnesota for not less than one year;

(2) for supreme court justice, court of appeals judge, or district court judge, that the candidate is learned in the law;

(3) for county, municipal, school district, or special district office, that the candidate meets any other qualifications for that office prescribed by law;

(4) for senator or representative in the legislature, that on the day of the general or special election to fill the office the candidate will have resided not less than one year in the state and not less than six months in the legislative district from which the candidate seeks election.

Subd. 5. **United States senator; two candidates at same election**. When two candidates are to be elected United States senators from this state at the same election, each individual filing for the nomination shall state in the affidavit of candidacy the term for which the individual desires to be a candidate, by stating the date of the expiration of the term.

Subd. 6. **Judicial candidates; designation of term**. An individual who files as a candidate for the office of chief justice or associate justice of the supreme court, judge of the court of appeals, or judge of the district court shall state in the affidavit of candidacy the office of the particular justice or judge for which the individual is a candidate. The individual shall be a candidate only for the office identified in the affidavit. Each justice of the supreme court and each court of appeals and district court judge is deemed to hold a separate nonpartisan office.

Subd. 7. **Governor and lieutenant governor**. An individual who files as a candidate for governor or lieutenant governor shall file the affidavit of candidacy jointly with the affidavit of another individual who seeks nomination as a candidate for the other office.

Subd. 8. **Proof of eligibility**. A candidate for judicial office or for the office of county attorney shall submit with the affidavit of candidacy proof that the candidate is licensed to practice law in this state. Proof means providing a copy of a current attorney license.

A candidate for county sheriff shall submit with the affidavit of candidacy proof of licensure as a peace officer in this state. Proof means providing a copy of a current Peace Officer Standards and Training Board license.

History: *1981 c 29 art 4 s 6; 1982 c 501 s 14; 1983 c 247 s 83,84; 1986 c 444; 1986 c 475 s 8; 1990 c 603 s 2; 1993 c 223 s 7,8; 1995 c 222 s 2; 1996 c 419 s 6,10; 1997 c 147 s 26; 1Sp2001 c 10 art 18 s 16; 2004 c 293 art 2 s 14; 2005 c 156 art 6 s 31,32; 2008 c 244 art 2 s 16; 2010 c 314 s 2; 2015 c 70 art 1 s 20*

NOTES AND DECISIONS

204B.06

Prohibition on candidate from appearing on ballot as candidate of more than one political party does not violate First Amendment. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351 (1997).

See also Minn. Const. art VII, s 6.

Even if would-be candidate for state senate was told by Secretary of State's Office that affidavit of candidacy was complete, despite the absence of a required phone number, such reliance was not reasonable, where affidavit of candidacy itself stated that a telephone number was required, and statutory requirement that an affidavit of candidacy include a telephone number at which the candidate could be contacted was clear. *In re Pfliger,* 819 N.W.2d 620 (Minn. 2012).

Requirement that affidavit of candidacy include a statement that the name to appear on the ballot is the candidate's true name "or the name by which the candidate is commonly and generally known in the community" requires that an alternate name be one that the candidate has routinely used, before he files his affidavit of candidacy, to identify himself to the public; in addition, the alternate name must, at a minimum, be the name by which candidate is broadly and widely known to members of the public before the candidate submits the affidavit of candidacy at issue. *Weiler v. Ritchie,* 788 N.W, 2d 879 (Minn. 2010) .

A candidate who has not resided in the legislative district for six months immediately preceding election is not qualified to run for state legislative office in that district. *Studer v. Kiffmeyer* , 712 N.W.2d 552 (Minn. 2006); *Melendez v. O'Connor*, 654 N.W.2d 114 (Minn. 2002).

State legislative candidate had sufficient presence in legislative district and intent to reside there to meet residency requirement, despite fact that candidate was living in apartment outside of district while legislature was in session during portion of six months immediately preceding election, where candidate leased apartment in new district, moved his personal belongings into adjacent living space pending departure of holdover tenants, and spent some time there while legislative session continued. *Piepho v. Bruns*, 652 N.W.2d 40 (Minn. 2002).

Officeholders must be 21 years of age when they assume office. *Jude v. Erdahl*, 207 N.W. 2d 715 (Minn. 1973).

The requirement that a person filing for office state in his affidavit of candidacy "that he is qualified voter in the subdivision where he seeks nomination" is not applicable to a person filing for the office of representative in Congress. Affidavit is sufficient insofar as statement of residence is concerned, if, in accordance with the residency qualification of U.S. Constitution, the person filing states in the affidavit that he is a resident of this state. Op. Atty. Gen. 186A, July 24, 1968.

Affidavits of candidacy need not be filed personally by candidate, but the affidavit should be executed during the filing period. Op. Atty. Gen. 437A-6, February 28, 1963.

Candidate for office need not be a registered voter. Op. Atty. Gen. 1841, November 18, 1958.

If affidavit of candidacy omits statement of political subdivision in which candidates are to be voted but such information can be determined from other statements of affidavit, auditor may accept same. Op. Atty. Gen. 28C-11, August 11, 1954.

Affidavit must be signed and sworn by candidate. Op. Atty. Gen. 911i, August 6, 1942.

204B.07 NOMINATING PETITIONS.

Subdivision 1. **Form of petition**. A nominating petition may consist of one or more separate pages each of which shall state:

(a) The office sought;

(b) The candidate's name and residence address, including street and number if any; and

(c) The candidate's political party or political principle expressed in not more than three words. No candidate who files for a partisan office by nominating petition shall use the term "nonpartisan" as a statement of political principle or the name of the candidate's political party. No part of the name of a major political party may be used to designate the political party or principle of a candidate who files for a partisan office by nominating petition, except that the word "independent" may be used to designate the party or principle. A candidate who files an affidavit of candidacy to fill a vacancy in nomination for a nonpartisan office pursuant to section 204B.13, shall not state any political principle or the name of any political party on the petition.

Subd. 2. **Petitions for presidential electors and alternates.** This subdivision does not apply to candidates for presidential elector or alternate nominated by major political parties. Major party candidates for presidential elector or alternate are certified under section 208.03. Other presidential electors or alternates are nominated by petition pursuant to this section. On petitions nominating presidential electors or alternates, the names of the candidates for president and vice-president shall be added to the political party or political principle stated on the petition. One petition may be filed to nominate a slate of presidential electors equal in number to the number of electors to which the state is entitled and an alternate for each elector nominee.

Subd. 3. **Number of candidates nominated**. No nominating petition shall contain the name of more than one candidate except a petition jointly nominating individuals for governor and lieutenant governor or nominating a slate of presidential electors.

Subd. 4. **Oath and address of signer**. Following the information required by subdivisions 1 and 2 and before the space for signing, each separate page that is part of the petition shall include an oath in the following form:

"I solemnly swear (or affirm) that I know the contents and purpose of this petition, that I do not intend to vote at the primary election for the office for which this nominating petition is made, and that I signed this petition of my own free will."

Notarization or certification of the signatures on a nominating petition is not required. Immediately after the signature, the signer shall write on the petition the signer's residence address including street and number, if any, and mailing address if different from residence address.

Subd. 5. **Sample forms**. An official with whom petitions are filed shall make sample forms for nominating petitions available upon request.

Subd. 6. **Penalty**. An individual who, in signing a nominating petition, makes a false oath is guilty of perjury.

History: *1981 c 29 art 4 s 7; 1986 c 444; 1986 c 475 s 9,10; 1Sp2001 c 10 art 18 s 17; 2004 c 293 art 2 s 15; 2012 c 187 art 1 s 29; 2015 c 70 art 2 s 1*

NOTES AND DECISIONS

204B.07

Statement of political party or political principle by would-be candidate for state House of Representatives exceeded the statutory limit of three words, and, therefore, she did not strictly comply with the statutory requirements for filing for elective office. *Anderson v. Ritchie,* 819 N.W.2d 445 (Minn. 2012).

County auditor was neither authorized nor required to consult documents other than nominating petition to confirm that the signers were residents of the district and, thus, auditor did not err in rejecting signatures on a nominating petition for state senate candidate for which the only address provided were post office box, city or township, and county; enforcement of residence address requirement did not violate candidate's equal protection rights. *Paquin v. Mack,* 788 N.W. 2d 899 (Minn. 2010)

Party name protection law applies only to names of major political parties. *Scofield v. Kiffmeyer*, 620 N.W.2d 24 (Minn. 2000).

Court will not change political party or principle as stated on presidential elector nominating petition absent showing of significant degree of confusion. Mere similarity of party name is not sufficient. Id.

Candidate for U.S. House of Representatives could not be certified on election ballot as "Shelvie Prolife Rettmann" where name not authorized by statute nor was it nickname by which candidate was generally and commonly known. *Clifford v. Hoppe*, 357 N.W. 2d 98 (Minn. 1984).

"Elector" means one who has a constitutional right to vote even though not a registered voter. *Eastwood v. Donovan*, 259 Minn. 43, 105 N.W. 2d 636 (1960).

Candidates for the office of United States senator may be nominated by petition. *Allen v. Holm*, 243 Minn. 96, 66 N.W. 2d 610 (1954).

Presidential and vice-presidential candidates nominated by petition may withdraw. Op. Atty. Gen. 28c-5, September 26, 1968.

Where three candidates file for office of state senator and one dies before primary ballots are printed, names of candidates should not be placed on ballot. Op. Atty. Gen. 28B-1, August 16, 1954.

Even if there is only one filing for a partisan office, including Congress, name must be placed on primary ballot; but when only two persons file for nomination for a nonpartisan office, names are not included on primary ballot. Op. Atty. Gen. 28B-5, July 2, 1954.

There is no provision for filing name of candidate for county commissioner by nominating petition in primary election. Op. Atty. Gen. 911K, July 8, 1952.

It is not necessary that the party or political principle of a candidate for nonpartisan office be stated in the petition. Op. Atty. Gen. 184C-1, September 17, 1934.

204B.071 PETITIONS, RULES OF SECRETARY OF STATE.

The secretary of state shall adopt rules governing the manner in which petitions required for any election in this state are circulated, signed, filed, and inspected. The secretary of state shall provide samples of petition forms for use by election officials.

History: *1999 c 132 s 16*

204B.08 SIGNING PETITIONS.

Subdivision 1. **Time for signing.** Nominating petitions shall be signed during the period when petitions may be filed as provided in section 204B.09.

Subd. 2. **Qualifications of signers.** A nominating petition may be signed only by individuals who are eligible to vote for the candidate who is nominated. No individual may sign more than one nominating petition for candidates for the same office unless more than one candidate is to be elected to that office. If more than one candidate is to be elected to the office, an individual may sign as many petitions as there are candidates to be elected.

Subd. 3. **Number of signatures.** The number of signatures required on a nominating petition shall be as follows:

(a) For a federal or state office voted on statewide, one percent of the total number of individuals voting in the state at the last preceding state general election, or 2,000, whichever is less;

(b) For a congressional office, five percent of the total number of individuals voting in the district at the last preceding state general election, or 1,000, whichever is less;

(c) For a county or legislative office, ten percent of the total number of individuals voting in the county or legislative district at the last preceding state or county general election, or 500, whichever is less;

(d) For a municipal office in a city of the first class, the number specified in section 205.121; and

(e) For any other municipal or school district office, ten percent of the total number of individuals voting in the municipality, ward, school district, or other election district at the last preceding municipal, or school district if applicable, general election, or 500, whichever is less.

History: *1981 c 29 art 4 s 8; 1990 c 453 s 3; 1999 c 132 s 17; 2008 c 244 art 2 s 17*

NOTES AND DECISIONS

204B.08

State senate candidate could not show that signers of nominating petition whose signatures were rejected for lack of a residence address on the petition lived within legislative district and, thus, did not meet his burden to prove that leaving his name off of ballot was an error of which Supreme Court was required to order correction by county auditor, although some signatures listed post office (P.O.) box information; P.O. box provided no information about location of signers' residences, and candidate provided no other evidence that those who listed P.O. box intended city or township and county listed as their residential address. *Paquin v. Mack*, 788 N.W. 2d 899 (Minn. 2010)

Minnesota law bars a candidate for elective office from filing additional signatures on a nominating petition after 5 p.m. on the last day for filing for elective office, and also bars filing additional signatures on a petition filed in place of the required filing fee after said time and date. *Idusogie v. Kiffmeyer,* 721 N.W.2d 283 (Minn. 2006).

Registration does not affect qualification of person to vote. *Eastwood v. Donovan*, 259 Minn. 43, 105 N.W.2d 686 (1960).

Petition for independent candidate for Congress containing less than the required number of valid signatures was fatally defective. *Williams v. Donovan*, 253 Minn. 493, 92 N.W. 2d 917 (1958).

204B.09 TIME AND PLACE OF FILING AFFIDAVITS AND PETITIONS.

Subdivision 1. **Candidates in state and county general elections.** (a) Except as otherwise provided by this subdivision, affidavits of candidacy and nominating petitions for county, state, and federal offices filled at the state general election shall be filed not more than 84 days nor less than 70 days before the state primary. The affidavit may be prepared and signed at any time between 60 days before the filing period opens and the last day of the filing period.

(b) Notwithstanding other law to the contrary, the affidavit of candidacy must be signed in the presence of a notarial officer or an individual authorized to administer oaths under section 358.10.

(c) This provision does not apply to candidates for presidential elector nominated by major political parties. Major party candidates for presidential elector are certified under section 208.03. Other candidates for presidential electors may file petitions at least 77 days before the general election day pursuant to section 204B.07. Nominating petitions to fill vacancies in nominations shall be filed as provided in section 204B.13. No affidavit or petition shall be accepted later than 5:00 p.m. on the last day for filing.

(d) Affidavits and petitions for county offices must be filed with the county auditor of that county. Affidavits and petitions for federal offices must be filed with the secretary of state. Affidavits and petitions for state offices must be filed with the secretary of state or with the county auditor of the county in which the candidate resides.

(e) Affidavits other than those filed pursuant to subdivision 1a must be submitted by mail or by hand, notwithstanding chapter 325L, or any other law to the contrary and must be received by 5:00 p.m. on the last day for filing.

Subd. 1a. **Absent candidates.** (a) A candidate for special district, county, state, or federal office who will be absent from the state during the filing period may submit a properly executed affidavit of candidacy, the appropriate filing fee, and any necessary petitions in person to the filing officer. The candidate shall state in writing the reason for being unable to submit the affidavit during the filing period. The affidavit, filing fee, if any, and petitions must be submitted to the filing officer during the seven days immediately preceding the candidate's absence from the state. Nominating petitions may be signed during the 14 days immediately preceding the date when the affidavit of candidacy is filed.

(b) A candidate for special district, county, state, or federal office who will be absent from the state during the entire filing period or who must leave the state for the remainder of the filing period and who certifies to the secretary of state that the circumstances constitute an emergency and were unforeseen, may submit a properly executed affidavit of candidacy by facsimile device or by transmitting electronically a scanned image of the affidavit to the secretary of state during the filing period. The candidate shall state in writing the specific

reason for being unable to submit the affidavit by mail or by hand during the filing period or in person prior to the start of the filing period. The affidavit of candidacy, filing fee, if any, and any necessary petitions must be received by the secretary of state by 5:00 p.m. on the last day for filing. If the candidate is filing for a special district or county office, the secretary of state shall forward the affidavit of candidacy, filing fee, if any, and any necessary petitions to the appropriate filing officer.

Subd. 2. **Other elections.** Affidavits of candidacy and nominating petitions for city, town or other elective offices shall be filed during the time and with the official specified in chapter 205 or other applicable law or charter, except as provided for a special district candidate under subdivision 1a. Affidavits of candidacy and applications filed on behalf of eligible voters for school board office shall be filed during the time and with the official specified in chapter 205A or other applicable law. Affidavits of candidacy and nominating petitions filed under this subdivision must be submitted by mail or by hand, notwithstanding chapter 325L, or any other law to the contrary, and must be received by the appropriate official within the specified time for the filing of affidavits and petitions for the office.

Subd. 3. **Write-in candidates.** (a) A candidate for county, state, or federal office who wants write-in votes for the candidate to be counted must file a written request with the filing office for the office sought not more than 84 days before the primary and no later than the seventh day before the general election. The filing officer shall provide copies of the form to make the request.

(b) A candidate for president of the United States who files a request under this subdivision must include the name of a candidate for vice-president of the United States. The request must also include the name of at least one candidate for presidential elector. The total number of names of candidates for presidential elector on the request may not exceed the total number of electoral votes to be cast by Minnesota in the presidential election.

(c) A candidate for governor who files a request under this subdivision must include the name of a candidate for lieutenant governor.

History*: 1981 c 29 art 4 s 9; 1986 c 475 s 11; 1987 c 266 art 1 s 24; 1989 c 291 art 1 s 8; 1990 c 585 s 24; 1990 c 608 art 7 s 2; 1991 c 227 s 11; 2000 c 467 s 9-11; 1Sp2001 c 10 art 18 s 18,19; 2004 c 293 art 2 s 16,17; 2008 c 244 art 1 s 10; 2010 c 184 s 12; 2014 c 264 s 14*

NOTES AND DECISIONS

204B.09

For an affidavit of candidacy to be "properly filed," as required for candidate's name to be placed on primary election ballot, it must be both filed before the deadline and filed with the appropriate election official. *Smith v. Kiffmeyer,* 721 N.W.2d 912 (Minn. 2006).

Candidate had no colorable claim that First Amendment right of association was violated by statutory requirements for signatures in support of nominating petition. The secretary of state is barred from accepting late petitions and affidavits from all candidates, whether they seek the nomination of major political parties, minor political parties, or run as independent candidates. A candidate for elective office may not file additional signatures for a nominating petition and/or a petition filed in place of the required filing fee after 5 p.m. on the last day for filing for elective office. *Idusogie v. Kiffmeyer*, 721 N.W.2d 283 (Minn. 2006).

Filing affidavit of candidacy within deadline is accomplished by actual filing at proper office, and not by mere deposit in the U.S. mail. *Harris v. Donovan*, 269 Minn. 574, 129 N.W. 2d 797 (1964).

Petition for nomination presented after closing time of Secretary of State's Office was not entitled to filing. *Johnson v. Holm*, 198 Minn. 192, 269 N.W. 405 (1936).

Secretary of state may pass upon form and sufficiency of nominating petition, but has no authority to determine whether candidate is qualified to serve. Op. Atty. Gen. 911J, September 15, 1970.

Under former law, write-in votes for presidential candidates whose electors have not been certified as such to the secretary of state under M.S. 208.03 or former 202A.32, would be nullity since the state canvassing board under the authority of M.S. 208.05 determines the election only of electors, but an effective write-in vote would either write in the office of presidential elector and names of as many as ten candidates for a presidential elector, or apply a sticker for the same purpose. Op. Atty. Gen. 28C-5, October 5, 1968.

The requirement that a person filing for office state in his affidavit of candidacy "that he is qualified voter in the subdivision where he seeks nomination" is not applicable to a person filing for the office of representative in Congress. Affidavit is sufficient insofar as statement of residence is concerned, if, in accordance with the residency qualifications of U.S. Constitution, the person filing states in the affidavit that he is a resident of this state. Op. Atty. Gen. 186A, July 24, 1968.

Affidavits of candidacy need not be filed personally by candidate, but the affidavit should be executed during the filing period. Op. Atty. Gen. 437A-6, February 28, 1963.

Ineligibility of candidate receiving highest number of votes, in absence of knowledge by voters of disqualifying facts, will not result in giving the election to the next highest candidate. Op. Atty. Gen. 63A-11, March 23, 1955.

If affidavit of candidacy omits statement of political subdivision in which candidates are to be voted but such information can be determined from other statements in affidavit, auditor may accept same. Op. Atty. Gen. 28C-11, August 11, 1954.

If last day for filing should fall on Monday, February 22, a legal holiday, both Monday, February 22, and Sunday, February 21, are omitted in computation and last day for filing would be Saturday, February 20. Op. Atty. Gen. 911E, February 1, 1954.

Affidavit must be signed and sworn to by candidate. Op. Atty. Gen. 911L, August 6, 1942.

Affidavit could not be accepted for filing on legal holiday. Op. Atty. Gen. 1922, No. 270, p. 216.

204B.10 AFFIDAVITS OF CANDIDACY; NOMINATING PETITIONS; DUTIES.

Subdivision 1. **Affidavits of candidacy; numbering.** The official with whom affidavits of candidacy are filed shall number them in the order received.

Subd. 2. **Nominating petitions; acknowledgment; numbering.** On the day a nominating petition is filed, the election official shall deliver or mail an acknowledgment of the petition to the individual who files it and to the candidate who is to be nominated. The election official shall also number the petitions in the order received. The petitions shall be retained as provided in section 204B.40, and shall be available for public inspection during that period.

Subd. 3. **Inspection.** The official with whom nominating petitions are filed shall inspect the petitions in the order filed to verify that there are a sufficient number of signatures of individuals whose residence address as shown on the petition is in the district where the candidate is to be nominated.

Subd. 4. **Certification.** The secretary of state shall certify to the county auditor of each county the names of all candidates nominated by petitions filed with the secretary of state. Certification shall be made at the same time as the secretary of state certifies the names of candidates who are nominated at the primary.

Subd. 5. **Improper name.** If the filing officer determines that use on the ballot of the candidate's name as written on the affidavit of candidacy would violate section 204B.35, subdivision 2, the filing officer shall immediately notify the candidate and shall certify for the ballot the candidate's true name instead of the name as written on the affidavit.

Subd. 6. **Ineligible voter.** Upon receipt of a certified copy of a final judgment or order of a court of competent jurisdiction that a person who has filed an affidavit of candidacy or who has been nominated by petition:

(1) has been convicted of treason or a felony and the person's civil rights have not been restored;

(2) is under guardianship in which the court order revokes the ward's right to vote; or

(3) has been found by a court of law to be legally incompetent; the filing officer shall notify the person by certified mail at the address shown on the affidavit or petition, and, for offices other than President of the United States, Vice President of the United States, United States Senator, and United States Representative in Congress, shall not certify the person's name to be placed on the ballot. The actions of a filing officer under this subdivision are subject to judicial review under section 204B.44.

History: *1981 c 29 art 4 s 10; 1986 c 475 s 12; 1993 c 364 s 1; 2005 c 10 art 4 s 6; 2005 c 156 art 6 s 33*

NOTES AND DECISIONS

204B.10

Secretary of State was not required to review would-be state senate candidate's affidavit of candidacy for completeness; statute establishing duties of election officials with respect to affidavits of candidacy were provided by statute, and statute did not include such a requirement. *In re Pfliger,* 819 N.W.2d 620 (Minn. 2012).

County auditor must accept properly executed affidavit of candidacy, notwithstanding allegations of candidates' ineligibility. Op. Atty. Gen. 1949, No. 73, p. 100.

Secretary of state may pass upon form and sufficiency of nominating petition, but has no authority to determine whether candidate is qualified to serve. Op. Atty. Gen., 911, June 14, 1948.

204B.11 CANDIDATES; FILING FEES; PETITION IN PLACE OF FILING FEE.

Subdivision 1. **Amount; dishonored checks; consequences.** Except as provided by subdivision 2, a filing fee shall be paid by each candidate who files an affidavit of candidacy. The fee shall be paid at the time the affidavit is filed. The amount of the filing fee shall vary with the office sought as follows:

(a) for the office of governor, lieutenant governor, attorney general, state auditor, secretary of state, representative in Congress, judge of the Supreme Court, judge of the Court of Appeals, or judge of the district court, $300;

(b) for the office of senator in Congress, $400;

(c) for office of senator or representative in the legislature, $100;

(d) for a county office, $50; and

(e) for the office of soil and water conservation district supervisor, $20.

For the office of presidential elector, and for those offices for which no compensation is provided, no filing fee is required.

The filing fees received by the county auditor shall immediately be paid to the county treasurer. The filing fees received by the secretary of state shall immediately be paid to the commissioner of finance.

When an affidavit of candidacy has been filed with the appropriate filing officer and the requisite filing fee has been paid, the filing fee shall not be refunded. If a candidate's filing fee is paid with a check, draft, or similar negotiable instrument for which sufficient funds are not available or that is dishonored, notice to the candidate of the worthless instrument must be sent by the filing officer via registered mail no later than immediately upon the closing of the filing deadline with return receipt requested. The candidate will have five days from the time the filing officer receives proof of receipt to issue a check or other instrument for which sufficient funds are available. The candidate issuing the worthless instrument is liable for a service charge pursuant to section 604.113. If adequate payment is not made, the name of the candidate must not appear on any official ballot and the candidate is liable for all costs incurred by election officials in removing the name from the ballot.

Subd. 2**. Petition in place of filing fee.** At the time of filing an affidavit of candidacy, a candidate may present a petition in place of the filing fee. The petition may be signed by any

individual eligible to vote for the candidate. A nominating petition filed pursuant to section 204B.07 is effective as a petition in place of a filing fee if the nominating petition includes a prominent statement informing the signers of the petition that it will be used for that purpose.

The number of signatures on a petition in place of a filing fee shall be as follows:

(a) for a state office voted on statewide, or for president of the United States, or United States senator, 2,000;

(b) for a congressional office, 1,000;

(c) for a county or legislative office, or for the office of district judge, 500; and

(d) for any other office which requires a filing fee as prescribed by law, municipal charter, or ordinance, the lesser of 500 signatures or five percent of the total number of votes cast in the municipality, ward, or other election district at the preceding general election at which that office was on the ballot.

An official with whom petitions are filed shall make sample forms for petitions in place of filing fees available upon request.

History: *1981 c 29 art 4 s 11; 3Sp1981 c 2 art 1 s 29; 1983 c 112 s 1; 1983 c 247 s 85; 1987 c 175 s 5; 1987 c 404 s 155; 1990 c 603 s 3; 1992 c 513 art 3 s 42; 1998 c 254 art 2 s 21, 22; 2003 c 112 art 2 s 50; 2012 c 187 art 1 s 30*

NOTES AND DECISIONS

204B.11

Signatures on a petition in place of the filing fee for elective office need not be affixed during the period in which candidates may file for office. *Reiter v. Kiffmeyer*, 721 N.W.2d 908 (Minn. 2006).

Filing affidavit of candidacy within deadline is accomplished by actual filing at proper office, and not by mere deposit in the U.S. mail. *Harris v. Donovan*, 269 Minn. 574, 129 N.W. 2d 797 (1964).

Filing fee could not be accepted after close of filing period. Op. Atty. Gen. 1936, No. 204, p. 275.

204B.12 WITHDRAWAL OF CANDIDATES.

Subdivision 1. **Before primary.** A candidate may withdraw from the primary ballot by filing an affidavit of withdrawal with the same official who received the affidavit of candidacy. The affidavit shall request that official to withdraw the candidate's name from the ballot and shall be filed no later than two days after the last day for filing for the office.

Subd. 2. [Repealed, 1983 c 303 s 24]

Subd. 2a. [Repealed 2013 c 131 art 5 s 10]

Subd. 2b. **Governor's race.** If a candidate for governor withdraws, the secretary of state shall remove from the ballot the name of the candidate for governor and the name of that candidate's running mate for lieutenant governor.

Subd. 3. **Time for filing.** An affidavit of withdrawal filed under this section shall not be accepted later than 5:00 p.m. on the last day for withdrawal.

History: *1981 c 29 art 4 s 12; 1983 c 303 s 6; 1986 c 444; 1986 c 475 s 13; 1991 c 320 s 5-7; 2000 c 467 s 12; 2013 c 131 art 5 s 10*

NOTES AND DECISIONS

204B.12

Candidate for lieutenant governor was not entitled to remain on general election ballot after withdrawal of candidate for governor. *Clark v. Growe*, 461 N.W.2d 385 (Minn. 1990).

Presidential and vice presidential "candidates" nominated by petition have right to withdraw. Op. Atty. Gen. 28C-5, September 26, 1968.

Former section M.S. 202A.54 held not applicable to municipal elections. Op. Atty. Gen. 184N, September 19, 1962.

204B.13 VACANCY IN NOMINATION; PARTISAN OFFICE.

Subdivision 1. **Partisan office**. (a) A vacancy in nomination for a partisan office must be filled in the manner provided by this section. A vacancy in nomination exists for a partisan office when a major political party candidate who has been nominated in accordance with section 204D.03, subdivision 3, or 204D.10, subdivision 1:

(1) dies;

(2) withdraws by filing an affidavit of withdrawal, as provided in paragraph (b), at least one day prior to the general election with the same official who received the affidavit of candidacy; or

(3) is determined to be ineligible to hold the office the candidate is seeking, pursuant to a court order issued under section 204B.44.

(b) An affidavit of withdrawal filed under paragraph (a), clause (3), must state that the candidate has been diagnosed with a catastrophic illness that will permanently and continulogously incapacitate the candidate and prevent the candidate from performing the duties of the office sought, if elected. The affidavit must be accompanied by a certificate verifying the candidate's illness meets the requirements of this paragraph, signed by at least two licensed physicians. The affidavit and certificate may be filed by the candidate or the candidate's legal guardian.

Subd. 2. **Partisan office; nomination by party; special election.** (a) Except as provided in subdivision 5, a major political party may fill a vacancy in nomination of that party's candidate as defined in subdivision 1, clause (1), (2), or (3), by filing one nomination certificate with the same official who received the affidavits of candidacy for that office.

A major political party may provide in its governing rules a procedure, including designation of an appropriate committee, to fill a vacancy in nomination for any federal or state partisan office. The nomination certificate shall be prepared under the direction of and executed by the chair and secretary of the political party and filed within the timelines established in this section. When filing the certificate the chair and secretary shall attach an affidavit stating that the newly nominated candidate has been selected under the rules of the party and that the individuals signing the certificate and making the affidavit are the chair and secretary of the party.

(b) In the case of a vacancy in nomination for partisan office that occurs on or before the 79th day before the general election, the major political party must file the nomination certificate no later than 71 days before the general election. The name of the candidate nominated by the party must appear on the general election ballot.

(c) Except as provided in subdivision 5, in the case of a vacancy in nomination for a partisan office that occurs after the 79th day before the general election, the general election ballot shall remain unchanged, but the county and state canvassing boards must not certify the vote totals for that office from the general election, and the office must be filled at a special election held in accordance with this section. Except for the vacancy in nomination, all other candidates whose names appeared on the general election ballot for the office must appear on the special election ballot for the office. New affidavits of candidacy or nominating petitions may not be accepted, and there must not be a primary to fill the vacancy in nomination. The major political party may file a nomination certificate as provided in paragraph (a), no later than seven days after the general election. On the date of the general election, the county auditor or municipal clerk shall post a notice in each precinct affected by a vacancy in nomination under this paragraph, informing voters of the reason for the vacancy in nomination and the procedures for filling the vacancy in nomination and conducting a special election as required by this section. The secretary of state shall prepare and electronically distribute the notice to county auditors in each county affected by a vacancy in nomination.

Subd. 2a. **Partisan office; filing period.** A vacancy in nomination for a partisan office due to a withdrawal of a candidate under section 204B.12, subdivision 1, may be filled in the manner provided in sections 204B.06, 204B.09, and 204B.11, except that all documents and fees required by those sections must be filed within five days after the vacancy in nomination occurs. There must be a two-day period for withdrawal of candidates after the last day for filing.

If there is more than one candidate at the end of the withdrawal period to fill the vacancy in nomination, the candidates' names must appear on the primary ballot. Otherwise, the candidate's name must appear on the general election ballot.

Subd. 3. [Repealed, 1991 c 320 s 16]

Subd. 4. [Repealed 2013 c 131 art 5 s 10]

Subd. 5. **Candidates for governor and lieutenant governor.** (a) If a vacancy in nomination for a major political party occurs in the race for governor, the political party must nominate the candidates for both governor and lieutenant governor. If a vacancy in nomination for a major political party occurs in the race for lieutenant governor, the candidate for governor shall select the candidate for lieutenant governor.

(b) For a vacancy in nomination for lieutenant governor that occurs on or before the 79th day before the general election, the name of the lieutenant governor candidate must be submitted by the governor candidate to the filing officer no later than 71 days before the general election. If the vacancy in nomination for lieutenant governor occurs after the 79th day before the general election, the candidate for governor shall submit the name of the new lieutenant governor candidate to the secretary of state within seven days after the vacancy in nomination occurs, but no changes may be made to the general election ballots.

(c) When a vacancy in nomination for lieutenant governor occurs after the 79th day before the general election, the county auditor or municipal clerk shall post a notice in each precinct affected by the vacancy in nomination. The secretary of state shall prepare and electronically distribute the notice to county auditors. The county auditor must ensure that each precinct in the county receives the notice prior to the opening of the polls on election day. The notice must include:

(1) a statement that there is a vacancy in nomination for lieutenant governor and the statutory reason for the vacancy in nomination as provided in subdivision 1, paragraph (a), clauses (1), (2), or (3);

(2) a statement that the results for the governor and lieutenant governor will be counted and that no special election will be held for that race; and

(3) a list of all candidates in the governor and lieutenant governor's race, listed in order of the base rotation. The listing of candidates shall include the name of the candidate to fill the vacancy in nomination for lieutenant governor. If the name of the candidate has not yet been named, then the list must include the date by which the candidate will be named.

Subd. 6. [Repealed, 2013 c 131 art 5 s 10]

Subd. 7. **Date of special election.** If a special election is required under this section, the governor shall issue a writ calling for a special election to be conducted on the second Tuesday in February of the year following the year the vacancy in nomination occurred. Except where otherwise provided in this section, the writ shall be issued and the special election conducted according to the requirements of sections 204D.22 to 204D.27.

Subd. 8. **Absentee voters.** At least 46 days, but more than 50 days, before a special election conducted under this section, the county auditor shall transmit an absentee ballot for the special election to each applicant for an absentee ballot whose application for an absentee ballot for the preceding general election was recorded under section 203B.04 or 203B.17. New applicants for an absentee ballot may be provided a ballot in the manner specified in chapter 203B.

Subd. 9. **Appropriation.** In the case of a statewide special election under this section, the amount necessary is appropriated to the secretary of state to cover costs incurred by the state, county, and municipal governments to conduct the special election.

History: *1981 c 29 art 4 s 13; 1986 c 444; 1991 c 320 s 8-12; 2011 c 65 s 2, 3; 2012 c 187 art 1 s 31; 2013 c 131 art 5 s 1-7, 10; 2015 c 70 art 1 s 21-23*

NOTES AND DECISIONS

204B.13

Major political party had statutory authority to fill vacancy in nomination for any partisan office occurring after primary when originally nominated candidate withdrew by filing affidavit of withdrawal, and therefore name of withdrawn candidate was required to be removed from general election ballot and replaced by name of party-endorsed candidate for State Representative; statutes governing substitution of a withdrawn candidate did not limit the procedure outlined to constitutional offices; rather the relevant definition of "vacancy in nomination" included both partisan and nonpartisan candidates. *Martin v. Dicklich,* 823 N.W.2d 336 (Minn. 2012).

After withdrawal of gubernatorial candidate, lieutenant governor candidate not entitled to have name on ballot. *Clark v. Growe*, 461 N.W. 2d 385 (Minn. 1990).

Where judge who held office had been nominated without opposition in primary and died one week before general election, governor, even in absence of legislative action, had power to fill vacancy in office with person who would serve until next general election held more than one year after appointment under Constitution art. VI, sec. 8, giving governor power to fill vacancy in manner provided by law until successor was chosen at next general election occurring more than one year after appointment. *State ex rel. Hennepin County Bar Ass'n. v. Amdahl*, 264 Minn. 350, 119 N.W. 2d 169 (1963).

Nominating by petition to fill a vacancy in nomination for nonpartisan office, when nominee dies or withdraws before primary election must be filed within one week after primary. Op. Atty. Gen. 28B-3, August 7, 1962; Op. Atty. Gen. 28B-3, September 12, 1968.

Person nominated by nominating petition pursuant to this section should appear as a candidate upon the general election ballot where the vacancy in nomination for nonpartisan office arose by reason of timely withdrawal prior to the primary election of one of two filed candidates. Op. Atty. Gen. 28B-3, September 12, 1968.

When nominee for office of county sheriff dies on a Saturday, the last day for filing nominating petitions is one week from the following Monday, if county auditor's office is closed on the following Saturday per M.S. 373.052. Op. Atty. Gen. 28B-3, October 15, 1962.

Vacancy in nomination does not exist when no persons file for office. Op. Atty. Gen. 28B-3, August 24, 1962.

Where but two persons filed for sheriff of county, including the incumbent, and incumbent died following after the time for filing closed, but before the time of the primary election, there would be a "vacancy in a nomination", which would come into effect immediately after the primary and permit the filing of nominating petitions pursuant to M.S. 204B.13. Op. Atty. Gen. 28B-3, August 7, 1962.

State central committee selects the candidate if a party nominee dies. Op. Atty. Gen. 47, September 22, 1948.

204B.131 VACANCY IN NOMINATION; NONPARTISAN OFFICE.

Subdivision 1. **Applicability.** A vacancy in nomination for a nonpartisan office must be filled in the manner provided in this section. A vacancy in nomination for a nonpartisan office exists when:

(1) a candidate for any nonpartisan office, for which one or two candidates filed, withdraws as provided in section 204B.12, subdivision 1;

(2) a candidate for any nonpartisan office, for which one or two candidates filed, is determined to be ineligible to hold the office the candidate is seeking, pursuant to a court order issued under section 204B.44; or

(3) a candidate for any nonjudicial nonpartisan office, for which only one or two candidates filed or who was nominated at a primary, dies on or before the 79th day before the date of the general election.

Subd. 2. **Procedure for filling vacancy.** A vacancy in nomination for a nonpartisan office may be filled by filing an affidavit of candidacy and paying a filing fee, or by filing an affidavit of candidacy and filing a petition in place of a filing fee, in the manner provided in sections 204B.06, 204B.09, and 204B.11. All documents and fees required by this subdivision must be filed within five days after the vacancy in nomination occurs. There must be a two-day period for withdrawal of candidates after the last day for filing.

If the vacancy in nomination resulted from a withdrawal during the withdrawal period held on the 68th to 69th day before the primary, and if, at the end of the withdrawal period to fill the vacancy in nomination, there are more than two candidates, the candidates' names must appear on the primary ballot. In all other cases, the candidates' names must appear on the general election ballot.

History: *2013 c 131 art 5 s 8; 2015 c 70 art 1 s 24*

204B.135 REDISTRICTING OF ELECTION DISTRICTS.

Subdivision 1. **Cities with wards.** Except as provided in this subdivision a city that elects its council members by wards may not redistrict those wards before the legislature has been redistricted. The wards must be redistricted within 60 days after the legislature has been redistricted or at least 19 weeks before the state primary election in the year ending in two, whichever is first.

In a city of the first class electing council members by wards in a year ending in one, the ward boundaries may be reestablished no later than 14 days before the first day to file affidavits of candidacy for city council members. The ward boundaries may be modified after the legislature has been redistricted for the purpose of establishing precinct boundaries as provided in section 204B.14, subdivision 3.

Subd. 2. **Other election districts.** For purposes of this subdivision, "local government election district" means a county district, park and recreation district, school district, or soil and water conservation district. Local government election districts, other than city wards covered by subdivision 1, may not be redistricted until precinct boundaries are reestablished under section 204B.14, subdivision 3, paragraph (c). Election districts covered by this subdivision must be redistricted within 80 days of the time when the legislature has been redistricted or at least 15 weeks before the state primary election in the year ending in two, whichever comes first.

Subd. 3. **Voter's rights.** (a) An eligible voter may apply to the district court for either a writ of mandamus requiring the redistricting of wards or local government election districts or to revise any plan adopted by the governing body responsible for redistricting of wards or local government election districts.

(b) If a city adopts a ward redistricting plan at least 19 weeks before the primary in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court within three weeks but no later than 18 weeks before the state primary election in the year ending in two, notwithstanding any charter provision. If a city adopts a ward redistricting plan less than 19

weeks before either the municipal primary in a year ending in one or before the state primary in a year ending in two, an application for revision of the plan that seeks to affect elections held in that year must be filed with the district court no later than one week after the plan has been adopted, notwithstanding any charter provision.

(c) If a plan for redistricting of a local government election district is adopted at least 15 weeks before the state primary election in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court within three weeks but no later than 14 weeks before the state primary election in the year ending in two. If a plan for redistricting of a local government election district is adopted less than 15 weeks before the state primary election in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court no later than one week after the plan has been adopted.

Subd. 4. **Special elections; limitations.** No municipality or school district may conduct a special election during the 19 weeks before the state primary election in the year ending in two. A school district special election required by any other law may be deferred until the date of the next school district general election, the state primary election, or the state general election.

Subd. 5. **Redistricting expenses.** The county board may levy a tax not to exceed $1 per capita in the year ending in "0" to pay costs incurred in the year ending in "1" or "2" that are reasonably related to the redistricting of election districts, establishment of precinct boundaries, designation of polling places, and the updating of voter records in the statewide registration system. The county auditor shall distribute to each municipality in the county on a per capita basis 25 percent of the amount levied as provided in this subdivision, based on the population of the municipality in the most recent census. This levy is not subject to statutory levy limits.

History: *1987 c 297 s 1; 1991 c 349 s 30; 1999 c 243 art 6 s 1; 2010 c 201 s 23; 2010 c 313 s 1,2; 2011 c 18 s 1*

NOTES AND DECISIONS

204B.135

City was not required to hold special elections immediately after decennial redistricting; instead, next regularly scheduled election following redistricting was required to use the new district scheme for city council. *Kahn v. Griffin*, 701 N.W. 2d 815 (Minn. 2005).

204B.14 ELECTION PRECINCTS.

Subdivision 1. **Boundaries.** The governing body of each municipality shall establish the boundaries of the election precincts in the municipality. The governing body of a county shall establish the boundaries of precincts in unorganized territory in the county. Except as provided in subdivision 3, a governing body may change the boundaries of any election precinct which it has established.

Subd. 1a. **Legislative policy.** It is the intention of the legislature to complete congressional and legislative redistricting activities in time to permit counties and municipalities to begin the process of reestablishing precinct boundaries as soon as possible after the adoption of the congressional and legislative redistricting plans but in no case later than 25 weeks before the state primary election in the year ending in two.

Subd. 2 changes effective August 1, 2016

Subd. 2 changes related to the presidential nomination primary effective July 1, 2017, and applies to elections conducted on or after that date.

Subd. 2. **Separate precincts; combined polling place.** (a) The following shall constitute at least one election precinct:

(1) each city ward; and

(2) each town and each statutory city.

(b) A single, accessible, combined polling place may be established no later than November 1 if a presidential nomination primary is scheduled to occur in the following year or May 1 of any other year:

(1) for any city of the third or fourth class, any town, or any city having territory in more than one county, in which all the voters of the city or town shall cast their ballots;

(2) for contiguous precincts in the same municipality;

(3) for up to four contiguous municipalities located entirely outside the metropolitan area, as defined by section 200.02, subdivision 24, that are contained in the same county; or

(4) for noncontiguous precincts located in one or more counties.

Subject to the requirements of paragraph (c), a single, accessible, combined polling place may be established after May 1 of any year in the event of an emergency.

A copy of the ordinance or resolution establishing a combined polling place must be filed with the county auditor within 30 days after approval by the governing body. A polling place combined under clause (3) must be approved by the governing body of each participating municipality. A polling place combined under clause (4) must be approved by the governing body of each participating municipality and the secretary of state and may be located outside any of the noncontiguous precincts. A municipality withdrawing from participation in a combined polling place must do so by filing a resolution of withdrawal with the county auditor no later than October 1 if a presidential nomination primary is scheduled to occur in the following year or April 1 of any other year.

The secretary of state shall provide a separate polling place roster for each precinct served by the combined polling place, except that in a precinct that uses electronic rosters the secretary of state shall provide separate data files for each precinct. A single set of election judges may be appointed to serve at a combined polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all precincts to be voting at the combined polling place. Separate ballot boxes must be provided for the ballots from each precinct. The results of the election must be reported separately for each precinct served by the combined polling place, except in a polling place established under clause (2) where one of the precincts has fewer than ten registered voters, in which case the results of that precinct must be reported in the manner specified by the secretary of state.

(c) If a local elections official determines that an emergency situation preventing the safe, secure, and full operation of a polling place on election day has occurred or is imminent, the local elections official may combine two or more polling places for that election pursuant to this subdivision. To the extent possible, the polling places must be combined and the election conducted according to the requirements of paragraph (b), except that:

(1) polling places may be combined after May 1 and until the polls close on election day;

(2) any city or town, regardless of size or location, may establish a combined polling place under this paragraph;

(3) the governing body is not required to adopt an ordinance or resolution to establish the combined polling place;

(4) a polling place combined under paragraph (b), clause (3) or (4), must be approved by the local election official of each participating municipality;

(5) the local elections official must immediately notify the county auditor and the secretary of state of the combination, including the reason for the emergency combination and the location of the combined polling place. As soon as possible, the local elections official must also post a notice stating the reason for the combination and the location of the combined polling place. The notice must also be posted on the governing board's Web site, if one exists. The local elections official must also notify the election judges and request that local media outlets publicly announce the reason for the combination and the location of the combined polling place; and

(6) on election day, the local elections official must post a notice in large print in a conspicuous place at the polling place where the emergency occurred, if practical, stating the location of the combined polling place. The

local election official must also post the notice, if practical, in a location visible by voters who vote from their motor vehicles as provided in section 204C.15, subdivision 2. If polling place hours are extended pursuant to section 204C.05, subdivision 2, paragraph (b), the posted notices required by this paragraph must include a statement that the polling place hours at the combined polling place will be extended until the specified time.

Subd. 3. **Boundary changes; prohibitions; exception.** Notwithstanding other law or charter provisions to the contrary, during the period from January 1 in any year ending in zero to the time when the legislature has been redistricted in a year ending in one or two, no changes may be made in the boundaries of any election precinct except as provided in this subdivision.

(a) If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

(b) A municipality or county may establish new election precincts lying entirely within the boundaries of any existing precinct and shall assign names to the new precincts which include the name of the former precinct.

(c) Precinct boundaries in a city [of the first class] electing council members by wards may be reestablished within four weeks of the adoption of ward boundaries in a year ending in one, as provided in section 204B.135, subdivision 1.

(d) Precinct boundaries must be reestablished within 60 days of the time when the legislature has been redistricted, or at least 19 weeks before the state primary election in a year ending in two, whichever comes first. The adoption of reestablished precinct boundaries becomes effective on the date of the state primary election in the year ending in two.

Precincts must be arranged so that no precinct lies in more than one legislative or congressional district.

Subd. 4 changes effective July 1, 2017, and applies to elections conducted on or after that date.

Subd. 4. **Boundary change procedure.** Any change in the boundary of an election precinct must be adopted at least ten weeks before the date of the next election and, for the state primary and general election or presidential nomination primary, no later than ~~June~~ December 1 in the year prior to the year of the state general election. The precinct boundary change shall not take effect until notice of the change has been posted in the office of the municipal clerk or county auditor for at least 56 days.

The county auditor must publish a notice illustrating or describing the congressional, legislative, and county commissioner district boundaries in the county in one or more qualified newspapers in the county at least 14 day before the first day to file affidavits of candidacy for the state general election in the year ending in two.

Alternate dates for adopting changes in precinct boundaries, posting notices of boundary changes, and notifying voters affected by boundary changes pursuant to this subdivision, and procedures for coordinating precinct boundary changes with reestablishing local government election district boundaries may be established in the manner provided in the rules of the secretary of state.

Subd. 4a. **Municipal boundary adjustment procedure.** A change in the boundary of an election precinct that has occurred as a result of a municipal boundary adjustment made under chapter 414 that is effective more than 21 days before a regularly scheduled election takes effect at the scheduled election.

A change in the boundary of an election precinct that has occurred as a result of a municipal boundary adjustment made under chapter 414 that is effective less than 21 days before a regularly scheduled election takes effect the day after the scheduled election.

Subd. 5. **Precinct boundaries; description; maps.** If a precinct boundary has been changed or an annexation has occurred affecting a precinct boundary, the municipal clerk shall immediately notify the county auditor and the secretary of state. The municipal clerk shall file a corrected base map with the secretary of state and county auditor within 30 days after the boundary change was made or in the case of an annexation, the later of (1) 30 days after the approval of the annexation order; or (2) the effective date of the annexation order. Upon request, the county auditor shall provide a base map and precinct finder to the municipal clerk. The municipal clerk shall prepare a corrected precinct map and provide the corrected map to the county auditor,

who shall correct the precinct finder in the statewide voter registration system and make the corrected map and precinct finder available for public inspection, and to the secretary of state, who shall update the precinct boundary database. The county auditor shall prepare and file precinct boundary maps for precincts in unorganized territories in the same manner as provided for precincts in municipalities. For every election held in the municipality the election judges shall be furnished precinct maps as provided in section 201.061, subdivision 6. If a municipality changes the boundary of an election precinct, or if an annexation affecting a precinct boundary occurs, the county auditor shall notify each school district with territory affected by the boundary change at least 30 days before the effective date of the change.

Subd. 6. [Repealed, 2015 c 70 art 1 s 63]

Subd. 7 changes effective August 1, 2016

Subd. 7. **Application to municipalities.** Notwithstanding the provisions of section 410.21, or any other law, ordinance or charter to the contrary, the provisions of subdivisions 1~~,~~ and 3 ~~and 6~~ apply to all municipalities.

Subd. 8. [Repealed, 1994 c 607 s 7]

History: *1981 c 29 art 4 s 14; 1Sp1981 c 4 art 4 s 43; 2Sp1981 c 2 s 2; 1983 c 289 s 115 subd 1; 1985 c 248 s 36; 1986 c 444; 1987 c 186 s 15; 1987 c 212 s 1-4; 1987 c 297 s 2; 1990 c 453 s 4; 1991 c 349 s 31-34; 1993 c 208 s 1,2; 1993 c 223 s 9; 1994 c 607 s 1-4; 1999 c 237 s 1; 2000 c 467 s 13-15; 2005 c 156 art 6 s 34; 2005 c 162 s 2; 2006; 2010 c 184 s 13, 14; 2010 c 201 s 24; 2011 c 18 s 2, 3; 2014 c 288 art 2 s 4; 2016 c 161 art 1 s 5; 2016 c 161 art 3 s 1; 2016 c 162 s 4, 5*

NOTES AND DECISIONS

204B.14

Upon failure of state legislature and Governor to enact by the statutory deadline a legislative redistricting plan for state legislative districts, it was the role of state judicial branch to prepare a valid redistricting plan and order its adoption. *Hippert v. Ritchie,* 813 N.W.2d 374 (Minn. 2012).

City was not required to hold special elections immediately after decennial redistricting; instead, next regularly scheduled election following redistricting was required to use the new district scheme for city council. *Kahn v. Griffin,* 701 N.W.2d 815 (Minn. 2005).

Under former section 204A.06, if two precincts have been established in a town containing a village not separated from town for election, any modification must follow procedure in that section. The election laws do not contemplate separate precincts for general elections as distinct from municipal elections. Op. Atty. Gen. 183E, October 15, 1962.

Former section 204A.06 ruled to authorize changes of precinct boundaries, but not change of ward boundaries designated in city charter. Op. Atty. Gen., June 3, 1960.

204B.145 DUTIES OF SECRETARY OF STATE; REDISTRICTING.

Following the completion of legislative redistricting, the secretary of state may coordinate and facilitate the exchange of information between the legislative redistricting computer system, the statewide voter registration system, and a computer system developed to assist the counties, municipalities, and school districts in redrawing election districts and establishing election precincts.

History: *1991 c 345 art 1 s 80*

204B.146 DUTIES OF SECRETARY OF STATE.

Changes effective August 1, 2016

Subdivision 1. **Redistricting.** The secretary of state shall conduct conferences with the county auditors, municipal clerks, and school district clerks to instruct them on the procedures for redistricting of election districts and establishment of election precincts in the year ending in one.

Subd. 2. **Precinct and election district boundaries.** The secretary of state shall maintain a computer database of precinct and election district boundaries. The secretary of state shall revise the information in the database whenever a precinct or election district boundary is changed. The secretary of state shall prepare maps illustrating precinct and election district boundaries in either paper or electronic formats and make them available to the public at the cost of production.

The secretary of state may authorize municipalities and counties to provide updated precinct and election district boundary information in electronic formats.

The secretary of state shall provide periodic updates of precinct and election district boundaries to the legislative coordinating commission, the state demographer, and the land management information center. At the request of the county auditor, the secretary of state shall provide the county auditor with precinct maps. The county auditor shall forward the maps to the appropriate municipal clerks, who shall post the map in the polling place on the day of the state primary and the state general election.

Subd. 3. **Correction to election district boundaries.** When a municipal boundary ~~that~~ has changed and is coterminous with (1) a congressional, legislative, or county commissioner district boundary ~~has changed~~, or (2) a soil and water conservation district supervisor district boundary elected by district under section 103C.311, subdivision 2, and the affected territory contains 50 or fewer registered voters, the secretary of state may order corrections to move the affected election district boundaries so ~~they~~ the boundaries are again ~~will be~~ coterminous with the municipal boundary. The election district boundary change is effective 28 days after the date that the order is issued. The secretary of state shall immediately notify the municipal clerk and county auditor affected by the boundary change and the legislative coordinating commission. The municipal clerk shall send a nonforwardable notice stating the location of the polling place to every household containing a registered voter affected by the boundary change at least 25 days before the next election.

History: *1991 c 349 s 35; 1993 c 208 s 3; 1997 c 147 s 27; 1999 c 132 s 18; 1999 c 237 s 2; 2016 c 161 art 1 s 6*

204B.15 UNORGANIZED TERRITORY; ELECTION PRECINCTS.

A county board may establish new election precincts to serve the residents of unorganized territories. The board shall designate a polling place for the new precinct that is convenient for the individuals residing in it.

History: *1981 c 29 art 4 s 15; 1997 c 147 s 28*

NOTES AND DECISIONS

204B.15

County board has discretion to maintain polling places in reduced unorganized territory, despite fact that only suitable polling place is within ten miles of another voting place. Op. Atty. Gen. 185A-5, August 11, 1964.

204B.16 POLLING PLACES; DESIGNATION.

Subdivision 1. **Authority; location.** The governing body of each municipality and of each county with precincts in unorganized territory shall designate by ordinance or resolution a polling place for each election precinct. Polling places must be designated and ballots must be distributed so that no one is required to go to more than one polling place to vote in a school district and municipal election held on the same day. The polling place for a precinct in a city or in a school district located in whole or in part in the metropolitan area defined by section 200.02, subdivision 24, shall be located within the boundaries of the precinct or within one mile of one of those boundaries unless a single polling place is designated for a city pursuant to section 204B.14, subdivision 2, or a school district pursuant to section 205A.11. The polling place for a precinct in unorganized territory may be located outside the precinct at a place which is convenient to the voters of the precinct. If no suitable place is available within a town or within a school district located outside the metropolitan area defined by section 200.02, subdivision 24, then the polling place for a town or school district may be located outside the town or school district within five miles of one of the boundaries of the town or school district.

Subd. 1a. **Notice to voters.** If the location of a polling place has been changed, the governing body establishing the polling place shall send to every affected household with at least one registered voter in the precinct a nonforwardable mailed notice stating the location of the new polling place at least 25 days before the next election. The secretary of state shall prepare a sample of this notice. A notice that is returned as undeliverable must be forwarded immediately to the county auditor. This subdivision does not apply to a polling place location that is changed on election day under section 204B.17.

Subd. 2. [Repealed, 1994 c 607 s 7]

Subd. 3. **Designation effective until changed.** The designation of a polling place pursuant to this section shall remain effective until a different polling place is designated for that precinct. No designation of a new or different polling place shall become effective less than 90 days prior to an election, including school district elections or referenda, and no polling place changes may occur during the period between the state primary and the state general election, except that a new polling place may be designated to replace a polling place that has become unavailable for use.

Subd. 4. **Prohibited locations.** No polling place shall be designated in any place where intoxicating liquors or nonintoxicating malt beverages are served or in any adjoining room. No polling place shall be designated in any place in which substantial compliance with the requirements of this chapter cannot be attained.

Subd. 5. **Access by elderly and persons with disabilities.** Each polling place shall be accessible to and usable by elderly individuals and individuals with disabilities. A polling place is deemed to be accessible and usable if it complies with the standards in paragraphs (a) to (f).

(a) At least one set of doors must have a minimum width of 32 inches if the doors must be used to enter or leave the polling place.

(b) Any curb adjacent to the main entrance to a polling place must have curb cuts or temporary ramps. Where the main entrance is not the accessible entrance, any curb adjacent to the accessible entrance must also have curb cuts or temporary ramps.

(c) Where the main entrance is not the accessible entrance, a sign shall be posted at the main entrance giving directions to the accessible entrance.

(d) At least one set of stairs must have a temporary handrail and ramp if stairs must be used to enter or leave the polling place.

(e) No barrier in the polling place may impede the path of persons with disabilities to the voting booth.

(f) At least one parking space for persons with disabilities, which may be temporarily so designated by the municipality for the day of the election, must be available near the accessible entrance.

The doorway, handrails, ramps, and handicapped parking provided pursuant to this subdivision must conform to the standards specified in the state building code for accessibility by persons with disabilities.

A governing body shall designate as polling places only those places which meet the standards prescribed in this subdivision unless no available place within a precinct is accessible or can be made accessible.

Subd. 6. **Public facilities.** Every statutory city, home rule charter city, county, town, school district, and other public agency, including the University of Minnesota and other public colleges and universities, shall make their facilities, including parking, available for the holding of city, county, school district, state, and federal elections, subject to the approval of the local election official. A charge for the use of the facilities may be imposed in an amount that does not exceed the lowest amount charged to any public or private group.

Subd. 7. **Appropriate facilities.** The facilities provided in accordance with subdivision 6 shall be sufficient in size to accommodate all election activities and the requirements of subdivision 5. The space must be separated from other activities within the building. The local election official may approve space in two connecting rooms for registration and balloting activities. Except in the event of an emergency making the approved space unusable, the public facility may not move the election from the space approved by the local election official without prior approval. In addition to the requirements of subdivision 5, the public facility must make remaining parking spaces not in use for regularly scheduled activities available for voters.

History: *1981 c 29 art 4 s 16; 1983 c 124 s 4; 1984 c 471 s 5; 1985 c 307 s 1; 1987 c 266 art 1 s 25; 1991 c 227 s 12,13; 1991 c 349 s 36,37; 1992 c 474 s 1; 1993 c 223 s 10; 1997 c 147 s 29,30; 2000 c 467 s 16; 2004 c 293 art 2 s 18; 2005 c 156 art 6 s 35, 36; 2008 c 244 art 1 s 11*

NOTES AND DECISIONS

204B.16

Town could not establish two precincts for state and federal elections and provide only one polling place for town elections. Op. Atty. Gen. 4346-9, August 10, 1983.

In a special election within an independent school district pursuant to M.S. 123.32 (1968), more than one polling place may be established in each precinct. Op. Atty. Gen. 187A, August 2, 1968.

Generally a precinct may contain only one polling place. Op. Atty. Gen. 183Q, September 29, 1967.

Village and town may use a retractable partition in order to maintain separate voting facilities for each precinct. Op. Atty. Gen. 185A-5, February 8, 1966.

Village and town which are separate election precincts may not use one set of election judges or one set of election facilities in one room. Op. Atty. Gen. 185A-5, August 6, 1964.

Village election held at polling place not lawfully designated is not invalid if voters were not unreasonably inconvenienced or prevented from voting so as to affect result of election. Op. Atty. Gen. 472N, January 6, 1955.

City could not establish election districts for city elections different from those for state elections. Op. Atty. Gen. 472-N, January 20, 1954.

Part of village hall may be used for liquor store purposes if it is completely partitioned off with separate entrance, and part of hall not used for municipal liquor store may be used for voting purposes. Op. Atty. Gen. 269C-6, January 8, 1954.

~~204B.17 CHANGE OF POLLING PLACE BY ELECTION JUDGES~~. [Repealed, 2016 c 161 art 3 s 5]

~~When a designated polling place does not comply with the requirements of this chapter the election judges of that precinct, on or before the opening of the polls on election day and upon approval by the municipal clerk in municipalities or school districts or the county auditor in unorganized territory, shall procure a polling place which is as near the designated polling place as possible and which does comply with those requirements.~~

~~When a new polling place is procured by the election judges, they shall meet on election day at the original polling place where they shall fill any vacancies in their number, publicly announce the change in polling place to the voters who are present and post a notice in large print of the change in a conspicuous place. They shall also post a notice in a location visible by voters who vote from their motor vehicles as provided in section 204C.15, subdivision 2. Upon completing these duties the election judges shall adjourn to the new polling place, where they shall post a similar notice of the change in polling place. The election judges shall certify to the appropriate governing body the expenses incurred because of the change. These expenses shall be paid as part of the expenses of the election.~~

History: *1981 c 29 art 4 s 17; 1984 c 471 s 6; 1990 c 453 s 5*

204B.175 CHANGE OF POLLING PLACE IN AN EMERGENCY.

New effective August 1, 2016

Subdivision 1. **Application.** When an emergency occurs after the deadline to designate a polling place pursuant to section 204B.16 but before the polls close on election day, a new polling place may be designated for that election pursuant to this section. For purposes of this section, an emergency is any situation that prevents the safe, secure, and full operation of a polling place.

Subd. 2. **Changing polling place.** If a local election official determines that an emergency has occurred or is imminent, the local election official must procure a polling place that is as near the designated polling place as possible and that complies with the requirements of section 204B.16, subdivisions 4 and 5. If it is not possible to locate a new polling place in the precinct, the polling place may be located outside of the precinct without regard to the distance limitations in section 204B.16, subdivision 1. The local election official must certify to the appropriate governing body the expenses incurred because of the change. These expenses shall be paid as part of the expenses of the election.

Subd. 3. **Notice.** (a) Upon making the determination to relocate a polling place, the local election official must immediately notify the county auditor and the secretary of state. The notice must include the reason for the relocation and the reason for the location of the new polling place. As soon as possible, the local election official must also post a notice stating the reason for the relocation and the location of the new polling place. The notice must also be posted on the Web site of the public body, if there is one. The local election official

must also notify the election judges and request that local media outlets publicly announce the reason for the relocation and the location of the polling place.

(b) On election day, the local election official must post a notice in large print in a conspicuous place at the polling place where the emergency occurred, if practical, stating the location of the new polling place. The local election official must also post the notice, if practical, in a location visible by voters who vote from their motor vehicles as provided in section 204C.15, subdivision 2. If polling place hours are extended pursuant to section 204C.05, subdivision 2, paragraph (b), the posted notices required by this paragraph must include a statement that the polling place hours at the new polling place will be extended until the specified time.

History: *2016 c 161 art 3 s 2*

204B.18 POLLING PLACES; EQUIPMENT.

Changes effective August 1, 2016

Subdivision 1. **Booths; voting stations.** (a) Each polling place must contain a number of voting booths or voting stations in proportion to the number of individuals eligible to vote in the precinct. ~~Each booth or station must be at least six feet high, three feet deep and two feet wide with a shelf at least two feet long and one foot wide placed at a convenient height for writing.~~ The booth or station shall permit the voter to vote privately and independently.

(b) Each polling place must have at least one accessible voting booth or other accessible voting station and beginning with federal and state elections held after December 31, 2005, and county, municipal, and school district elections held after December 31, 2007, one voting system that conforms to section 301(a)(3)(B) of the Help America Vote Act, Public Law 107-252.

(c) Local jurisdictions must make accessible voting stations purchased with funds provided from the Help America Vote Act account available to other local jurisdictions holding stand-alone elections. The jurisdiction providing the equipment may require the jurisdiction using the equipment to reimburse any direct actual costs incurred as a result of the equipment's use and any prorated indirect costs of maintaining and storing the equipment. A rental or other similar use fee may not be charged.

Any funds received under this clause for expenses incurred by that local jurisdiction as a direct result of making the equipment available that were not paid for in whole or in part with funds from the Help America Vote Act account are not program income under the Help America Vote Act, Public Law 107-252.

Any funds received by a local jurisdiction making the equipment available as reimbursement for expenses as defined as "operating costs" under Laws 2005, chapter 162, section 34, subdivision 1, paragraph (b), and paid for in whole or in part with funds from the Help America Vote Act account must be treated as program income and deposited into the jurisdiction's Help America Vote Act account in the direct proportion that funds from the Help America Vote Act account were used to pay for those "operating costs."

(d) All booths or stations must be constructed so that a voter is free from observation while marking ballots. During the hours of voting, the booths or stations must have instructions, a pencil, and other supplies needed to mark the ballots. A chair must be provided for elderly voters and voters with disabilities to use while voting or waiting to vote. Stable flat writing surfaces must also be made available to voters who are completing election-related forms.

(e) All ballot boxes, voting booths, voting stations, and election judges must be in open public view in the polling place.

Subd. 2. **Ballot boxes.** Each box shall be of sufficient size and shall have a sufficient opening to receive and contain all the ballots likely to be deposited in it.

History: *1981 c 29 art 4 s 18; 1984 c 471 s 7; 1987 c 266 art 1 s 26; 2000 c 467 s 17; 2005 c 156 art 6 s 37; 2010 c 201 s 25; 2013 c 131 art 2 s 22; 2016 c 161 art 1 s 7*

NOTES AND DECISIONS

204B.18

Private group may not use official election machinery. Op. Atty. Gen. 64-0, July 22, 1966.

Village and town may use a retractable partition in order to maintain separate voting facilities for each precinct. Op. Atty. Gen. 185A-5, February 8, 1966.

204B.181 ELECTION EMERGENCY PLANS.

New effective August 1, 2016, except that the initial county elections emergency plans required under subdivision 2 are due September 1, 2016

Subdivision 1. **State elections emergency plans.** (a) The secretary of state, in consultation with the Minnesota director of the Department of Public Safety, Division of Homeland Security and Emergency Management, must develop a state elections Emergency plan.

(b) The secretary of state must also coordinate with the governor to incorporate election needs into the state's continuity of government and continuity of operations plans.

(c) The secretary of state must create a state guide to assist county and local election officials in developing a county elections emergency plan required by subdivision 2. The secretary of state must consult with the Minnesota State Council on Disability in developing the guide. The guide must include a model county elections emergency plan that meets the requirements of this section.

Subd. 2. **County elections emergency plans.** (a) County election officials, in consultation with the political subdivision's local organization for emergency management established under section 12.25 and the municipalities and school districts within the county, must develop a county elections emergency plan to be made available for use in all state, county, municipal, and school district elections held in that county.

(b) In developing the county elections emergency plan, the county must address the needs of voters with disabilities in all aspects of the plan. Where ballot security is affected, the plan must provide procedures to maintain the security of the ballots. When an emergency requires the relocation of the polling place, the plan must include procedures for securing the ballots and voting equipment, notifying the public and other government officials, and restoring voting activities as soon as possible. If the county contains jurisdictions that cross county lines, the affected counties must make efforts to ensure that the emergency procedures affecting the local jurisdiction are uniform throughout the jurisdiction.

(c) Cities, towns, and school districts may create a local elections emergency plan that meets the requirements of the county elections emergency plan. If a local jurisdiction creates a local elections emergency plan, the procedures within the local elections emergency plan govern in all election emergencies within that local jurisdiction.

(d) County election officials and any municipality with a local elections emergency plan must review their county or local elections emergency plan prior to each state general election. Any revisions to the county or local elections emergency plan must be completed and filed with the secretary of state by July 1 prior to the state general election.

History: *2016 c 161 art 3 s 2*

204B.19 ELECTION JUDGES; QUALIFICATIONS.

Subdivision 1. **Individuals qualified to be election judges.** Except as provided in subdivision 6, any individual who is eligible to vote in this state is qualified to be appointed as an election judge.

Subd. 2. **Individuals not qualified to be election judges.** (a) Except as provided in paragraph (b), no individual shall be appointed as an election judge for any precinct if that individual:

(1) is unable to read, write or speak the English language;

(2) is the spouse; parent, including a stepparent; child, including a stepchild; or sibling, including a stepsibling; of any election judge serving in the same precinct or of any candidate at that election; ~~or~~

(3) is domiciled, either permanently or temporarily, with any candidate on the ballot at that election; or

(4) is a candidate at that election.

(b) Individuals who are related to each other as provided in paragraph (a), clause (2), may serve as election judges in the same precinct, provided that they serve on separate shifts that do not run concurrently.

Subd. 3. [Repealed, 1985 c 248 s 37]

Subd. 4. **Additional qualifications permitted; examination.** The appointing authority may establish additional qualifications which are not inconsistent with the provisions of this section and which relate to the ability of an individual to perform the duties of an election judge. The appointing authority may examine any individual who seeks appointment as an election judge to determine whether the individual meets any qualification established under this section.

Subd. 5. **Party balance requirement.** No more than half of the election judges in a precinct may be members of the same major political party unless the election board consists of an odd number of election judges, in which case the number of election judges who are members of the same major political party may be one more than half the number of election judges in that precinct.

Subd. 6. **High school students.** Notwithstanding any other requirements of this section, a student enrolled in a high school in Minnesota or who is in a home-school in compliance with sections 120A.22 and 120A.24, who has attained the age of 16 is eligible to be appointed as a without party affiliation trainee election judge in the county in which the student resides, or a county adjacent to the county in which the student resides. The student must meet qualifications for trainee election judges specified in rules of the secretary of state. A student appointed as a trainee election judge may be excused from school attendance during the hours that the student is serving as a trainee election judge if the student submits a written request signed and approved by the student's parent or guardian to be absent from school and a certificate from the appointing authority stating the hours during which the student will serve as a trainee election judge to the principal of the school at least ten days prior to the election. Students shall not serve as trainee election judges after 10:00 p.m.

Notwithstanding section 177.24 to the contrary, trainee election judges may be paid not less than two-thirds of the minimum wage for a large employer. The principal of the school may approve a request to be absent from school conditioned on acceptable academic performance at the time of service as a trainee election judge.

History: *1981 c 29 art 4 s 19; 1983 c 126 s 1; 1983 c 303 s 7; 1985 c 39 s 1; 1987 c 266 art 1 s 27; 1991 c 237 s 1, 2; 1995 c 34 s 1; 2000 c 467 s 18; 2004 c 293 art 2 s 19, 20; 2010 c 180 s 1; 2014 c 264 s 15; 2015 c 70 art 1 s 25, 26*

NOTES AND DECISIONS

204B.19

Violation of statutes setting election judge qualifications not condoned. *Hahn v. Graham*, 225 N.W. 2d 385 (Minn. 1975).

Where there was a complete failure to comply with statute in the appointment of election board the election was invalid. In re *Contest of Election of Vetsch*, 245 Minn. 229, 71 N.W. 2d 652 (1955).

In an election which is not a general election, additional judges to count ballots are not required, but may be provided by the village with no limitation on the number thereof. Op. Atty. Gen. 183G, September 19, 1967.

Statutory requirement of party balance amongst election judges is applicable to all election precincts, including one precinct municipalities described in former section 204A.17(5). Op. Atty. Gen.183N, September 30, 1964.

Village and town which are separate election precincts may not use one set of election judges or one set of election facilities in one room. Op. Atty. Gen. 185A-5, August 6, 1964.

Former section 204A.17 is applicable to special county election on question of issuing bonds. Op. Atty. Gen. 183G, November 27, 1963.

Village council has no authority to modify, change, or waive the provisions of law requiring appointment of judges of election at least twenty-five days prior to date of election. Op. Atty. Gen. 472K, July 11, 1951.

204B.195 TIME OFF FROM WORK TO SERVE AS ELECTION JUDGE.

An individual who is selected to serve as an election judge pursuant to section 204B.21, subdivision 2 may, after giving an employer at least 20 days' written notice, be absent from a place of work for the purpose of serving as an election judge without penalty. An employer may reduce the salary or wages of an employee serving as an election judge by the amount paid to the election judge by the appointing authority during the time the employee was absent from the place of employment.

The written request to be absent from work must be accompanied by a certification from the appointing authority stating the hourly compensation to be paid the employee for service as an election judge and the hours during which the employee will serve. An employer may restrict the number of persons to be absent from work for the purpose of serving as an election judge to no more than 20 percent of the total work force at any single worksite.

History: *1983 c 126 s 2; 1986 c 444; 1991 c 237 s 3*

204B.20 ELECTION BOARD; HEAD ELECTION JUDGE; DUTIES.

The election judges appointed to serve in an election precinct shall constitute the election board for that precinct. The appointing authority shall designate one of the election judges in each precinct to serve as the head election judge. The head election judge shall assign specific duties to the election judges of that precinct as necessary or convenient to complete forms, obtain signatures, and perform all the other duties required of election judges.

History: *1981 c 29 art 4 s 20; 1986 c 444; 1Sp2001 c 10 art 18 s 20*

204B.21 APPOINTMENT OF ELECTION JUDGES.

Subdivision 1. **Appointment lists; duties of political parties and secretary of state.** On May 1 in a year in which there is an election for a partisan political office, each major political party shall prepare a list of eligible voters to act as election judges in each election precinct. The political parties shall furnish the lists electronically to the secretary of state, in a format specified by the secretary of state. The secretary of state must combine the data received from each political party under this subdivision and must process the data to locate the precinct in which the address provided for each potential election judge is located. If the data submitted by a political party is insufficient for the secretary of state to locate the proper precinct, the associated name must not appear in any list forwarded to an appointing authority under this subdivision. The secretary of state shall notify political parties of any proposed election judges with addresses that could not be located in a precinct.

By May 15, the secretary of state shall furnish electronically to the county auditor a list of the appropriate names for each election precinct in the jurisdiction of the appointing authority, noting the political party affiliation of each individual on the list. The county auditor must promptly forward the appropriate names to the appropriate municipal clerk.

Subd. 2. **Appointing authority; powers and duties.** Election judges for precincts in a municipality shall be appointed by the governing body of the municipality. Election judges for precincts in unorganized territory and for performing election-related duties assigned by the county auditor shall be appointed by the county board. Election judges for a precinct composed of two or more municipalities must be appointed by the governing body of the municipality or municipalities responsible for appointing election judges as provided in the agreement to combine for election purposes. Except as otherwise provided in this section, appointments shall be made from lists furnished pursuant to subdivision 1 subject to the eligibility requirements and other qualifications established or authorized under section 204B.19. At least two election judges in each precinct must be affiliated with different major political parties. If no lists have been furnished or if additional election judges are required after all listed names in that municipality have been exhausted, the appointing authority may appoint other individuals who meet the qualifications to serve as an election judge, including persons who are not affiliated with a major political party. The appointments shall be made at least 25 days before the election at which the election judges will serve, except that the appointing authority may pass a resolution authorizing the appointment of additional election judges within the 25 days before the election if the appointing authority determines that additional election judges will be required.

History: *1981 c 29 art 4 s 21; 1983 c 303 s 8; 1986 c 444; 1987 c 212 s 5; 1999 c 132 s 19; 2008 c 295 s 11, 12; 2010 c 180 s 2, 3*; *2010 c 184 s 15*

NOTES AND DECISIONS

204B.21

Where there was a complete failure to comply with statute in the appointment of election board the election was invalid. In re *Contest of Election of Vetsch*, 245 Minn. 229, 71 N.W. 2d 652 (1955).

In an election which is not a general election, additional judges to count ballots are not required, but may be provided by the village with no limitation on the number thereof. Op. Atty. Gen. 183G, September 29, 1967.

Village and town which are separate election precincts may not use one set of election judges or one set of election facilities in one room. Op. Atty. Gen. 185A-5, August 6, 1964.

Section is applicable to special county election on question of issuing bonds. Op. Atty. Gen. 183G, November 27, 1963.

Village council has no authority to modify, change, or waive the provisions of law requiring appointment of judges of election at least twenty-five days prior to date of election. Op. Atty. Gen. 472K, July 11, 1951

204B.22 ELECTION JUDGES; NUMBER REQUIRED.

Subdivision 1. **Minimum number required**. (a) A minimum of four election judges shall be appointed for each precinct in the state general election, provided that a minimum of three election judges shall be appointed for each precinct with fewer than 500 registered voters as of 14 weeks before the state primary. In all other elections, a minimum of three election judges shall be appointed for each precinct. In a combined polling place under section 204B.14, subdivision 2, at least one judge must be appointed from each municipality in the combined polling place, provided that not less than three judges shall be appointed for each combined polling place. The appointing authorities may appoint election judges for any precinct in addition to the number required by this subdivision including additional election judges to count ballots after voting has ended.

(b) An election judge may serve for all or part of Election Day, at the discretion of the appointing authority, as long as the minimum number of judges required is always present. The head election judge designated under section 204B.20 must serve for all of election day and be present in the polling place unless another election judge has been designated by the head election judge to perform the functions of the head election judge during any absence.

Subd. 2. [Repealed, 2013 c 131 art 2 s 85]

Subd. 3. M.S. 2008 [Repealed, 2010 c 201 s 82]

Subd. 4. **Election judge trainees not counted toward minimum number of election judges.** The presence or participation of election judge trainees must not be counted toward satisfying any of the required numbers of election judges in this chapter.

History: *1981 c 29 art 4 s 22; 1986 c 362 s 3; 1987 c 212 s 6; 1994 c 607 s 5; 1997 c 147 s 31; 1Sp2001 c 10 art 18 s 21,22; 2004 c 293 art 2 s 21; 2010 c 201 s 26, 27, 82; 2013 c 131 art 2 s 23, 85*

NOTES AND DECISIONS

204B.22

Where there was a complete failure to comply with statute in the appointment of election board the election was invalid. In re *Contest of Election of Vetsch*, 245 Minn. 229, 71 N.W. 2d 652 (1955).

Failure to have full number of required election judges present was not fatal to validity of election. *State ex rel Sch. Dist. No. 56, Traverse Co. v. Schmiesing*, 243 Minn. 11, 66 N.W.2d 20 (1954).

In an election which is not a general election, additional judges to count ballots are not required, but may be provided by the village with no limitation on the number thereof. Op. Atty. Gen. 183G, September 29, 1967.

Village and town which are separate election precincts may not use one set of election judges or one set of election facilities in one room. Op. Atty. Gen. 185A-5, August 6, 1964.

Former section 204A.17 applicable to special county election on question of issuing bonds. Op. Atty. Gen. 183G, November 27, 1963.

Village council has no authority to modify, change, or waive the provisions of law requiring appointment of judges of election at least twenty-five days prior to date of election. Op. Atty. Gen. 472K, July 11, 1951.

204B.23 VACANCIES AMONG ELECTION JUDGES.

A vacancy on an election board occurs when any election judge who is a member of that board:

(a) Fails to arrive at the polling place within 30 minutes after the time when the polling place is scheduled to open;

(b) Becomes unable to perform the duties of the office after assuming those duties; or

(c) For any reason fails or refuses to perform the duties of the office as assigned by the head election judge.

When a vacancy occurs, the remaining election judges of the precinct shall elect an individual to fill the vacancy subject to the provisions of section 204B.19. When possible the election judges shall elect individuals who have been trained as election judges pursuant to section 204B.25. The oath signed by the new election judge shall indicate that the new election judge was elected to fill a vacancy. The municipal clerk may assign election judges to fill vacancies as they occur.

History: *1981 c 29 art 4 s 23; 1986 c 444; 1997 c 147 s 32; 1Sp2001 c 10 art 18 s 23*

204B.24 ELECTION JUDGES; OATH.

Each election judge shall sign the following oath before assuming the duties of the office:

"I ..... solemnly swear (or affirm) that I will perform the duties of election judge according to law and the best of my ability and will diligently endeavor to prevent fraud, deceit and abuse in conducting this election. I will perform my duties in a fair and impartial manner and not attempt to create an advantage for my party or for any candidate."

The oath shall be attached to the summary statement of the election returns of that precinct. If there is no individual present who is authorized to administer oaths, the election judges may administer the oath to each other.

History: *1981 c 29 art 4 s 24; 2005 c 156 art 6 s 38; 2010 c 201 s 28*

NOTES AND DECISIONS

204B.24

Defects in oath-taking did not invalidate election. *Green v. Ind. Consol Sch. Dist. No. 1, Lyon Co*., 252 Minn. 361, 89 N.W.2d 12 (1958).

204B.25 TRAINING FOR ELECTION JUDGES.

Subdivision 1. **Duties of county auditor.** Each county auditor shall provide training for all election judges who are appointed to serve at any election to be held in the county. The county auditor shall also provide a procedure for emergency training of election judges elected to fill vacancies. The county auditor may delegate to a municipal election official the duty to provide training of election judges in that municipality or school district.

Subd. 2. **Rules of secretary of state.** The secretary of state shall adopt rules establishing programs for the training of county auditors, local election officials, and election judges by county auditors as required by this section.

Subd. 3. **Trained election judges; number required.** Each election precinct in which less than 100 individuals voted at the last state general election shall have at least two election judges who are members of different major political parties who have received training as required in this section. In every other election precinct, no individual may serve as an election judge who has not received training as required by subdivision 1.

Subd. 4. **Training for local election officials.** At least once every two years, the county auditor shall conduct training sessions for the municipal and school district clerks in the county. The training sessions must be conducted in the manner provided by the secretary of state. No local election official may administer an election without receiving training from the county auditor.

History: *1981 c 29 art 4 s 25; 1987 c 266 art 1 s 28; 1999 c 250 art 1 s 86, 87*

204B.26 ELECTION JUDGES; VIOLATIONS; PENALTIES.

Any individual who serves as an election judge in violation of any of the provisions of sections 204B.19 to 204B.25, is guilty of a misdemeanor.

History: *1981 c 29 art 4 s 26*

NOTES AND DECISIONS

204B.26

Violation of election statutes does not invalidate election absent showing of prejudice, fraud, or bad faith. *Hahn v. Graham*, 302 Minn. 407, 225 N.W.2d 385 (1975).

204B.27 DUTIES OF SECRETARY OF STATE.

Subdivision 1. **Blank forms**. At least 14 days before every state election the secretary of state shall transmit to each county auditor examples of any blank forms to be used as the secretary of state deems necessary for the conduct of the election. County abstract forms may be provided to auditors electronically via the Minnesota State Election Reporting System maintained by the secretary of state, and must be available at least one week prior to the election.

Subd. 2. **Election law and instructions**. The secretary of state shall prepare and publish a volume containing all state general laws relating to elections. The attorney general shall provide annotations to the secretary of state for this volume. On or before August 1 of every odd-numbered year the secretary of state shall furnish to the county auditors and municipal clerks enough copies of this volume so that each county auditor and municipal clerk will have at least one copy. On or before July 1 of every even-numbered year, the secretary of state shall prepare and make an electronic copy available on the office's Web site. The secretary of state may prepare and transmit to the county auditors and municipal clerks detailed written instructions for complying with election laws relating to the conduct of elections, conduct of voter registration and voting procedures.

Subd. 3. **Instruction posters**. At least 25 days before every state primary election the secretary of state shall prepare and furnish to the county auditor of each county voter instruction posters printed in large type upon cards or heavy paper. The instruction posters must contain the information needed to enable the voters to cast their paper ballots quickly and correctly and indicate the types of assistance available for elderly and handicapped voters. Two instruction posters shall be furnished for each precinct. Upon mutual agreement, the secretary of state may provide the posters in an electronic format.

Subd. 4. **Pamphlets**. The secretary of state shall prepare and distribute to election officials pamphlets for voters containing impartial instructions relating to voter registration and election procedures. The pamphlets must indicate the types of registration and voting assistance available for elderly and handicapped individuals and residents of health care facilities and hospitals.

Subd. 5. **Conferences for county auditors**. Before each state primary the secretary of state shall conduct conferences with county auditors to instruct them on the administration of election laws and the training of local election officials and election judges.

Subd. 6. **Voter participation**. The secretary of state may sponsor or participate in nonpartisan activities to promote voter participation in Minnesota elections and in efforts to increase voter registration and voter turnout.

Subd. 7. **Educational activities**. The secretary of state may authorize educational activities related to voting and elections for elementary or secondary school students in the polling place on the day of a state, county, municipal, or school district election. Ballots used for educational activities must be a different color than any ballot used at the election. Activities authorized under this subdivision must be administered in a manner that does not interfere with the conduct of the election.

Subd. 8. **Voter information telephone line**. The secretary of state shall provide a voter information telephone line. A toll-free number must be provided for use by persons residing outside the metropolitan calling area. The secretary of state shall make available information concerning voter registration, absentee voting, election results, and other election-related information considered by the secretary of state to be useful to the public.

Subd. 9. **Election supply contract**. The secretary of state may enter into a statewide contract from which any county auditor may purchase ballots, forms, or other election supplies.

Subd. 10. **Training for county auditors; training materials**. The secretary of state shall develop a training program in election administration for county auditors and shall certify each county auditor who successfully completes the training program. The secretary of state shall provide each county auditor with materials for use in training local election officials and election judges.

Subd. 11. **Translation of voting instructions**. The secretary of state may develop voting instructions in languages other than English, to be posted and made available in polling places during elections. The state demographer shall determine and report to the secretary of state the languages that are so common in this state that there is a need for translated voting instructions.

History: *1981 c 29 art 4 s 27; 1983 c 303 s 9; 1984 c 471 s 8,9; 1984 c 560 s 10,11; 1987 c 175 s 6; 1989 c 291 art 1 s 9; 1991 c 237 s 4; 1992 c 513 art 3 s 43; 1994 c 632 art 3 s 54; 1997 c 147 s 33; 1999 c 132 s 20; 1999 c 250 art 1 s 88; 1Sp2001 c 10 art 18 s 24; 2005 c 156 art 6 s 39; 2010 c 201 s 29, 30*

204B.28 CLERKS; ELECTION SUPPLIES; DUTIES.

Subdivision 1. **Meeting with election officials**. At least 12 weeks before each regularly scheduled town general election conducted in March, and at least 18 weeks before all other general elections, each county auditor shall conduct a meeting or otherwise communicate with local election officials to review the procedures for the election. The county auditor may require the head election judges in the county to attend this meeting.

Subd. 2. **Election supplies; duties of county auditors and clerks**. Except as otherwise provided for absentee ballots in section 204B.35, subdivision 4, the county auditor shall complete the preparation of the election materials for which the auditor is responsible at least four days before every state primary and state general election. At any time after all election materials are available from the county auditor but not later than four days before the election each municipal clerk shall secure from the county auditor:

(a) The forms that are required for the conduct of the election;

(b) Any printed voter instruction materials furnished by the secretary of state;

(c) Any other instructions for election officers; and

(d) A sufficient quantity of the official ballots, registration files, envelopes for ballot returns, and other supplies and materials required for each precinct in order to comply with the provisions of the Minnesota Election Law. The county auditor may furnish the election supplies to the municipal clerks in the same manner as the supplies are furnished to precincts in unorganized territory pursuant to section 204B.29, subdivision 1.

Subd. 3. **Certification of number.** The county auditor or municipal clerk must certify the number of ballots being provided to each precinct and provide this number to the election judges for inclusion on the summary statement. The auditor or clerk must not open prepackaged ballots, but must count the ballots, presuming that the total count for each package is correct.

History: *1981 c 29 art 4 s 28; 1981 c 217 s 5; 1984 c 560 s 12; 1986 c 444; 1990 c 585 s 25; 1999 c 250 art 1 s 89; 1Sp2001 c 10 art 18 s 25; 2010 c 201 s 31; 2013 c 131 art 2 s 24*

204B.29 ELECTION JUDGES; ELECTION SUPPLIES; DUTIES.

Subdivision 1. **Securing election materials.** Before 9:00 p.m. on the day preceding an election, at least one election judge from each precinct in each municipality, or school district if applicable, shall secure voter registration files, ballots, forms, envelopes and other required supplies from the municipal clerk, school district clerk, or other legal custodian. The election judge shall deliver the materials to the polling place before the time when voting is scheduled to begin on election day. The county auditor shall send or deliver the election supplies enumerated in this section to the election judges in the precincts in unorganized territory. The election supplies may be sent by certified mail, parcel post, express mail or any other postal service providing assured delivery by no later than the day before the election. If the election supplies are delivered by any other means, they shall be delivered by no later than the day before the election.

Each precinct shall be furnished with 100 ballots of each kind for every 85 individuals who voted in that precinct at the last election for the same office or on similar questions, or with ballots of each kind in an amount at least ten percent greater than the number of votes which are reasonably expected to be cast in that precinct in that election, whichever supply of ballots is greater. No precinct shall be furnished with any ballots containing the name of any candidate who cannot properly be voted for in that precinct.

The election judges shall be responsible for the preservation of all election materials received by them until returned to the appropriate election officials after the voting has ended.

Subd. 2. **Failure of election judges to secure materials.** If no election judge secures the election materials for a precinct in any municipality, or school district if applicable, as provided in subdivision 1, the municipal or school district clerk shall deliver them to an election judge for that precinct not later than the time when voting is scheduled to begin. The municipal or school district clerk shall require the election judge accepting delivery of the election supplies to sign a receipt for them. The election judges of that precinct shall pay the expenses of delivery of the materials and shall be liable for the penalty provided by law for neglect of duty.

History: *1981 c 29 art 4 s 29; 1984 c 560 s 13; 1987 c 266 art 1 s 29*

204B.30 UNOFFICIAL BALLOTS.

When no official or substitute ballots are ready at the time when voting is scheduled to begin or if the supply is exhausted before the voting ends, the election judges shall contact the municipal clerk and, at the clerk's direction, shall prepare unofficial ballots, printed or written as nearly as practicable in the form of the official ballots, which ballots may be used until official or substitute ballots are available. When unofficial ballots are prepared and used in any precinct, the election judges shall note that fact on the summary statement of the returns for that precinct and specify the number of unofficial ballots that were cast.

History: *1981 c 29 art 4 s 30; 1986 c 444*

204B.31 COMPENSATION FOR ELECTION SERVICES.

Subdivision 1. **Compensation.** The compensation for services performed under the Minnesota election law shall be as follows:

(a) To presidential electors from funds appropriated to the secretary of state for this purpose, $35 for each day of attendance at the capitol and mileage for travel to and from the capitol in the amount allowed for state employees in accordance with section 43A.18, subdivision 2;

(b) To individuals, other than county, city, school district, or town employees during their normal work day, who are appointed by the county auditor to carry ballots to or from the county auditor's office, a sum not less than the prevailing Minnesota minimum wage for each hour spent in carrying ballots and mileage in the amount allowed pursuant to section 471.665, subdivision 1;

(c) To members of county canvassing boards, a sum not less than the prevailing Minnesota minimum wage for each hour necessarily spent and an amount for each mile of necessary travel equal to the amount allowed pursuant to section 471.665, subdivision 1;

(d) To election judges serving in any city, an amount fixed by the governing body of the city; to election judges serving in any school district election which is not held in conjunction with a state election, an amount fixed by the school board of the school district; to election judges serving in unorganized territory, an amount fixed by the county board; and to election judges serving in towns, an amount fixed by the town board.

Election judges shall receive at least the prevailing Minnesota minimum wage for each hour spent carrying out their duties at the polling places and in attending training sessions required by section 204B.25, except as provided in subdivision 2. An election judge who travels to pick up election supplies or to deliver election returns to the county auditor shall receive, in addition to other compensation authorized by this section, a sum not less than the prevailing Minnesota minimum wage for each hour spent performing these duties, plus mileage in the same amount as allowed pursuant to section 471.665, subdivision 1; and

(e) To sergeants at arms, an amount for each hour of service performed at the direction of the election judges, fixed in the same manner as compensation for election judges.

Subd. 2. **Volunteer service.** Any person appointed to serve as an election judge may elect to serve without payment by submitting a written statement to the appropriate governing body no later than ten days before the election.

History: *1981 c 29 art 4 s 31; 1982 c 424 s 58; 1983 c 126 s 3; 1983 c 253 s 8; 1987 c 266 art 1 s 30; 1997 c 147 s 34*

204B.32 ELECTION EXPENSES; PAYMENT.

Subdivision 1. **Payment.** (a) The secretary of state shall pay the compensation for presidential electors and all necessary expenses incurred by the secretary of state in connection with elections.

(b) The counties shall pay the compensation prescribed in section 204B.31, clauses (b) and (c), the cost of printing the state general election ballots when machines are used, the state partisan primary ballots, and the state and county nonpartisan primary ballots, all necessary expenses incurred by county auditors in connection with elections, and the expenses of special county elections.

(c) Subject to subdivision 2, the municipalities shall pay the compensation prescribed for election judges and sergeants at arms, the cost of printing the municipal ballots, providing ballot boxes, providing and equipping polling places and all necessary expenses of the municipal clerks in connection with elections, except special county elections.

(d) The school districts shall pay the compensation prescribed for election judges and sergeants-at-arms, the cost of printing the school district ballots, providing ballot boxes, providing and equipping polling places and all necessary expenses of the school district clerks in connection with school district elections not held in conjunction with state elections. When school district elections are held in conjunction with state elections, the school district shall pay the costs of printing the school district ballots, providing ballot boxes and all necessary expenses of the school district clerk.

All disbursements under this section shall be presented, audited, and paid as in the case of other public expenses.

Subd. 2. **Allocation of election expenses.** The secretary of state shall develop procedures for the allocation of election expenses among counties, municipalities, and school districts for elections that are held concurrently. The following expenses must be included in the procedures: salaries of election judges; postage for absentee ballots and applications; preparation of polling places; preparation and testing of electronic voting systems; ballot preparation; publication of election notices and sample ballots; transportation of ballots and election supplies; and compensation for administrative expenses of the county auditor, municipal clerk, or school district clerk.

History: *1981 c 29 art 4 s 32; 1983 c 301 s 162; 1987 c 266 art 1 s 31; 1991 c 227 s 14; 1995 c 8 s 3; 2013 c 131 art 2 s 25*

NOTES AND DECISIONS

204B.32

If no money available in town treasury to pay election costs, it may issue warrants. Op. Atty. Gen. 434B-1, May 23. 1934.

204B.33 NOTICE OF FILING.

(a) At least 16 weeks before the state primary, the secretary of state shall notify each county auditor of the offices to be voted for in that county at the next state general election for which candidates file with the secretary of state. The notice shall include the time and place of filing for those offices. Within ten days after notification by the secretary of state, each county auditor shall notify each municipal clerk in the county of all the offices to be voted for in the county at that election and the time and place for filing for those offices. The county auditors and municipal clerks shall promptly post a copy of that notice in their offices.

(b) At least one week before the first day to file an affidavit of candidacy, the county auditor shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the county auditor's office and the closing time for filing on the last day for filing. The county auditor shall post a similar notice at least ten days before the first day to file affidavits of candidacy.

History: *1981 c 29 art 4 s 33; 1983 c 253 s 9; 1993 c 59 s 1; 2010 c 184 s 16; 2013 c 131 art 2 s 26*

NOTES AND DECISIONS

204B.33

Secretary of State was a proper party-respondent on ballot challenge by voter and judicial candidate seeking an order striking name of appointed associate justice of state Supreme Court from primary and general election ballots or, alternatively, striking designation of that associate justice as the incumbent on those ballots; although Secretary of State was not directly responsible for printing and preparation of ballots, ballot challenge concerned office for which voting was conducted statewide and for which the Secretary of State had provided the challenged ballot information to all 87 county auditors. *Clark v. Pawlenty*, 755 N.W.2d 293, (Minn. 2008) *certiorari denied* 129 S.Ct. 2056.

In the absence of fraud or other positive wrongdoing, the failure of election officials to give the required notice is not grounds for invalidating an election. *State ex rel. Maffett v. Turnbull*, 212 Minn. 382, 3 N.W. 2d 674 (1942).

204B.34 NOTICE OF ELECTION.

Subdivision 1. **State elections.** At least 15 days before any state primary or state general election the municipal clerk shall post in the clerk's office a notice stating the offices for which candidates must be nominated or elected, the location of each polling place in the municipality, and the hours for voting. An optional provision of the notice may include municipal offices for which candidates must be nominated or elected. The county auditor shall post a similar notice in the auditor's office including information concerning any polling places in unorganized territory in the county. The governing body of a municipality or county may publish this notice in addition to posting it. Failure to give the notice required in this section shall not invalidate a state primary or state general election.

Subd. 2. **Municipal elections.** Notice of municipal elections shall be given as provided in sections 205.13, subdivision 2; and 205.16, subdivision 1.

Subd. 3. **Judicial elections.** When one or more justices of the supreme court or judges of the court of appeals or of a district court are to be nominated at the same primary or elected at the same general election, the notice of election shall state the name of each justice or judge whose successor is to be nominated or elected.

Subd. 4. **School district elections.** Notice of school district elections shall be given as provided in sections 205A.06, subdivision 2; and 205A.07, subdivision 1.

History: *1981 c 29 art 4 s 34; 1982 c 501 s 15; 1983 c 247 s 86; 1983 c 303 s 10; 1986 c 444; 1987 c 266 art 1 s 32; 1998 c 254 art 2 s 23; 2011 c 76 art 1 s 27*

NOTES AND DECISIONS

204B.34

Notice erroneously specifying term for which mayor is to be elected does not invalidate election. Op. Atty. Gen. 277A-4, February 3, 1956.

Ineligibility of candidate receiving highest number of votes, in absence of knowledge by voters of disqualifying facts, will not result in giving the election to the next highest candidate. Op. Atty. Gen. 63A-11, March 23, 1955.

If last day for filing should fall on Monday, February 22, a legal holiday, both Monday, February 22 and Sunday, February 21, are omitted in computation and last day for filing would be Saturday, February 20. Op. Atty. Gen. 911E, February 1, 1954.

Where in published notice clerk inserted wrong date for closing of filings, same would not invalidate election and, irrespective of notice, a candidate is required to file within statutory time. Op. Atty. Gen. 277A-4, December 1, 1950.

204B.35 PREPARATION OF BALLOTS.

Subdivision 1. **Application.** All ballots for every election shall be prepared in accordance with sections 204B.35 to 204B.44 and chapter 204D, except for voting machine ballots or as otherwise provided by law.

Subd. 2. **Manner of preparation.** Ballots shall be prepared in a manner that enables the voters to understand which questions are to be voted upon and the identity and number of candidates to be voted for in each office and to designate their choices easily and accurately. The name of a candidate shall not appear on a ballot in any way that gives the candidate an advantage over an opponent, including words descriptive of the candidate's occupation, qualifications, principles, or opinions, except as otherwise provided by law.

Subd. 3. **Number.** The official in charge of preparing ballots shall prepare a sufficient number of ballots:

(a) To fill applications of absentee voters; and

(b) To provide each precinct with a sufficient number of ballots of each kind as required by section 204B.29, subdivision 1.

Subd. 4. **Absentee ballots; preparation; delivery.** At least 46 days before an election, ballots necessary to fill applications of absentee voters shall be prepared and delivered to the officials who administer the provisions of chapter 203B, except as provided in this subdivision. Ballots necessary to fill applications of absentee voters for a town general election held in March shall be prepared and delivered to the town clerk at least 30 days before the election.

This section applies to school district elections held on the same day as a statewide election or an election for a county or municipality located partially or wholly within the school district.

Subd. 5. **Combined local elections.** Municipalities shall determine the voting method in combined local elections when other election jurisdictions located wholly or partially within the municipality schedule elections on the same date as the regular municipal primary or general election.

History: *1981 c 29 art 4 s 35; 1983 c 303 s 11; 1985 c 72 s 3; 1986 c 444; 1986 c 475 s 14; 1987 c 62 s 4; 1987 c 266 art 1 s 33; 1991 c 227 s 15; 2010 c 184 s 17; 2013 c 131 art 2 s 27*

NOTES AND DECISIONS

204B.35

The ballot itself and the candidate information on the ballot are intended to assist the voter identifying "easily and accurately" the candidates for whom they wish to vote; the purpose of the election ballot is not to provide a forum for candidates to campaign or advertise. *Weler v. Ritchie*, 788, N.W. 2d 879 (Minn. 2010).

Purpose of statute requiring designation of incumbent judicial candidate on election ballot, namely, to inform the voters, was sufficient to justify minimal intrusion, if any, on First Amendment rights of voter and nonincumbent Supreme Court candidate bringing ballot challenge to that statute. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008) *certiorari denied 129 S.Ct. 2056.*

Any advantage conveyed by placement on election ballot of word "incumbent" after name of judicial candidate who currently holds the seat being sought is a permissible statutory exception to general prohibition against having candidate's name appear in a way giving an advantage over an opponent. *Clark v. Pawlenty,*755 N.W. 2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Affidavit of candidate for associate justice of Supreme Court, attesting to her view that the word "incumbent" next to name of a candidate gave any candidate a distinct advantage over an opponent and stating that her view was based on her experience in talking with voters and in running for county commissioner in a race in which the incumbent label was not used, was inadequate to establish as a fact the existence of an advantage based on statute requiring designation of the incumbent, where candidate was not presented as an expert in those matters. *Clark v. Pawlenty* 755 N.W. 2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Studies that assertedly concluded that the name appearing first in a list of candidates attracted a larger than random share of the vote did not support proposition that statute requiring placement of the word "incumbent" after name of judicial candidate who currently held the seat in question attracted a disproportionate share of the vote to that candidate. *Clark v. Pawlenty,* 755 N..W.2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Court will not change political party or principle as stated on presidential electors' nominating petition, notwithstanding dispute over entitlement to use of similar party names, absent showing of significant degree of confusion. *Scofield v. Kiffmeyer*, 620 N.W.2d 24 (Minn. 2000).

Candidate could appear on ballot only under true name or name by which candidate was commonly known. *Clifford v. Hoppe*, 357 N.W.2d 98 (Minn. 1984).

The statues do not permit endorsed candidates to appear on primary election ballots as a slate or ticket. *Mattson v. McKenna*, 301 Minn. 103, 222 N.W. 2d 273 (1974).

One who intends to question form or contents of official ballot must take timely action or not be permitted to complain. *Marsh v. Holm*, 238 Minn. 25, 55 N.W. 2d 302 (1952).

Use of term "DFL-Endorsed" on ballot next to candidates' names violated statutory prohibition on ballot designations descriptive of candidate's occupation, qualifications, principles, or opinions. *Schiff v. Griffin,* 639 N.W.2d 56 (Minn. App. 2002).

Write-in votes are authorized for presidential electors. Op. Atty. Gen. 28C-5, October 5, 1968.

In a write-in election, where only write-in vote is cast, it is sufficient to elect a person. Op. Atty. Gen. 437A-6, February 23, 1967.

Title of vacant position for which no one has filed would be printed on regular ballot with blank below it to provide for write-in vote. Op. Atty. Gen. 437A-6, February 23, 1967.

A person may be lawfully elected by means of write-in votes, to an office for which he has not filed. It is irrelevant that at same election that person was defeated for another office for which he filed. Op. Atty. Gen. 472B, January 11, 1967.

Ballot on proposed ordinance may contain explanatory statement clarifying issue of public importance submitted to electorate. Op. Atty. Gen. 28A-5, March 24, 1955.

Voters may place a sticker containing the name of the candidate of their choice in write-in space. Op. Atty. Gen. 28A-8, September 26, 1940. *See* M.R. 8230.1450 USE OF STICKERS PROHIBITED, May 26, 2010.

Failure to give published notice of sample ballots is not such an irregularity as will invalidate the election. Op. Atty. Gen. 28A-7, June 30, 1938.

204B.36 BALLOTS; FORM.

Subdivision 1. **Type.** All ballots shall be printed with black ink on paper of sufficient thickness to prevent the printing from being discernible from the back. All ballots shall be printed in easily readable type with suitable lines dividing candidates, offices, instructions and other matter printed on ballots. The same type shall be used for the names of all candidates on the same ballot.

Subd. 2. **Candidates and offices.** The name of each candidate shall be printed at a right angle to the length of the ballot. At a general election the name of the political party or the political principle of each candidate for partisan office shall be printed above or below the name of the candidate. The name of a political party or a political principle shall be printed in capital and lower case letters of the same type, with the capital letters at least one-half the height of the capital letters used for names of the candidates. At a general election, blank lines containing the words “write-in, if any” shall be printed below the name of the last candidate for each office, or below the title of the office if no candidate has filed for that office, so that a voter may write in the names of individuals whose names are not on the ballot. One blank line shall be printed for each officer of that kind to be elected. At a primary election, no blank lines shall be provided for writing in the names of individuals whose names do not appear on the primary ballot.

On the left side of the ballot at the same level with the name of each candidate and each blank line shall be printed an oval or similar target shape in which the voter may designate a vote by filling in the oval or similar mark if a different target shape is used. Each oval or target shape shall be the same size. Above the first name on each ballot shall be instructions for voting. Directly underneath the official title of each office shall be printed the words “Vote for one” or “Vote for up to ...” (any greater number to be elected).

Subd. 3. **Question; form of ballot.** When a question is to be submitted to a vote, a concise statement of the nature of the question shall be printed on the ballot. The words, “Yes” and “No” shall be printed to the left of this statement, with an oval or similar target shape to the left of each word so that the voter may indicate by a mark either a negative or affirmative vote. The ballot shall include instructions directing the voter to fill in the oval or similar mark if a different target shape is used, before the word “Yes” if the voter desires to vote for the question, or to fill in the oval or similar mark if a different target shape is used, before the word “No” if the voter desires to vote against the question.

Subd. 4. **Judicial candidates.** The official ballot shall contain the names of all candidates for each judicial office and shall state the number of those candidates for whom a voter may vote. Each seat for an associate justice, associate judge, or judge of the district court must be numbered. The words “Supreme Court,” “Court of Appeals,” and ”(number) District Court” must be printed above the respective judicial office groups on the ballot. The title of each judicial office shall be printed on the official primary and general election ballot as follows:

(a) In the case of the Supreme Court: "Chief justice"; "Associate justice (number)";

(b) In the case of the Court of Appeals: "Judge (number)"; or

(c) In the case of the district court: "Judge (number)."

Subd. 5. **Designation of incumbent; judicial offices.** If a chief justice, associate justice, or judge is a candidate to succeed again, the word “incumbent” shall be printed after that judge’s name as a candidate.

History: *1981 c 29 art 4 s 36; 1983 c 247 s 87; 1983 c 253 s 10; 1984 c 560 s 14; 1986 c 362 s 4; 1986 c 444; 1991 c 221 s 1; 1993 c 318 art 2 s 45; 1997 c 147 s 35; 2004 c 293 art 2 s 22; 2013 c 131 art 2 s 28; 2015 c 70 art 1 s 27-30*

NOTES AND DECISIONS

204B.36

Purpose of statute requiring designation of incumbent judicial candidate on Election ballot, namely, to inform the voters, was sufficient to justify minimal intrusion, if any, on First Amendment rights of voter and nonincumbent supreme court candidate bringing ballot challenge to that statute. *Clark v. Pawlenty*, 755 N.W. 2d 293 (Minn. 2008), *certiorari denied* S.Ct. 2056.

Statute requiring placement of the word “incumbent” on election ballot after name of judicial candidate who currently held the seat in question did not sufficiently interfere with First Amendment rights of candidates and voters to warrant strict scrutiny; statute did not deny any candidate access to the

ballot, rotation system required by another statute ensured that names of each candidate would appear in first ballot position roughly an equal number of times, and incumbent designation did not prevent a voter from voting for any candidate of voter's choosing. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Statute requiring placement of the "incumbent" on election ballot after name of judicial candidate who currently holds the seat in question does not violate State Constitution based on the asserted advantage provided to an incumbent by that designation on the ballot. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *Certiorari denied* 129 S.Ct. 2056.

Studies that assertedly concluded that the name appearing first in a list of candidates attracted a larger than random share of the vote did not support proposition that statute requiring placement of the word "incumbent" after name of judicial candidate who currently held the seat in question attracted a disproportionate share of the vote to that candidate. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Affidavit of candidate for associate justice of Supreme Court, attesting to her view that the word "incumbent" next to name of a candidate gave any candidate a distinct advantage over an opponent and stating that her view was based on her experience in talking with voters and in running for county commissioner in a race in which the incumbent label was not used, was inadequate to establish as a fact the existence of an advantage based on statute requiring designation of the incumbent, where candidate was not presented as an expert in those matters. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *certiorari denied* 119 S.Ct. 2056.

Any advantage conveyed by placement on election ballot of word "incumbent" after name of judicial candidate who currently holds the seat being sought is a permissible statutory exception to general prohibition against having candidate's name appear in a way giving an advantage over an opponent. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Qualification of judicial candidates for the incumbent designation on election ballot under applicable statute is not limited to those who have previously been elected to judicial office. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Amendment that substituted phrase "succeed again" in place of phrase "succeed himself", in statute requiring that the word "incumbent be printed on election ballot after the name of a chief justice, associate justice or judge who is a candidate to succeed himself, was intended to be only a gender-neutral version of "succeed himself" and was not intended to connote a limitation on the method of attaining office needed to qualify for the incumbent designation. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Appointed associate justice of state Supreme Court who sought election to regular term was a candidate to "succeed again" under statute requiring designation of a chief justice, associate justice, or judge as the incumbent on election ballot; appointed justice was the successor to justice whose resignation created vacancy. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Statute providing for designation of incumbent judges on ballot does not violate equal protection clause. *Peterson v. Stafford*, 490 N.W.2d 418 (Minn. 1992), *cert. denied*, 507 U.S. 1033 (1992).

Former section 203A.33 requiring party-designated candidates' names to be placed before independent candidates' names on partisan ballot held constitutional. *Ulland v. Growe*, 262 N.W.2d 412 (Minn. 1978), *cert. denied*, *Berg v. Growe*, 436 U.S. 927 (1978).

The statues do not permit endorsed candidates to appear on primary election ballots as a slate or ticket. *Mattson v. McKenna*, 222 N.W. 2d 273 (Minn. 1974).

One who intends to question form or contents of official ballot must take timely action or not be permitted to complain. *Marsh v. Holm*, 238 Minn. 25, 55 N.W. 2d 302 (1952).

Write-in votes are authorized for presidential electors. Op. Atty. Gen. 28C-5, October 5, 1968.

Title of vacant position for which no one has filed would be printed on regular ballot with blank below it to provide for write-in vote. Op. Atty. Gen. 437A-6, February 27, 1967.

In a write-in election, where only write-in vote is cast, it is sufficient to elect a person. Op. Atty. Gen. 437A-6, February 23, 1967.

A person may be lawfully elected by means of write-in votes, to an office for which he has not filed. it is irrelevant that at same election that person was defeated for another office for which he filed. Op. Atty. Gen. 472B, January 11, 1967.

Ballot on proposed ordinance may contain explanatory statement clarifying issue of public importance submitted to electorate. Op. Atty. Gen. 28A-5, March 24, 1955.

Voters may place a sticker containing the name of the candidate of their choice in write-in space. Op. Atty. Gen. 28A-8, September 26, 1940. *See* M.R. 8230.1450 USE OF STICKERS PROHIBITED, May 26, 2010.

Failure to give published notice of sample ballots is not such an irregularity as will invalidate the election. Op. Atty. Gen.. 28A-7, June 30, 1938.

204B.37 BACK OF BALLOT.

On the back of all ballots shall be printed the words "Official Ballot", the date of the election and lines for the initials of at least two election judges. The words shall be printed so that they will be visible when the ballot is properly folded for deposit in the ballot box.

History: *1981 c 29 art 4 s 37*

NOTES AND DECISIONS

204B.37

Statute is held directory and departure from its provisions will not invalidate election in absence of showing the results would be different if compliance was had. Op. Atty. Gen. 28B-9, March 25, 1941.

204B.38 NAMES ON BALLOTS; IDENTICAL DESCRIPTIVE WORDS.

When the similarity of both the first and last names of two or more candidates for the same office at the same election may cause confusion to voters, up to three additional words may be printed on the ballot after each surname to indicate the candidate's occupation, office, residence or any combination of them if the candidate furnishes the identifying words to the filing officer by the last day for withdrawal of candidacy.

History: *1981 c 29 art 4 s 38; 2010 c 201 s 32*

NOTES AND DECISIONS

204B.38

Candidate for U.S. Representative could not be certified on ballot as "Shelvie Prolife Rettman" where name not authorized by statute nor was it nickname by which candidate was generally and commonly known. *Clifford v. Hoppe*, 357 N.W. 2d 98 (Minn. 1984).

For use of word "incumbent" to designate a candidate, see Op. Atty. Gen. 184D, October 14, 1964; M.S. 204B.36, subd. 5.

Descriptive words permissible where political party candidates' names are on separate "tickets" but on same consolidated primary election ballot. Op. Atty. Gen. 28B-2, August 2, 1956.

When a candidate for county office, who was a member of state legislature, moves from district, a vacancy occurs in office of legislature and he cannot use descriptive words "Present Representative". Op. Atty. Gen. 28B-2, October 1, 1954.

Auditor has no power to add upon his own initiative identifying words where surnames of candidates are identical. Op. Atty. Gen. 28B-2, April 30, 1946.

Word St. Paul construed as one word. Op. Atty. Gen. 28B-2, July 8, 1938.

204B.39 SUBSTITUTE BALLOTS.

If a sufficient number of official ballots are not delivered or if the official ballots are stolen or destroyed and a sufficient number of official ballots cannot be procured, the official in charge of preparing the official ballots shall prepare substitute ballots in the form prescribed by this section. The substitute ballots shall be prepared in the same form as official ballots as far as practicable. The word "Substitute" shall be printed in brackets immediately above the words "Official Ballot." When the substitute ballots are delivered to the municipal clerks or election judges they shall be accompanied by an initialed affidavit of the officer preparing them. The affidavit shall state that the substitute ballots have been prepared and furnished in the manner prescribed by this section and shall state the reason why sufficient official ballots were not ready for delivery. The election judges shall include this affidavit with the election returns from that precinct.

History: *1981 c 29 art 4 s 39*

204B.40 BALLOTS, ELECTION RECORDS AND OTHER MATERIALS; DISPOSITION; INSPECTION OF BALLOTS.

The county auditors, municipal clerks, and school district clerks shall retain all election materials returned to them after any election for at least 22 months from the date of that election. All election materials involved in a contested election must be retained for 22 months or until the contest has been finally determined, whichever is later. Abstracts filed by canvassing boards shall be retained permanently by any officer with whom those abstracts are filed. Election materials no longer required to be retained pursuant to this section shall be disposed of in accordance with sections 138.163 to 138.21. Sealed envelopes containing voted ballots must be retained unopened, except as provided in this section, in a secure location. The county auditor, municipal clerk, or school district clerk shall not permit any voted ballots to be tampered with or defaced.

After the time for filing a notice of contest for an election has passed, the secretary of state may, for the purpose of monitoring and evaluating election procedures: (1) open the sealed ballot envelopes and inspect the ballots for that election maintained by the county auditors, municipal clerks, or school district clerks; (2) inspect the polling place rosters and completed voter registration applications; or (3) examine other forms required in the Minnesota election laws for use in the polling place. No inspected ballot or document may be marked or identified in any manner. After inspection, all ballots must be returned to the ballot envelope and the ballot envelope must be securely resealed. Any other election materials inspected or examined must be secured or resealed. No polling place roster may be inspected until the voting history for that precinct has been posted. No voter registration application may be inspected until the information on it has been entered into the statewide registration system.

History: *1981 c 29 art 4 s 40; 1987 c 175 s 7; 1989 c 291 art 1 s 10; 1995 c 8 s 4; 2000 c 467 s 19; 2006*

NOTES AND DECISIONS

204B.40

42 U.S.C. 1974 provides: Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if the State or the Commonwealth of Puerto Rico designates a custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than $1,000 or imprisoned not more than one year, or both. Pub. L 86-449, Title III, §301, May 6, 1960.

City council was not authorized to examine ballots or ballot boxes. Op. Atty. Gen. 28-C-2, November 10, 1947.

204B.41 [Repealed, 2011 c 65 s 9]

NOTES AND DECISIONS

204B.41

Former statutory prohibition against mailing supplemental ballots to voters to whom regular absentee ballots were previously sent, in case of vacancy on ballot created by death or catastrophic illness of a candidate less than 16 days before general election, violated equal protection rights of absentee voters who could not obtain a replacement ballot in person. *Erlandson v. Kiffmeyer,* 659 N.W.2d 724 (Minn. 2003).

Nominating petition to fill a vacancy in nomination for nonpartisan office when nominee dies or withdraws before primary election must be filed within one week after primary. Op. Atty. Gen. 28B-3, August 7, 1962; Op. Atty. Gen. 28B-3, September 12, 1968.

When nominee for office of county sheriff dies on a Saturday, the last day for filing nominating petitions is one week from the following Monday, if county auditor's office is closed on the following Saturday per M.S. 373.052. Op. Atty. Gen. 28B-3, October 15, 1962.

204B.42 [Repealed, 2013 c 131 art 2 s 85]

History: *1981 c 29 art 4 s 42; 2013 c 131 art 2 s 85*

204B.43 UNLAWFUL PRINTING OR DISTRIBUTION OF BALLOTS; PENALTY.

Every person authorized or employed to print official ballots who knowingly gives or delivers those ballots to, or knowingly permits them to be taken by, any person other than the official under whose direction they are being printed, or who knowingly prints any ballot or causes or permits any ballot to be printed in a form other than that prescribed by law, or with any other names on it, or with the names of candidates or the titles of offices arranged or the names of candidates spelled in any way other than that authorized and directed by that official, is guilty of a felony.

History: *1981 c 29 art 4 s 43*

204B.44 ERRORS AND OMISSIONS; REMEDY.

Any individual may file a petition in the manner provided in this section for the correction of any of the following errors, omissions or wrongful acts which have occurred or are about to occur:

(a) An error or omission in the placement or printing of the name or description of any candidate or any question on any official ballot, including the placement of a candidate on the official ballot who is not eligible to hold the office for which the candidate has filed;

(b) Any other error in preparing or printing any official ballot;

(c) Failure of the chair or secretary of the proper committee of a major political party to execute or file a certificate of nomination;

(d) Any wrongful act, omission, or error of any election judge, municipal clerk, county auditor, canvassing board or any of its members, the secretary of state, or any other individual charged with any duty concerning an election.

The petition shall describe the error, omission or wrongful act and the correction sought by the petitioner. The petition shall be filed with any judge of the supreme court in the case of an election for state or federal office or any judge of the district court in that county in the case of an election for county, municipal, or school district office. The petitioner shall serve a copy of the petition on the officer, board or individual charged with the error, omission or wrongful act, on all candidates for the office in the case of an election for state, federal, county, municipal, or school district office, and on any other party as required by the court. Upon receipt of the

petition the court shall immediately set a time for a hearing on the matter and order the officer, board or individual charged with the error, omission or wrongful act to correct the error or wrongful act or perform the duty or show cause for not doing so. In the case of a review of a candidate's eligibility to hold office, the court may order the candidate to appear and present sufficient evidence of the candidate's eligibility. The court shall issue its findings and a final order for appropriate relief as soon as possible after the hearing. Failure to obey the order is contempt of court.

History: *1981 c 29 art 4 s 44; 1986 c 444; 1990 c 453 s 6*; *2014 c 204 s 1; 2015 c 70 art 1 s 31*

NOTES AND DECISIONS

204B.44

Principal purpose of a petition filed with Minnesota Supreme Court to correct "errors, omissions, or wrongful acts" by Secretary of State with respect to elections is to provide a mechanism for correcting errors alleged to have occurred before the election, such as in preparing or printing the official ballot; political party's challenge to decertification as minor party was not within statute. *Begin v. Ritchie,* 836 N.W.2d 545 (Minn. 2013).

Secretary of State was a proper party to candidate's petition seeking an order requiring county auditor and Secretary of State to place candidate's name on the ballot after previously-endorsed candidate withdrew from election, where, although Secretary of State had taken no action on the ballot issues at hand, Secretary's interests in ballot preparation and election administration were implicated by the candidate and chairman of party's request for relief. *Martin v. Dicklich,* 823 N.W.2d 336 (Minn. 2012).

State senate candidate had burden to prove that leaving his name off the ballot was an error of which of which Supreme Court was required to order correction by county auditor candidate could not show that signers of nominating petition whose signatures were rejected for lack of residence address on the petition lived within legislative district and, thus, did not meet his burden to prove that leaving his name off of ballot was an error of which Supreme Court was required to order correction by county auditor. *Paquin v. Mack*, 788 N.W.2d 899 (Minn. 2010).

Petitioner bore burden of proof, by preponderance of the evidence, in action to challenge name by which candidate for statewide office sought to be listed on election ballot; petitioner did not contest candidate's eligibility to appear on the ballot, but only the manner in which his name should appear. *Weiler v. Ritchie*, 788 N.W. 2d 879 (Minn. 2010).

Secretary of State was, but governor was not, a necessary or proper party to a ballot challenge petition seeking to require Secretary of State to accept candidate filing for the seat of Supreme Court chief justice and to place the chief justice seat on election ballot. *Clark v. Ritchie,* 787 NW2d 142 (Minn. 2010).

Where candidates and local election officials agreed that certain absentee ballot return envelopes were rejected in error, thereby establishing that correction would have reflected the true vote of the people, local election officials were authorized to correct such errors without awaiting an election contest; local election officials had determined that some absentee ballot return envelopes were rejected in error, and neither candidate alleged, nor was there any evidence to suggest, that those errors were anything but innocent. *Coleman v. Ritchie*. 759 N.W.2d 47 (Minn. 2009).

Contested errors made by county election officials in the acceptance or rejection of absentee ballot return envelopes were not errors in "the counting or recording of the votes" and therefore could not be corrected by a county canvassing board under governing elections statutes, but were instead subject to review and correction in election contest; because erroneous rejection of an absentee ballot envelope was not evident from an examination of the returns and because rejected absentee ballots were neither counted nor recorded, the erroneous rejection of an absentee ballot return envelope was outside the scope of the authority conferred by the legislature on county canvassing boards for identification of "obvious errors" in counting or recording of the votes. *Coleman v. Ritchie*, 759 N.W.2d 47 (Minn. 2009).

Secretary of State was a proper party-respondent on ballot challenge by voter and judicial candidate seeking an order striking name of appointed associate justice of state Supreme Court from primary and general election ballots or, alternatively, striking designation of that associate justice as the incumbent on those ballots; although Secretary of State was not directly responsible for printing and preparation of ballots, ballot challenge concerned office for which voting was conducted statewide and for which the Secretary of State had provided the challenged ballot information to all 87 county auditors. *Clark v. Pawlenty*, 755 N.W.2d 293, (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Governor was neither a proper nor a necessary party on ballot challenge by voter and judicial candidate seeking an order striking name of appointed associate justice of state Supreme Court from primary and general election ballots or, alternatively, striking designation of that associate justice as the incumbent on those ballots; the only actions of governor alleged in petition were appointments to fill judicial vacancies, petition did not and could not seek to bar governor from doing so in the future and governor could not implement any of the relief requested, as he was not responsible in any manner for preparation of ballots. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Laches barred consideration of ballot challenge by voter and Supreme Court candidate, filed less than 30 days before primary election, for order striking from primary ballot the name of appointed associate justice or, alternatively, striking the designation of appointed justice as the incumbent; petitioners unreasonably delayed assertion of arguments that appointed justice was precluded from running for election or being designated the incumbent, and there would be significant potential prejudice to election officials, to appointed justice and other candidates, and to electorate if requested relief were granted. *Clark v. Pawlenty*, 755 N.W. 2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Supreme Court would address merits of claims in ballot challenge by voter and Supreme Court candidate seeking an order striking from general election ballot the name of appointed associate justice holding the seat in question or alternatively, striking the designation of appointed justice as the incumbent; legal and practical deadlines that gave rise to denial on laches grounds of the same claims with respect to primary election ballot had not yet occurred with respect to general election and addressing claims on merits would serve interest of judicial economy and remove uncertainty from election process. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

A candidate who has not resided in the legislative district for six months immediately preceding election is not qualified to run for state legislative office in that district. *Studer v. Kiffmeyer,* 712 N.W.2d 552 (Minn. 2006); *Melendez v. O'Connor,* 654 N.W.2d 114 (Minn. 2002).

Equitable doctrine of laches can prevent party from recovering under terms of statute, when plaintiff has not been diligent in asserting a known right at the expense of one who has been prejudiced by the delay. *Clayton v. Kiffmeyer*, 688 N.W.2d 117 (Minn. 2004); *Piepho v. Bruns*, 652 N.W.2d 40 (Minn.

2002); *Olson v. Zuehlke*, 652 N.W.2d 37 (Minn. 2002); *Lundquist v. Leonard,* 652 N.W.2d 33 (Minn. 2002); *Winters v. Kiffmeyer,* 650 N.W.2d 167 (Minn. 2002).

Election for a seat in the state legislature was an "election for state office," even if district was situated entirely within one county, and thus, petition challenging placement of candidate's name on ballot for that seat was properly filed with Supreme Court, and not with the district court. *Lundquist v. Leonard,* 652 N.W.2d 33 (Minn. 2002).

Supreme Court is authorized to correct any error or omission affecting ballots for election, not just procedural or mechanical ones. *Page v. Carlson*, 448 N.W.2d 274 (Minn. 1992).

Former section 203A.18 intended to protect potential candidates for public office from errors and omissions of persons charged with properly completed procedural and mechanical duties attendant to election process. It does not apply to error of applicant who in affidavit of candidacy inadvertently designated legislative district of her residence as "43B" instead of "43A" and who sought order directing county auditor to place her name on primary ballot. *Schroeder v. Johnson*, 252 N.W. 2d 851 (Minn. 1976).

Premeditated attempt to group names of endorsed candidates on primary election ballots would raise inference of unfairness sufficiently serious to constitute an error. *Mattson v. McKenna*, 301 Minn. 103, 222 N.W. 2d 273 (1974).

Candidates not admitted or entitled to be admitted to practice law in state are not eligible for office of associate justice of Supreme Court. In re *Scarrella*, 300 Minn. 500, 221 N.W. 2d 562 (1974).

Application for order preventing placement of candidate's name on election ballot for any office must be timely made and clearly established; burden upon applicant to establish ineligibility must be heavy one in view of drastic nature of affirmative order and order must be promptly sought. *Moe v. Alsop*, 288 Minn. 323, 180 N.W. 2d 255 (1970).

Reconvened county canvassing board may be compelled under former section 203A.18 and under former section 204A.52, although latter is technically incorrect procedure. *Application of Andersen*, 264 Minn. 257, 119 N.W. 2d 1 (1962).

Former sections 202A.28 to 202A.31, relating to nomination of candidate for election by petition; included by inference in former M.S. 203A.18. *Williams v. Donovan*, 253 Minn. 493, 92 N.W. 2d 915 (1958).

Supreme Court had authority to prevent ballots improperly presenting proposed constitutional amendments. *Winget v. Holm*, 187 Minn. 78, 244 N.W. 331 (1932).

Voters seeking writ of mandamus to order school board to hold election for school board member were not entitled to mandamus relief, because alternative relief was available to voters. *Houch v. Eastern Carver County Schs.,* 787 N.W.2d 227 (Minn. App. 2010).

Candidates' allegation of ballot error was sufficient to confer standing under statute, and term "DFL-Endorsed" next to candidates' names on ballot for city council was not statement of political principle within meaning of city ordinance allowing candidates to state party name or political principle on ballot in three words or less. *Schiff v. Griffin,* 639 N.W.2d 56 (Minn. App. 2002).

204B.45 MAIL BALLOTING.

Changes effective August 1, 2016

Subdivision 1. **Authorization.** A town of any size not located in a metropolitan county as defined by section 473.121, or a city having fewer than 400 registered voters on June 1 of an election year and not located in a metropolitan county as defined by section 473.121, may provide balloting by mail at any municipal, county, or state election with no polling place other than the office of the auditor or clerk or other locations designated by the auditor or clerk. The governing body may apply to the county auditor for permission to conduct balloting by mail. The county board may provide for balloting by mail in unorganized territory. The governing body of any municipality may designate for mail balloting any precinct having fewer than 100 registered voters, subject to the approval of the county auditor. Voted ballots may be returned in person to any location designated by the county auditor or municipal clerk.

Subd. 1a. [Repealed, 2000 c 467 s 35]

Subd. 2. **Procedure.** Notice of the election and the special mail procedure must be given at least ten weeks prior to the election. Not more than 46 days nor later than 14 days before a regularly scheduled election and not more than 30 days nor later than 14 days before any other election, the auditor shall mail ballots by nonforwardable mail to all voters registered in the city, town, or unorganized territory. No later than 14 days before the election, the auditor must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots as provided in chapter 203B. Ballot return envelopes, with return postage provided, must be preaddressed to the auditor or clerk and the voter may return the ballot by mail or in person to the office of the auditor or clerk. The auditor or clerk must appoint a ballot board to examine the mail and absentee ballot return envelopes and mark them "accepted" or "rejected" within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of deputy county auditors or deputy municipal clerks who have

received training in the processing and counting of mail ballots, who need not be affiliated with a major political party. Election judges performing the duties in this section must be of different major political parties, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10. If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed and the auditor or clerk shall provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

If the ballot is accepted, the county auditor or municipal clerk must mark the roster to indicate that the voter has already cast a ballot in that election. After the close of business on the seventh day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the ballot box.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

The mail and absentee ballots for a precinct must be counted together and reported as one vote total. No vote totals from mail or absentee ballots may be made public before the close of voting on election day.

The costs of the mailing shall be paid by the election jurisdiction in which the voter resides. Any ballot received by 8:00 p.m. on the day of the election must be counted.

Subd. 3. **Election law applied; rules.** The Minnesota election law is applicable to mail balloting except as provided by this section or by rules adopted by the secretary of state, but only paper ballots may be used. The secretary of state shall adopt rules for the conduct of mail balloting, including instructions to voters, procedures for challenge of voters, public observation of the counting of ballots, and procedures for proper handling and safeguarding of ballots to ensure the integrity of the election.

History: *1987 c 212 s 8; 1990 c 585 s 26; 1991 c 227 s 16; 1993 c 318 art 1 s 1; 1997 c 145 s 1; 2008 c 244 art 1 s 12; 2010 c 184 s 18; 2010 c 194 s 16; 2011 c 18 s 4; 2011 c 76 art 1 s 70; 2013 c 131 art 2 s 29, 30; 2015 c 70 art 1 s 32; 2016 c 161 art 1 s 8*

204B.46 MAIL ELECTIONS; QUESTIONS.

A county, municipality, or school district submitting questions to the voters at a special election may conduct an election by mail with no polling place other than the office of the auditor or clerk. No offices may be voted on at a mail election. Notice of the election must be given to the county auditor at least 74 days prior to the election. This notice shall also fulfill the requirements of Minnesota Rules, part 8210.3000. The special mail ballot procedures must be posted at least six weeks prior to the election. Not more than 46 nor later than 14 days prior to the election, the auditor or clerk shall mail ballots by nonforwardable mail to all voters registered in the county, municipality, or school district. No later than 14 days before the election, the auditor or clerk must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots pursuant to chapter 203B. The auditor or clerk must appoint a ballot board to examine the [mail and absentee ballot] return envelopes and mark them "Accepted" or "Rejected" within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of deputy municipal clerks, or deputy school district clerks who have received training in the processing and counting of mail ballots, who need not be affiliated with a major political party. Election judges performing the duties in this section must be of different major political parties, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10. If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed and the auditor or clerk must provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of the election, the envelope must remain sealed and the

official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

If the ballot is accepted, the county auditor or municipal clerk must mark the roster to indicate that the voter has already cast a ballot in that election. After the close of business on the seventh day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed in the manner provided by section 206.86 subdivision 5, initialed by the ballot board, and deposited in the appropriate ballot box.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

The mail and absentee ballots for a precinct must be counted together and reported as one vote total. No vote totals from ballots may be made public before the close of voting on election day.

History: *1987 c 213 s 1; 1989 c 291 art 1 s 11; 1993 c 223 s 11; 2008 c 295 s 13; 2009 c 82 s 4; 2010 c 180 s 4; 2010 c 194 s 17; 2011 c 18, s 5; 2013 c 131 art 2 s 31; 2014 c 264 s 16*

204B.47 ALTERNATE ELECTION PROCEDURES; DUTIES OF SECRETARY OF STATE.

When a provision of the Minnesota Election Law cannot be implemented as a result of an order of a state or federal court, the secretary of state shall adopt alternative election procedures to permit the administration of any election affected by the order. The procedures may include the voting and handling of ballots cast after 8:00 p.m. as a result of a state or federal court order or any other order extending the time established by law for closing the polls. The alternative election procedures remain in effect until the first day of July following the next succeeding final adjournment of the legislature, unless otherwise provided by law or by court order.

History: *1997 c 147 s 36; 2004 c 293 art 1 s 29*

NOTES AND DECISIONS

204B.47

Secretary of State was a proper party-respondent on ballot challenge by voter and judicial candidate seeking an order striking name of appointed associate justice of state Supreme Court from primary and general election ballots or, alternatively, striking designation of that associate justice as the incumbent on those ballots; although Secretary of State was not directly responsible for printing and preparation of ballots, ballot challenge concerned office for which voting was conducted statewide and for which the Secretary of State had provided the challenged ballot information to all 87 county auditors. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008) *certiorari denied* 129 S.Ct. 2056.

204B.48 VOTING EQUIPMENT GRANT ACCOUNT.

Subdivision 1. **Account created**. A voting equipment grant account is created in the state treasury to provide grants to political subdivisions to purchase precinct based optical scan ballot tabulation equipment. The equipment must permit the voter to verify and correct any errors on the ballot, including both undervotes and overvotes. Any grants made by the federal government to the state to improve election administration or equipment must be credited to the account.

Subd. 2. **Application**. The commissioner of administration may make a grant from the account to a political subdivision only after receiving an application from the political subdivision and a recommendation from the secretary of state concerning the application. The application must contain the following information:

(1) the date the application is submitted;

(2) the name of the political subdivision;

(3) the name and title of the individual who prepared the application;

(4) the type of voting system currently used in each precinct in the political subdivision;

(5) if the current system is an optical scan system, the date the system was acquired and at what cost;

(6) the total number of registered voters, as of the date of the application, in each precinct in the political subdivision;

(7) the total amount of the grant requested;

(8) the total amount and source of the political subdivision's money to be used to match a grant from the account;

(9) the type of voting system to be acquired with the grant money and whether the voting system will permit individuals with disabilities to cast a secret ballot;

(10) the proposed schedule for purchasing and implementing the new voting system and the precincts in which the new voting system would be used;

(11) the proposed schedule for training election administrators and election judges to operate the new voting system;

(12) a proposed plan to educate voters, the media, and the general public concerning the new voting system;

(13) the names and contact information for the individuals and offices of the political subdivision responsible for communications and reporting to the commissioner of administration regarding the administration and implementation of the grant by the political subdivision, authorizing the purchase of voting systems, and implementing the training and education plan for the voting system;

(14) whether the political subdivision has previously applied for a grant from the account and the disposition of that application;

(15) a certified statement by the political subdivision that the grant will be used only to purchase precinct based optical scan ballot tabulation equipment, that the political subdivision will provide a dollar-for-dollar match that will not come from state or federal money, and that the political subdivision has insufficient resources to purchase the voting system without obtaining a grant from the account.

The commissioner of administration must forward a copy of the application to the secretary of state.

Subd. 3. **Evaluation and approval**. In evaluating the application, the commissioner of administration may consider only the information set forth in the application and is not subject to chapter 14. If the commissioner of administration determines that the application has been fully and properly completed, and that there is a sufficient balance in the account to fund the grant, either in whole or in part, the commissioner, after receiving the recommendation of the secretary of state, may approve the application.

Subd. 4. **Payment**. The commissioner of administration may then pay the grant to the political subdivision after certifying that:

(1) the grant will be used only to purchase the kind of ballot tabulation equipment prescribed by subdivision 1, which may include equipment that makes it possible for individuals with disabilities to cast a secret ballot;

(2) the political subdivision to receive the grant has insufficient resources available to purchase the equipment; and

(3) the recipient of the grant will provide a dollar-for-dollar match, which may not come from state or federal money.

History: *1Sp2001 c 10 art 18 s 26*

CHAPTER 204C - ELECTION DAY ACTIVITIES

204C.001 MS 2006 Renumbered 15.001

204C.01 DEFINITIONS.

The definitions in chapter 200 apply to this chapter.

History: *1981 c 29 art 5 s 1*

204C.02 CHAPTER APPLICATION; INDIVIDUALS UNABLE TO WRITE.

This chapter applies to all elections held in this state except as otherwise provided by law.

An individual who is unable to write the individual's name must sign election-related documents in the manner provided by section 645.44, subdivision 14. An individual who has power of attorney for another person may not sign election-related documents for that person, except as provided by this section.

History: *1981 c 29 art 5 s 2; 1987 c 266 art 1 s 34; 2010 c 201 s 33*

204C.03 PUBLIC MEETINGS PROHIBITED ON ELECTION DAY.

Subdivision 1. **School districts; counties; municipalities; special taxing districts**. No special taxing district governing body, school board, county board of commissioners, city council, or town board of supervisors shall conduct a meeting between 6:00 p.m. and 8:00 p.m. on the day that an election is held within the boundaries of the special taxing district, school district, county, city, or town. As used in this subdivision, "special taxing district" has the meaning given in section 275.066.

Subd. 2. **State colleges and universities**. Except for regularly scheduled classes, no Minnesota state college or university shall schedule an event between 6:00 p.m. and 8:00 p.m. on the day that an election is held in any political subdivision in which the university or college is located.

Subd. 3. **Public elementary and secondary schools**. Except for regularly scheduled classes, a public elementary or secondary school may not schedule a school sponsored event between 6:00 p.m. and 8:00 p.m. on the day that a regularly scheduled election is held in any political subdivision in which the school is located.

Subd. 4. **State government**. No state agency, board, commission, department, or committee shall conduct a public meeting on the day of the state primary or general election.

History: *1981 c 29 art 5 s 3; 1983 c 303 s 12; 1991 c 221 s 2; 1996 c 395 s 10; 1Sp2001 c 10 art 18 s 27*

204C.035 DECEPTIVE PRACTICES IN ELECTIONS.

Subdivision 1. **Criminal penalty.** No person shall knowingly deceive another person regarding the time, place, or manner of conducting an election or the qualifications for or restrictions on voter eligibility for an election, with the intent to prevent the individual from voting in the election. A violation of this section is a gross misdemeanor.

Subd. 2. **Reporting false election information.** Any person may report to the county auditor or municipal clerk an act of deception regarding the time, place, or manner of conducting an election or the qualifications for or restrictions on voter eligibility for an election. The election official to whom the report was made shall provide accurate information to the person who reported the incorrect information in a timely manner, and may provide information about the act of deception and accurate information to mass media outlets in any affected area. The county attorney may subsequently proceed under subdivision 1.

History: *2006 c 242 s 20*

204C.04 EMPLOYEES; TIME OFF TO VOTE.

Changes effective July 1, 2017, and applies to elections conducted on or after that date

Subdivision 1. **Right to be absent.** Every employee who is eligible to vote in an election has the right to be absent from work for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election, without penalty or deduction from salary or wages because of the absence. An employer or other person may not directly or indirectly refuse, abridge, or interfere with this right or any other election right of an employee.

Subd. 2. **Elections covered.** For purposes of this section, "election" means a regularly scheduled election, an election to fill a vacancy in the office of United States senator or United States representative, an election to fill a vacancy in nomination for a constitutional office, or an election to fill a vacancy in the office of state senator or state representative, or a presidential nomination primary under chapter 207A.

Subd. 3. **Penalty.** A person who violates this section is guilty of a misdemeanor, and the county attorney shall prosecute the violation.

History: *1981 c 29 art 5 s 4; 1988 c 578 art 1 s 3; 1991 c 245 s 1; 1995 c 20 s 1; 2000 c 260 s 27; 2010 c 201 s 34; 2015 c 70 art 1 s 33; 2016 c 162 s 6*

NOTES AND DECISIONS

204C.04

Former section 204A.36 held constitutional. *State v. International Harvester Co.*, 241 Minn. 367, 63 N.W. 2d 547 (1954).

Municipal employee may take such time off with pay as is reasonably necessary to enable voting on morning of election day but should arrange absence with proper officials to prevent suspension of all public business. Op. Atty. Gen. 185a-2, November 1, 1950.

204C.05 STATE ELECTIONS; HOURS FOR VOTING.

Changes effective August 1, 2016

Subdivision 1. **Opening and closing times.** Except as otherwise provided in this section, at the state primary and the state general election the hours for voting in every precinct in the state shall begin at 7:00 a.m. and shall extend continuously until 8:00 p.m.

Subd. 1a. **Elections; organized town.** The governing body of a town with less than 500 inhabitants according to the most recent federal decennial census, which is located outside the metropolitan area as defined in section 200.02, subdivision 24, may fix a later time for voting to begin at state primary, special, or general elections, if approved by a vote of the town electors at the annual town meeting. The question of shorter voting hours must be included in the notice of the annual town meeting before the question may be submitted to the electors at the meeting. The later time may not be later than 10:00 a.m. for special, primary, or general elections. The town clerk shall either post or publish notice of the changed hours and notify the county auditor of the change 30 days before the election.

Subd. 1b. **Elections; unorganized territory.** An unorganized territory or unorganized territories which constitute a voting district may have shorter voting hours if at least 20 percent of the registered voters residing in the voting district sign a petition for shorter hours and present it to the county auditor. The later time may not be later than 10:00 a.m. for special, primary, or general elections. The county auditor shall either post or publish notice of the changed hours, within the voting district, 30 days before the election.

Subd. 2. **Voters in line at closing.** (a) At or before the hour when voting is scheduled to begin, the election judges shall agree upon the standard of time they will use to determine when voting will begin and end. Voting shall not be allowed after the time when it is scheduled to end, unless individuals are waiting in the polling place or waiting in line at the door to register or to vote. The voting shall continue until those individuals have been allowed to vote. No individual who comes to the polling place or to a line outside the polling place after the time when voting is scheduled to end shall be allowed to vote.

(b) The local election official may extend polling place hours to accommodate voters that would have been in line at the regular polling place if the polling place had not been combined or moved on election day pursuant

to section 204B.14, subdivision 2, or 204B.175. Polling place hours may be extended at the new polling place for one hour. The local election official must immediately provide notice to the county auditor, secretary of state, and election judges of the extension in polling place hours. The local election official must also request that the local media outlets publicly announce the extended polling place hours. Voters in the polling place or waiting in line at the door to register or to vote at the end of the extended polling place hours shall be allowed to vote pursuant to paragraph (a).

History: *1981 c 29 art 5 s 5; 1983 c 303 s 13; 1985 c 169 s 6; 2005 c 156 art 6 s 40; 2016 c 161 art 3 s 4*

204C.06 CONDUCT IN AND NEAR POLLING PLACES.

Subdivision 1. **Persons allowed near polling place.** An individual shall be allowed to go to and from the polling place for the purpose of voting without unlawful interference. No one except an election official or an individual who is waiting to register or to vote or an individual who is conducting exit polling shall stand within 100 feet of the building in which a polling place is located. "Exit polling" is defined as approaching voters in a predetermined pattern as they leave the polling place after they have voted and asking voters to fill out an anonymous, written questionnaire.

Subd. 2. **Individuals allowed in polling place; identification.** (a) Representatives of the secretary of state's office, the county auditor's office, and the municipal or school district clerk's office may be present at the polling place to observe election procedures. Except for these representatives, election judges, sergeants-at-arms, and challengers, an individual may remain inside the polling place during voting hours only while voting or registering to vote, providing proof of residence for an individual who is registering to vote, or assisting a handicapped voter or a voter who is unable to read English. During voting hours no one except individuals receiving, marking, or depositing ballots shall approach within six feet of a voting booth, ballot counter, or electronic voting equipment, unless lawfully authorized to do so by an election judge or the individual is an election judge monitoring the operation of the ballot counter or electronic voting equipment.

(b) Teachers and elementary or secondary school students participating in an educational activity authorized by section 204B.27, subdivision 7, may be present at the polling place during voting hours.

(c) Each official on duty in the polling place must wear an identification badge that shows their role in the election process. The badge must not show their party affiliation.

Subd. 3. **Damaging or removing election materials; gross misdemeanor.** No individual shall intentionally:

(a) Tear down, mutilate, deface or otherwise damage during the hours of voting any voter instruction poster placed inside or outside of a polling place by an election judge or other election official; or

(b) Remove from the polling place before the time for voting ends any ballots prepared for use at the election or any supplies or conveniences placed in voting booths for use by the voters, except as authorized by law.

A violation of this subdivision is a gross misdemeanor.

Subd. 4. **Damaging or removing election materials; felony.** No individual shall intentionally:

(a) Remove from a polling place any election file or election register, except as authorized by law;

(b) Damage, deface, or mutilate any ballot, election file or election register or any item of information contained on it, except as authorized by law; or

(c) Add anything to a ballot, election file or election register, except as authorized by law.

A violation of this subdivision is a felony.

Subd. 5. **Sergeant-at-arms.** The election judges may appoint a sergeant-at-arms when necessary to keep the peace or otherwise to assist them. An election judge may request a sergeant-at-arms or a peace officer to arrest or remove from the polling place any individual who, despite a warning to desist, engages in disorderly conduct. A sergeant-at-arms or a peace officer shall not otherwise interfere in any manner with voters.

Subd. 6. **Peace officers.** Except when summoned by an election judge to restore the peace or when voting or registering to vote, no peace officer shall enter or remain in a polling place or stand within 50 feet of the entrance of a polling place.

Subd. 7. **Use of intoxicating liquor; prohibition; penalty.** During the time an election is being held it is a misdemeanor to bring intoxicating liquor or 3.2 percent malt liquor into a polling place, to drink intoxicating liquor or 3.2 percent malt liquor in a polling place, or to be intoxicated in a polling place. The election judges shall not permit an obviously intoxicated individual to vote or remain in the polling place for any purpose.

Subd. 8. **Access for news media.** A news media representative may enter a polling place during voting hours only to observe the voting process. A media representative must present photo identification to the head election judge upon arrival at the polling place, along with either a recognized media credential or written statement from a local election official attesting to the media representative's credentials. A media representative must not:

(1) approach within six feet of a voter;

(2) converse with a voter while in the polling place;

(3) make a list of persons voting or not voting; or

(4) interfere with the voting process.

History: *1981 c 29 art 5 s 6; 1984 c 471 s 10; 1984 c 515 s 1; 1986 c 444; 1987 c 266 art 1 s 35; 1989 c 291 art 1 s 12; 1991 c 237 s 5; 1991 c 249 s 31; 1993 c 223 s 12; 2004 c 293 art 2 s 24; 2005 c 113 s 1; 2005 c 156 art 6 s 41; 2008 c 244 art 1 s 13; 2010 c 201 s 35; 2011 c 18 s 6*

NOTES AND DECISIONS

204C.06

Statutory violations in the conduct of elections do not of themselves invalidate an election. *Munnell v. Rowlette*, 275 Minn. 92, 145 N.W. 2d (1966).

Former section 204A.37 limited who may be in a polling place while the polls are open. Former section 204A.40 applies after the polls close. Op. Atty. Gen. 182A-5, November 20, 1964. *See* M.S. 204C.07, 204C.19 and 204C.21.

Standing in line by non-voters and the abuse of the right to challenge voters constitute gross misdemeanors under Minnesota law. Op. Atty. Gen. 182, October 26, 1964.

Standing in line by non-voters constitutes a gross misdemeanor. Op. Atty. Gen. 182, October 26, 1964.

Section applies to village and town elections. Op. Atty. Gen. 490C, November 19, 1954.

When polling place is held in town garage building, coffee socials may not be held within same building. Op. Atty. Gen. 672M, May 10, 1954.

It was not permissible for one of the judges of election on election day to take ballot from polling place to home of sick or disabled person, permit such person to mark it and then return to polling place and cast it in name of such person. Op. Atty. Gen. 28C-1, November 27, 1935.

204C.07 CHALLENGERS.

Changes effective August 1, 2016

Subdivision 1. **Partisan elections.** At an election to fill partisan offices, the chair of an authorized committee of each major political party may appoint by written certificate voters from that political party to act as challengers of voters at the polling place for each precinct. Only one challenger from each major political party for each precinct shall be allowed to remain in the polling place at one time.

Subd. 2. **Nonpartisan elections.** At an election to fill nonpartisan offices, each nonpartisan candidate may appoint by written certificate voters to act as challengers of voters at the polling place for each precinct. Only one challenger for each candidate shall be allowed to remain in the polling place for each precinct at one time.

Subd. 3. **Elections on a question.** At an election where a question is to be voted upon in an election jurisdiction, the appropriate mayor of a city, ~~or the~~ school board of a school district, or ~~the~~ board of supervisors of a town, upon receiving a written petition signed by at least 25 eligible voters, shall appoint by written certificate one voter for each precinct in the municipality, or school district if applicable, to act as a challenger of voters in the polling place for that precinct. The petition must be delivered to the clerk of the municipality or school conducting the election.

Subd. 3a. **Residence requirements**. A challenger must be a resident of this state. Appointed challengers seeking admission to a polling place to serve in that capacity must prove their status as a resident of this state by presenting one of the documents listed in section 201.061, subdivision 3. Challengers need not prove residence in the precinct in which they seek to act as a challenger.

Subd. 4. **Restrictions on conduct.** An election judge may not be appointed as a challenger. The election judges shall permit challengers appointed pursuant to this section to be present in the polling place during the hours of voting and to remain there until the votes are counted and the results declared. No challenger shall handle or inspect registration cards, files, or lists. Challengers shall not prepare in any manner any list of individuals who have or have not voted. They shall not attempt to influence voting in any manner. They shall not converse with a voter except to determine, in the presence of an election judge, whether the voter is eligible to vote in the precinct.

Subd. 5. **Prohibited challenges.** Challengers and the political parties that appointed them must not compile lists of voters to challenge on the basis of mail sent by a political party that was returned as undeliverable or if receipt by the intended recipient was not acknowledged in the case of registered mail. This subdivision applies to any local, state, or national affiliate of a political party that has appointed challengers, as well as any subcontractors, vendors, or other individuals acting as agents on behalf of a political party.

A violation of this subdivision is a gross misdemeanor.

History: *1981 c 29 art 5 s 7; 1986 c 444; 1987 c 266 art 1 s 36; 2005 c 156 art 6 s 42,43; 2006; 2008 c 244 art 1 s 14; 2016 c 161 art 1 s 9*

NOTES AND DECISIONS

204C.07

Registered voters and organizations representing registered voters failed to exhaust their adequate state law remedies, as required to bring their action alleging that various Minnesota state and county officials responsible for election administration or enforcement of election laws violated their rights under the United States and the Minnesota Constitutions by not taking sufficient steps to ensure that election day registrants were eligible to vote. *Minnesota Voters Alliance v. Ritchie,* 890 F.Supp.2d 1106 (D. Minn. 2012).

Abuse of the right to challenge voters constitutes a gross misdemeanor. Op. Atty. Gen. 182, October 26, 1964

204C.08 OPENING OF POLLING PLACES.

Subdivision 1. Renumbered subd. 1c

Subd. 1a. Renumbered subd. 1d

Subdivision 1b. **Arrival; ballots.** The election judges shall meet at the polling place at least one hour before the time for opening the polls. Before the polls open, the election judges shall compare the ballots used with the sample ballots, electronic ballot displays, and audio ballot reader furnished to see that the names, numbers, and letters on both agree and shall certify to that fact on forms provided for that purpose. The certification must be filed with the election returns.

Subd. 1c. **Display of flag.** Upon their arrival at the polling place on the day of election, the election judges shall cause the national flag to be displayed on a suitable staff at the entrance to the polling place. The flag shall be displayed continuously during the hours of voting and the election judges shall attest to that fact by signing the flag certification statement on the precinct summary statement. The election judges shall receive no compensation for any time during which they intentionally fail to display the flag as required by this subdivision.

Subd. 1d. **Voter's bill of rights.** The county auditor shall prepare and provide to each polling place sufficient copies of a poster setting forth the Voter's Bill of Rights as set forth in this section. Before the hours of voting are scheduled to begin, the election judges shall post it in a conspicuous location or locations in the polling place. The

Voter's Bill of Rights is as follows:

"VOTER'S BILL OF RIGHTS"

For all persons residing in this state who meet federal voting eligibility requirements:

(1) You have the right to be absent from work for the purpose of voting in a state, federal, or regularly scheduled election without reduction to your pay, personal leave, or vacation time on election day for the time necessary to appear at your polling place, cast a ballot, and return to work.

(2) If you are in line at your polling place any time before 8:00 p.m., you have the right to vote.

(3) If you can provide the required proof of residence, you have the right to register to vote and to vote on election day.

(4) If you are unable to sign your name, you have the right to orally confirm your identity with an election judge and to direct another person to sign your name for you.

(5) You have the right to request special assistance when voting.

(6) If you need assistance, you may be accompanied into the voting booth by a person of your choice, except by an agent of your employer or union or a candidate.

(7) You have the right to bring your minor children into the polling place and into the voting booth with you.

(8) If you have been convicted of a felony but your felony sentence has expired (been completed) or you have been discharged from your sentence, you have the right to vote.

(9) If you are under a guardianship, you have the right to vote, unless the court order revokes your right to vote.

(10) You have the right to vote without anyone in the polling place trying to influence your vote.

(11) If you make a mistake or spoil your ballot before it is submitted, you have the right to receive a replacement ballot and vote.

(12) You have the right to file a written complaint at your polling place if you are dissatisfied with the way an election is being run.

(13) You have the right to take a sample ballot into the voting booth with you.

(14) You have the right to take a copy of this Voter's Bill of Rights into the voting booth with you."

Subd. 2. **Posting of voting instructions.** Before the hours for voting are scheduled to begin, the election judges shall post any official voter instruction posters furnished to them in a conspicuous location or locations in the polling place.

Subd. 2a. **Sample ballots.** At least two sample ballots must be posted in a conspicuous location in the polling place and must remain open to inspection by the voters throughout election day. The sample ballots must accurately reflect the offices, candidates, and rotation sequence on the ballots used in that polling place. The sample ballots may be either in full or reduced size.

Subd. 3. **Locking of ballot box.** Immediately before the time when voting is scheduled to begin, one of the election judges shall open the ballot box in the presence of the individuals assembled at the polling place, demonstrate that it is empty, lock it, and deliver the key to another election judge. Except as provided by law or rule, the box shall not be reopened until after the hours for voting have ended and all voting has been concluded. The box shall be kept in public view at all times during voting hours. After locking the ballot box, the election judges shall proclaim that voting may begin, and shall post outside the polling place conspicuous written or printed notices of the time when voting is scheduled to end.

Subd. 4. **Ballot box boxcar seals.** The governing body of a municipality or school district by resolution may direct the municipal or school district clerk to furnish a boxcar seal for each ballot box in place of a lock and key. Each seal shall consist of a numbered strap with a self-locking device securely attached to one end of the strap so that the other end may be inserted and securely locked in the seal. No two straps shall bear the same number.

History: *1981 c 29 art 5 s 8; 1983 c 253 s 11; 1987 c 266 art 1 s 37; 1997 c 147 s 37; 2004 c 293 art 1 s 30; 2005 c 156 art 6 s 44; 2010 c 201 s 36; 2014 c 264 s 17; 2015 c 70 art 1 s 34*

NOTES AND DECISIONS

204C.08

Village and town may use a retractable partition in order to maintain separate voting facilities for each precinct. Op. Atty. Gen. 185A-5, February 8, 1966.

204C.09 BALLOT PREPARATION BY ELECTION JUDGES.

Subdivision 1. **Counting and Initialing.** (a) Before the voting begins, at least two election judges must certify the number of ballots delivered to the precinct. Election judges may conduct this count, presuming that the total count provided for prepackaged ballots is correct. As each package is opened, two judges must count the ballots in the package to ensure that the total count provided for the package is correct. Any discrepancy must be noted on the incident log.

(b) Before the voting begins, or as soon as possible after it begins, at least two election judges shall each initial the backs of all the ballots. The election judges shall not otherwise mark the ballots.

Subd. 2. **Distribution procedure.** Official ballots shall be distributed only in the room containing the voting booths and only to individuals who are about to vote, except as otherwise provided in section 204C.15, subdivision 2. No official ballot shall be distributed to a voter unless it has been initialed by the election judges as provided in subdivision 1.

History: *1981 c 29 art 5 s 9; 2010 c 201 s 37*

NOTES AND DECISIONS

204C.09

Statutory requirement that all ballots must be initialed by election judge is intended to assure voter that he is given an authentic ballot, to enable public to identify actual ballot cast in event of election contest, and to prevent fraud. *Johnson v. Trinka*, 277 Minn. 470, 154 N.W. 2d 185 (1967).

204C.10 PERMANENT REGISTRATION; VERIFICATION OF REGISTRATION.

Changes effective July 1, 2017, and applies to elections conducted on or after that date

(a) An individual seeking to vote shall sign a polling place roster or voter signature certificate which states that the individual is at least 18 years of age, a citizen of the United States, has resided in Minnesota for 20 days immediately preceding the election, maintains residence at the address shown, is not under a guardianship in which the court order revokes the individual's right to vote, has not been found by a court of law to be legally incompetent to vote or has the right to vote because, if the individual was convicted of a felony, the felony sentence has expired or been completed or the individual has been discharged from the sentence, is registered and has not already voted in the election. The roster must also state: "I understand that deliberately providing false information is a felony punishable by not more than five years imprisonment and a fine of not more than $10,000, or both."

(b) At the presidential nomination primary, the polling place roster must also state: "I am in general agreement with the principles of the party for whose candidate I intend to vote, and I understand that my choice of a party's ballot will be public information." This statement must appear separately from the statements required in paragraph (a). The felony penalty provided for in paragraph (a) does not apply to this paragraph.

~~(b)~~ (c) A judge may, before the applicant signs the roster or voter signature certificate, confirm the applicant's name, address, and date of birth.

~~(c)~~ (d) After the applicant signs the roster or voter signature certificate, the judge shall give the applicant a voter's receipt. The voter shall deliver the voter's receipt to the judge in charge of ballots as proof of the voter's right to vote, and thereupon the judge shall hand to the voter the ballot. The voters' receipts must be maintained during the time for notice of filing an election contest.

History: *1981 c 29 art 5 s 10; 1981 c 92 s 3; 1981 c 217 s 6; 1983 c 253 s 12; 1984 c 560 s 15; 1986 c 444; 1990 c 585 s 27; 1999 c 132 s 21; 2004 c 293 art 1 s 31; 2005 c 156 art 6 s 45; 2006 c 242 s 22; 2014 c 288 art 2 s 5; 2016 c 162 s 7*

204C.11 [Repealed, 1984 c 560 s 26]

204C.12 CHALLENGES TO VOTERS; PENALTY.

Subdivision 1. **Manner of challenging.** An election judge shall, and an authorized challenger or other voter may, challenge an individual whom the person knows or reasonably believes is not an eligible voter.

Subd. 2. **Statement of grounds; oath.** A challenger must be a resident of this state. The secretary of state shall prepare a form that challengers must complete and sign when making a challenge. The form must include space to state the ground for the challenge, a statement that the challenge is based on the challenger's personal knowledge, and a statement that the challenge is made under oath. The form must include a space for the challenger's printed name, signature, telephone number, and address.

An election judge shall administer to the challenged individual the following oath:

"Do you solemnly swear (or affirm) that you will fully and truly answer all questions put to you concerning your eligibility to vote at this election?"

The election judge shall then ask the challenged individual sufficient questions to test that individual's residence and right to vote.

Subd. 3. **Determination of residence.** In determining the legal residence of a challenged individual, the election judges shall be governed by the principles contained in section 200.031. If the challenged individual's answers to the questions show ineligibility to vote in that precinct, the individual shall not be allowed to vote. If the individual has marked ballots but not yet deposited them in the ballot boxes before the election judges determine ineligibility to vote in that precinct, the marked ballots shall be placed unopened with the spoiled ballots. If the answers to the questions fail to show that the individual is not eligible to vote in that precinct and the challenge is not withdrawn, the election judges shall verbally administer the oath on the voter certificate to the individual. After taking the oath and completing and signing the voter certificate, the challenged individual shall be allowed to vote.

Subd. 4. **Refusal to answer questions or sign a polling place roster.** A challenged individual who refuses to answer questions or sign a polling place roster or voter signature certificate as required by this section must not be allowed to vote. A challenged individual who leaves the polling place and returns later willing to answer questions or sign a polling place roster or voter signature certificate must not be allowed to vote.

Subd. 5. **Election judges; penalty.** An election judge who fails to carry out the duties prescribed by this section is guilty of a gross misdemeanor.

History: *1981 c 29 art 5 s 12; 1983 c 253 s 13,14; 1986 c 444; 1990 c 585 s 28; 2005 c 156 art 6 s 46; 2010 c 201 s 38; 2014 c 288 art 2 s 6*

NOTES AND DECISIONS

204C.12

At time of voting only qualifications of voter are subject to challenge. *Bell v. Gannaway*, 303 Minn. 346, 227 N.W.2d 797 (1975).

In the absence of fraud, collusion or participation or consent of the voter, numbers placed on ballots by election officials which could be used to identify the ballots could be counted. *Johnson v. Swenson*, 246 Minn. 449, 119 N.W. 2d 723 (1963).

Before ballot shall be declared defective because of identifying marks thereon there must be evidence that the voter, and not an election judge or some other person, marked the ballot with distinguishing characteristics which evidenced the voter's intent to identify it. *Marshall v. Stepka*, 259 Minn. 533, 108 N.W. 2d 614 (1961).

Procedure for challenging voters as specified in the case of general election under former section 204A.39 would be the proper way for an election judge at an independent school district election to exercise his challenging power. Op. Atty. Gen. 187A-9, May 13, 1970.

The challenge of a voter may not be an automatic response to all seeking a ballot, it must be based on knowledge or reasonable suspicion that the prospective voter is not qualified, and any challenger who demonstrates a pattern of almost continuous challenge of voters would seem to indicate that he is not acting on knowledge or suspicion, but is merely seeking to obstruct voting process in violation of M.S. 210A.07. Op. Atty. Gen. 182, October 26, 1964.

204C.13 RECEIVING AND MARKING BALLOTS.

Subdivision 1. **Handing ballot to voter.** When the election judges are satisfied that an individual is eligible to vote in that precinct, the election judge in charge of the ballots shall give the voter only one ballot of each kind that is to be voted upon at that precinct. Each ballot shall be removed separately as needed for each voter from the previously initialed pile of ballots.

Subd. 2. **Voting booths.** One of the election judges shall explain to the voter the proper method of marking the ballots and, during a primary election, the effect of attempting to vote in more than one party's primary. Except as otherwise provided in section 204C.15, the voter shall retire alone to an unoccupied voting booth or, at the voter's discretion, the voter may choose to use another writing surface. The voter shall mark the ballots without undue delay. The voter may take sample ballots into the booth to assist in voting. The election judges may adopt and enforce reasonable rules governing the amount of time a voter may spend in the voting booth marking ballots.

Subd. 3. **Marking ballots.** The voter shall mark each ballot in the following manner:

(a) The voter shall fill in the oval or similar mark if a different target shape is used, opposite the printed name of each candidate for whom the individual desires to vote, and in the oval or other target shape before the "Yes" or "No" if the individual desires to vote for or against a question.

(b) The voter may write in other names on the lines provided under the printed names of the candidates, except that no names shall be written in on primary ballots.

(c) At a state primary an individual may vote for candidates of only one major political party on the partisan primary ballot. If a partisan primary ballot contains votes for the candidates of more than one major political party, the ballot is totally defective and no vote on the partisan section of the ballot shall be counted.

(d) An individual who spoils a ballot may return it to the election judges and receive another.

Subd. 4. [Repealed, 2015 c 70 art 1 s 63]

Subd. 5. **Deposit of ballots in ballot box.** The voter shall then withdraw from the voting booth with the ballots and immediately deposit each ballot in the ballot box. Ballots that have not been initialed by the election judges as provided in section 204C.09, shall not be deposited in the ballot box.

Subd. 6. **Challenge of voter; time limits; disposition of ballots.** At any time before the ballots of any voter are deposited in the ballot boxes, the election judges or any individual who was not present at the time the voter procured the ballots, but not otherwise, may challenge the eligibility of that voter and the deposit of any received absentee ballots in the ballot boxes. The election judges shall determine the eligibility of any voter who is present in the polling place in the manner provided in section 204C.12, and if the voter is found to be not eligible to vote, shall place the ballots of that voter unopened among the spoiled ballots. The election judges shall determine whether to receive or reject the ballots of an absent voter and whether to deposit received absentee ballots in the ballot boxes in the manner provided in sections 203B.121 and 203B.24 and shall dispose of any absentee ballots not received or deposited in the manner provided in section 203B.121. A violation of this subdivision by an election judge is a gross misdemeanor.

Subd. 7. **Leaving the polling place.** An individual who has voted or whose ballot has been rejected shall leave the polling place and shall not return except as provided by section 204C.06 or 204C.07.

History: *1981 c 29 art 5 s 13; 1987 c 222 s 1; 2010 c 201 s 39; 2011 c 76 art 1 s 28; 2015 c 70 art 1 s 35-37*

NOTES AND DECISIONS

204C.13

Challenge of candidate who was left off of ballot for State Representative is primary election to voter eligibility based on residence address was barred, where challenge only came after the ballots in question had been deposited in the ballot box. *Beaulieu v. Mack,*788 N.W.2d 892 (Minn. 2010).

Candidate for United States Senator could not challenge legality of absentee ballots after ballots had been deposited in ballot box, and thus absentee ballot return envelopes, which had been opened and the enclosed ballots removed and counted in election, were admissible, in candidate's contest of election, to show that local election officials had erroneously accepted and counted the ballots. In re *Contest of General Election Held on November 4, 2008, for Purpose of electing a U.S. Senator from State of Minnesota,* 767 N.W.2d 453 (Minn. 2009).

Statutory violations in the conduct of elections do not of themselves invalidate an election. *Munnell v. Rowlette*, 275 Minn. 92, 145 N.W. 2d 531 (1966).

Under former law held: In the absence of fraud, collusion or participation or consent of the voter, numbers placed on ballots by election officials which could be used to identify the ballots could be counted. *Johnson v. Swenson*, 246 Minn. 449, 119 N.W. 2d 723 (1963). *But see* M.S. 204C.16; 204C.18.

Before ballot shall be declared defective because of identifying marks theron there must be evidence that the voter and not an election judge or some other person, marked the ballot with distinguishing characters which evidenced the voter's intent to identify it. *Marshall v. Stepka*, 259 Minn. 533, 108 N.W. 2d 614 (1961).

In canvassing, object is to give effect to voter intent, where manifested according to statute. *Murray v. Floyd*, 216 Minn. 69, 11 N.W.2d 780 (1943).

Discussion of irregularities involving the use of stickers for write-in votes. Id.

Irregular or imperfect mark did not invalidate ballot where mark intended to express voter's choice. *Pye v. Hanzel*, 200 Minn. 135, 273 N.W. 611 (1937).

204C.14 UNLAWFUL VOTING; PENALTY.

Subdivision 1. **Violations; penalty.** No individual shall intentionally:

(a) Misrepresent the individual's identity in applying for a ballot, depositing a ballot in a ballot box or attempting to vote by means of a voting machine or electronic voting system;

(b) Vote more than once at the same election;

(c) Put a ballot in a ballot box for any illegal purpose;

(d) Give more than one ballot of the same kind to an election judge to be placed in a ballot box;

(e) Aid, abet, counsel or procure another to go into any precinct for the purpose of voting in that precinct, knowing that the other individual is not eligible to vote in that precinct; or

(f) Aid, abet, counsel or procure another to do any act in violation of this section.

A violation of this section is a felony.

Subd. 2. **Signature on roster as evidence of intent.** For purposes of proving a violation of this section, the signature of an individual on a polling place roster or voter signature certificate is prima facie evidence of the intent of the individual to vote at that election.

History: *1981 c 29 art 5 s 14; 1986 c 444; 2013 c 131 art 2 s 32; 2013 c 131 art 3 s 5; 2014 c 288 art 2 s 7*

204C.15 ASSISTANCE TO VOTERS.

Subdivision 1. **Physical assistance in marking ballots**. A voter who claims a need for assistance because of inability to read English or physical inability to mark a ballot may obtain the aid of two election judges who are members of different major political parties. The election judges shall mark the ballots as directed by the voter and in as secret a manner as circumstances permit. A voter in need of assistance may alternatively obtain the assistance of any individual the voter chooses. Only the following persons may not provide assistance to a voter: the voter's employer, an agent of the voter's employer, an officer or agent of the voter's union, or a candidate for election. The person who assists the voter shall, unaccompanied by an election judge, retire with that voter to a booth and mark the ballot as directed by the voter. No person who assists another voter as provided in the preceding sentence shall mark the ballots of more than three voters at one election. Before the ballots are deposited, the voter may show them privately to an election judge to ascertain that they are marked as the voter directed. An election judge or other individual assisting a voter shall not in any manner request, persuade, induce, or attempt to persuade or induce the voter to vote for any particular political party or candidate. The election judges or other individuals who assist the voter shall not reveal to anyone the name of any candidate for whom the voter has voted or anything that took place while assisting the voter.

Subd. 2. **Outside the polling place**. An individual who is unable to enter a polling place where paper ballots or an electronic voting system are used may register and vote without leaving a motor vehicle. Two election judges who are members of different major political parties shall assist the voter to register and to complete a voter's certificate and shall provide the necessary ballots. The voter may request additional assistance in marking ballots as provided in subdivision 1.

Subd. 2a. [Repealed, 1Sp2001 c 10 art 18 s 44]

Subd. 3. **Voting lines**. In all polling places two election judges shall assist a disabled voter to enter the polling place and go through the registration and voting lines. The voter may also request the assistance of election judges or any other individual in marking ballots, as provided in subdivision 1.

History: *1981 c 29 art 5 s 15; 1984 c 471 s 11,12; 1986 c 444; 1997 c 147 s 38; 2006 c 242 s 23; 2013 c 131 art 2 s 33*

NOTES AND DECISIONS

204C.15

Former section 204A.34 held to apply to village and town elections. Op. Atty. Gen. 490E, November 19, 1954.

It was not permissible for one of judges of election on election day to take ballot from polling place to home of sick or disabled person, permit such person to mark it and then return it to polling place and cast it in name of such person. Op. Atty. Gen. 28C-1, November 27, 1935.

204C.16 MISMARKING BALLOTS; DISCLOSURE OF MARKINGS BY OTHERS; PENALTY.

An election judge or other individual who marks the ballot of any voter, except as authorized by law and as directed by the voter, or who informs anyone other than the voter how the ballot was marked, is guilty of a gross misdemeanor.

History: *1981 c 29 art 5 s 16*

204C.17 VOTING; SECRECY.

Except as authorized by section 204C.15, a voter shall not reveal to anyone in the polling place the name of any candidate for whom the voter intends to vote or has voted. A voter shall not ask for or receive assistance in the marking of a ballot from anyone within the polling place except as authorized by section 204C.15. If a voter, after marking a ballot, shows it to anyone except as authorized by law, the election judges shall refuse to deposit the ballot in any ballot box and shall place it among the spoiled ballots. Unless the showing of the ballot was clearly intentional, the voter shall receive another ballot as provided in section 204C.13, subdivision 3, clause (d).

History: *1981 c 29 art 5 s 17*

204C.18 BALLOTS; SECRECY.

Subdivision 1. **Party preferences; protection of secrecy.** The election judges shall make no entry or notation in the election register or anywhere else showing the political party to which a voter belongs or for which political party the voter voted. No election judge shall knowingly permit anyone in the polling place to make such an entry or notation.

Subd. 2. **Ballots; identifying marks; penalty.** No voter, election judge, or other individual shall place at any time a mark as a means of identification upon any ballot handed to or cast by a voter or upon spoiled or discarded ballots, except the initials authorized by section 204C.09. A violation of this subdivision is a gross misdemeanor.

History: *1981 c 29 art 5 s 18; 1986 c 444*

NOTES AND DECISIONS

204C.18

Absent proof of intent to identify ballot, mark before blank line would not be a violation. *Murray v. Floyd*, 216 Minn. 69, 11 N.W.2d 780 (1943).

Purpose of prohibition of distinguishing marks on ballots is to preserve secrecy and prevent bribery, fraud and intimidation. *Aura v. Brandt*, 211 Minn. 281, 1 N.W.2d 381 (1942).

Not all marks or irregularities are to be considered violations of this section. *Hanson v. Emanuel*, 210 Minn. 271, 297 N.W. 749 (1941).

204C.19 COUNTING VOTES; PENALTY.

Subdivision 1. **Procedure.** When the hours for voting have ended and all voting has concluded, the election judges shall immediately count the votes cast at the election. The count shall be held at the polling place and shall be public. It shall be continued without intermission until it is completed and the results are declared, except that the election judges may recess for meals or other necessary purposes. During the count no one except the election judges shall handle the ballots. Any other individual who touches or interferes with ballots during the counting or any election judge who permits such touching or interference is guilty of a misdemeanor.

Subd. 2. **Ballots; order of counting.** Except as otherwise provided in this subdivision, the ballot boxes shall be opened, the votes counted, and the total declared. The election judges on each counting team shall be evenly divided between the major political parties. The numbers entered on the summary sheet shall not be considered final until the ballots in all the boxes have been counted and corrections have been made if ballots have been deposited in the wrong boxes.

Subd. 3. **Premature disclosure of count results.** No count results from any precinct shall be disclosed by any election judge or other individual until all count results from that precinct are available, nor shall the public media disclose any count results from any precinct before the time when voting is scheduled to end in the state.

History: *1981 c 29 art 5 s 19; 1987 c 266 art 1 s 38; 1991 c 227 s 17; 2013 c 131 art 2 s 34*

NOTES AND DECISIONS

204C.19

Absentee ballot may not be challenged after deposit in ballot box except for invalidity on the face of the ballot. *Bell v. Gannaway*, 303 Minn. 346, 227 N.W. 2d 797 (1975).

Absentee ballot, which was torn and had been repaired by tape, was properly allowed on theory that it was mutilated ballot presumed to have been torn after it was received and counted by election officers. *Sperl v. Wegwerth*, 265 Minn. 47, 120 N.W. 2d 355 (1963).

It is improper for a clerk who is not a judge to handle ballots while judges are engaged in counting same. Op. Atty. Gen. 28A-3, December 12, 1950.

204C.20 BALLOTS; NUMBER TO BE COUNTED

Subdivision 1. **Determination of proper number**. The election judges shall determine the number of ballots to be counted by adding the number of return envelopes from accepted absentee ballots to the number of signed voter's certificates, or to the number of names entered in the election register. The election judges shall then remove all the ballots from the box. Without considering how the ballots are marked, the election judges shall ascertain that each ballot is separate and shall count them to determine whether the number of ballots in the box corresponds with the number of ballots to be counted.

Subd. 2. **Excess ballots**. If two or more ballots are found folded together like a single ballot, the election judges shall lay them aside until all the ballots in the box have been counted. If it is evident from the number of ballots to be counted that the ballots folded together were cast by one voter, the election judges shall preserve but not count them. If the number of ballots in one box exceeds the number to be counted, the election judges shall examine all the ballots in the box to ascertain that all are properly marked with the initials of the election judges. If any ballots are not properly marked with the initials of the election judges, the election judges shall preserve but not count them; however, if the number of ballots does not exceed the number to be counted, the absence of either or both sets of initials of the election judges does not, by itself, disqualify the vote from being counted and must not be the basis of a challenge in a recount. If there is still an excess of properly marked ballots, the election judges shall replace them in the box, and one election judge, without looking, shall withdraw from the box a number of ballots equal to the excess. The withdrawn ballots shall not be counted but shall be preserved as provided in subdivision 4.

Subd. 3. **Ballots in wrong box.** If the election judges find in a ballot box any ballots that are not the kind properly belonging in it, they shall lay those ballots aside. If the number of ballots found in any box equals or exceeds the number of ballots to be counted, the ballots which should have been placed in that box, but which are found in another box, shall not be counted. If the number of ballots found in a box is less that the number of ballots to be counted, and a number of ballots equal to or less than the deficiency and properly belonging in that box are found in another box, the latter ballots shall be counted. If the number of ballots found in another box exceeds the deficiency, the excess ballots shall be placed in the proper ballot box and, without looking, an election judge shall withdraw a number of ballots equal to the deficiency and the withdrawn ballots shall then be counted.

Subd. 4. **Ballots not counted; disposition.** When the final count of ballots agrees with the number of ballots to be counted, those ballots not counted shall be attached to a certificate made by the election judges which states why the ballots were not counted. The certificate of uncounted ballots shall be sealed in a separate envelope and returned to the county auditor or municipal or school district clerk from whom they were received.

History: *1981 c 29 art 5 s 20; 1987 c 266 art 1 s 39; 2004 c 293 art 2 s 25*

204C.21 COUNTING BALLOTS; PILING SYSTEM.

Subdivision 1. **Method.** The election judges shall take all the ballots of the same kind and count the votes cast for each office or question, beginning with the first office or question on the ballot. They shall make one pile of the ballots for each candidate who received votes for that office, or one pile for the "Yes" votes and one pile for the "No" votes on a question. They shall make a pile of totally defective ballots and a pile of totally blank ballots. They shall make a pile of ballots that are not totally defective but are defective with respect to the office or question being counted and a pile of ballots that are not totally blank but are blank with respect to the office or question being counted. After the separation into piles, the election judges shall examine each pile and remove and place in the proper pile any ballots that are found in the wrong pile. The election judges shall count the totally blank and totally defective ballots and set them aside until the counting is over for that ballot. The election judges may pile ballots crosswise in groups of 25 in the same pile to facilitate counting. When their counts agree, the election judges shall announce the number of ballots in each pile, and shall write the number in the proper place on the summary statements.

The election judges shall then return all the counted ballots, and all the partially defective or partially blank ballots, to the original pile to be separated and counted in the same manner for the next office or question.

Subd. 2. **More than one candidate to be elected; piling.** Where more than one candidate is to be elected to an office, the votes for that office shall be counted and canvassed in the manner provided in subdivision 1 as far as practicable.

Subd. 3. **Primary.** At a primary the election judges shall first separate the partisan ballots by major political party and then count the votes for each office as provided in subdivision 1. The nonpartisan primary ballots shall be counted separately after the partisan primary ballots have been counted.

History: *1981 c 29 art 5 s 21*

204C.22 DETERMINING VOTER'S INTENT

Subdivision 1. **Ballot valid if intent determinable.** A ballot shall not be rejected for a technical error that does not make it impossible to determine the voter's intent. In determining intent the principles contained in this section apply.

Subd. 2. **From face of ballot only.** Intent shall be ascertained only from the face of the ballot.

Subd. 3. **Votes for too many candidates.** If a voter places a mark beside the names of more candidates for an office than are to be elected or nominated, the ballot is defective with respect only to that office. No vote shall be counted for any candidate for that office, but the rest of the ballot shall be counted if possible. At a primary, if a voter has not indicated a party preference and places a mark beside the names of candidates of more than one party on the partisan ballot, the ballot is totally defective and no votes on it shall be counted. If a voter has indicated a party preference at a primary, only votes cast for candidates of that party shall be counted.

Subd. 3a. **Votes yes and no.** If a voter votes both yes and no on a question, no vote may be counted for that question, but the rest of the ballot must be counted if possible.

Subd. 4. **Name written in proper place.** If a voter has written the name of an individual in the proper place on a general or special election ballot a vote shall be counted for that individual whether or not the voter makes a mark in the oval or other target shape opposite the blank.

Subd. 4a. **Write-in vote for candidate team.** A write-in vote cast for a candidate for governor without a write-in vote for a candidate for lieutenant governor must be counted as a vote for the candidate team including the lieutenant governor candidate selected by that candidate for governor.

Subd. 5. **Name written on primary ballot.** If a voter has written the name of an individual on a primary or special primary ballot, a vote shall not be counted for that office.

Subd. 6. **Mark out of place.** If a mark (X) is made out of its proper place, but so near a name or space as to indicate clearly the voter's intent, the vote shall be counted.

Subd. 7. **All written names or marks counted up to limit.** If a number of individuals are to be elected to the same office, the election judges shall count all names written in and all printed names with marks in oval or other target shape opposite them, not exceeding the whole number to be elected. When fewer names than the number to be elected are marked or written in, only the marked or written in names shall be counted. When more names than the number to be elected are marked or written in, the ballot is defective with respect to that office and no vote shall be counted for that office.

Subd. 8. **Misspelling; abbreviations.** Misspelling or abbreviations of the names of write-in candidates shall be disregarded if the individual for whom the vote was intended can be clearly ascertained from the ballot.

Subd. 9. **Votes for only some offices or questions determined.** If the voter's choice for only some of the offices or questions can be determined from a ballot, the ballot shall be counted for those offices or questions only.

Subd. 10. **Different marks.** If a voter uniformly uses a mark that clearly indicates an intent to mark a name or to mark yes or no on a question, and the voter does not use the more standard mark anywhere else on the ballot, a vote shall be counted for each candidate or response to a question marked. If a voter uses two or more distinct marks, such as (X) and some other mark, a vote shall be counted for each candidate or response to a question marked, unless the ballot is marked by distinguishing characteristics that make the entire ballot defective as provided in subdivision 13.

Subd. 11. **Attempted erasures.** If the names of two candidates have been marked, and an attempt has been made to erase or obliterate one of the marks, a vote shall be counted for the remaining marked candidate. If an attempt has been made to obliterate a write-in name a vote shall be counted for the remaining write-in name or marked candidate.

Subd. 12. **Soil; defacement.** A ballot shall not be rejected merely because it is slightly soiled or defaced.

Subd. 13. **Identifying ballot.** If a ballot is marked by distinguishing characteristics in a manner making it evident that the voter intended to identify the ballot, the entire ballot is defective.

Subd. 14. **No votes for certain offices.** If the number of candidates for an office is equal to the number of individuals to be elected to that office, and the voter has not marked any name, no vote shall be counted for any candidate for that office.

Subd. 15. **Blank ballot for one or more offices valid.** If no name or response to a question is marked and no name is written in, the ballot is blank with respect to that office or question. A ballot that is blank with respect to one or more offices or questions is not defective.

History: *1981 c 29 art 5 s 22; 1987 c 222 s 2; 1990 c 453 s 7-10; 1991 c 320 s 14; 2015 c 70 art 1 s 38-41*

NOTES AND DECISIONS

204C.22

Mere irregularities in marking of ballots, which neither create uncertainty as to voter's choice nor serve as distinguishing signs violative of secrecy are not cause for rejecting ballot. *Sperl v. Wegwerth*, 265 Minn. 47, 120 N.W. 2d 955 (1963).

Appearance of marks which trial court may reasonably consider to be tentative or accidental should not destroy ballot. Id.

Ballot on which "X" mark was clearly placed in box provided for vote for one candidate was properly allowed, even though another short faint mark apparently made with ball point pen was placed before other candidate's name. Id.

Ballot on which diagonal mark appeared below X and in front of place provided for opposing candidate was properly allowed. Id.

Ballot on which voter made clear mark in box opposite candidate's name was properly allowed even though voter had also used check mark in line above name of such candidate and then had drawn line through it as if to indicate mistake. Id.

Ballot on which voter uniformly used check marks in indicating his choices but on which check marks started out as short downstroke with longer diagonal upstroke, but gradually changed until at one point voter used what appeared to be diagonal or slash-type mark, was properly allowed. Id.

Ballot containing uniform crossmarks in squares opposite names of those for whom voter had cast his vote but which contained word "no" in squares opposite names of two candidates for whom he did not vote was properly counted in election for state representative. *Fitzgerald v. Morlock*, 264 Minn. 520, 120 N.W. 2d 339 (1963).

Although voter's crossmarks were somewhat irregular, since they indicated an attempt by voter to place crossmark in voting space before name of every candidate for which vote was cast and voter's intent could be clearly ascertained, ballot was properly counted. Id.

Ballot which contained heavily penciled line in write-in space for one office was properly counted despite argument that pencil line was a distinguishing mark by voter. Id.

Voting by double "X" for candidate did not of itself constitute an identifying or distinguishing mark and ballot should be counted. Id.

Ballot in which voter wrote in name of candidate for sheriff in write-in space for coroner was valid and would be counted in election for state representative. Id.

Ballot which had crossmarks both before and after several candidates' names did not show voter was attempting to identify ballot and would be counted. Id.

Ballot on which name "jake" was written in the write-in space for coroner did not contain an intentional distinguishing mark and would be counted in election for office of state representative. Id.

Irregularities in marking of ballots which neither create uncertainty as to voter's choice nor serve as distinguishing signs, violative of secrecy, are not course for rejecting ballots. Id.

Ballot on which voter wrote name "anderson" in space for coroner, without further identification of person for whom vote was cast, did not contain an identifying mark intentionally placed there by voter and would be counted in election for state representative. Id.

Person who challenges ballot on ground that voter has placed a distinguishing mark theron for purpose of identifying ballot must bear burden of proving that voter, not someone else, made identifying marks. Id.

Ballot containing oval mark in upper left hand corner, obviously made by voter in testing writing quality of pen before marking ballot, was properly counted despite claim that oval was an identifying mark. Id.

Marks made by voter on ballot in such a manner that it can reasonably be seen or inferred that they were made in an attempt to indicate his choice or vote for candidates or measures to be voted for, are generally held not to be identifying marks. Id.

Ballots otherwise marked with pencil but on which extraneous numeral "5" in one case and "9" in the other appeared on bottom of face of ballot, apparently written by same hand with ballpoint pen, would be counted in absence of testimony that voters might have placed these marks on the ballots as identifying marks. Id.

Ballot which contained words "anyone else" in write-in space for county surveyor and surname "Phillips" written in space for coroner did not show intent to make an identifying mark and would be counted in election for office of state representative. Id.

Ballot on which voter wrote an identifiable name in write-in space for coroner without any crossmark being placed in voting square was not valid as an attempt to distinguish ballot, and would be counted in election for state representative. Id.

Ballot which contained word "no" and an obliteration before name of one candidate was properly accepted for counting. Id.

Ballot in which voter had crossed out letter "J" while attempting to write in name of "Dr. Jurgens" for coroner had a mere obliteration and would be counted in election for office of representative. Id.

Ballots which had crossmarks both in pencil and in ink on same ballot were properly counted. Id.

Ballot having uniform crossmarks except for one check mark opposite write-in space for coroner contained a mere irregularity and would be counted in election for state representative. Id.

Ballots which contained superfluous or irregular marks of one kind or another outside voting squares were properly counted and could not be rejected as containing distinguishing or identifying marks. Id.

Ballot whose only irregularity was two crossmarks within voting square for county auditor and from which voter's intent could be clearly ascertained would be counted in election for state representative. Id.

Ballots which contained slightly indistinct crossmarks and which were not exactly uniform were properly counted in election contest where crossmarks closely approximated correct marks. Id.

Ballot in which second type of voting mark used thereon was somewhat indistinct but which fulfilled statutory requirement in that it closely approximated proper crossmark as otherwise uniformly used, should be counted. Id.

Ballot in which voter appeared to have inadvertently placed an extraneous figure "C" in write-in space for county surveyor, but which was otherwise uniformly marked in a clear manner, would be counted in election for state representative. Id.

Ballot which had short perpendicular pencil mark in write-in space for office of coroner but which had all other crossmarks uniform was properly counted in election for office of state representative. Id.

Ballots which contained otherwise uniform crossmarks throughout but which, in one case, had a downstroke in crossmark for sheriff and, in other case, had line drawn across top of crossmark used to vote for commissioner were properly counted in election for state representative. Id.

Ballot in which voter placed a crossmark in voting square opposite write-in space for county treasurer and an additional crossmark before printed name of candidate for treasurer but otherwise used uniform crossmarks throughout ballot was properly counted for office of state representative. Id.

Before ballot shall be declared defective because of identifying marks theron, there must be evidence that the voter, and not an election judge or some other person, marked the ballot with distinguishing characteristics which evidenced the voter's intent to identify it. *Marshal v. Stepka*, 259 Minn. 533, 108 N.W. 2d 955 (1961).

Where an office is to be filled at an election, the voter may indicate his choice on the ballot although the ballot contains no appropriate blank for such purpose. *Aura v. Brandt*, 211 Minn. 281, 1 N.W. 2d 381 (1942).

Where an office is not filled at an election, but there is an honest belief on part of voters, resting upon reasonable grounds, that there is a vacancy to fill, voter may indicate his choice on the ballot although the ballot contains no appropriate blank for such purpose. Id.

Ballot, on which no pencil mark appeared but on which appeared faint indication of crossmark opposite name of candidate in square after his name which had resulted from pressure exerted on some other piece of paper on which pencil mark was actually made, was properly rejected because not marked with pencil. Id. *Pye v. Hanzel*, 200 Minn. 135, 273 N.W. 611 (1937).

Disqualification of person receiving highest number of votes does not result in election of qualified person receiving next highest number of votes unless voters had knowledge of disqualifications. Op. Atty. Gen. 184M, April 11, 1961.

Spoiled and defective ballots may not be considered in determining whether or not an ordinance requiring a percentage of the vote cast at an election is passed. Op. Atty. Gen. 28A-3, April 14, 1955.

When name is written on ballot and there are two persons in township by same name, parol evidence may be considered in determining intention of voter. Op. Atty. Gen. 28A-3, March 22, 1949.

Spoiled ballots should not be included in determining result of question of public of public importance requiring a percentage of the vote cast at such election. Op. Atty. Gen. 434C-5, April 7, 1948.

Where two justices of the Supreme Court are to be elected, four names appear upon ballot, and ballot contains the instruction "vote for two" a voter may, if he wishes, vote for but one candidate and have his ballot counted, but if voter marks more names than there are candidates to be elected, his ballot shall not be counted for such office, although the rest of his ballot, if properly marked, shall be counted. Op. Atty. Gen. 1948, 42, p. 92.

Where a name is written in on ballot such ballot must be counted whether an "X" appears in the square following the name or not. Op. Atty. Gen. 28A-3, April 18, 1945.

204C.23 DEFECTIVE BALLOTS.

A ballot that is defective to the extent that the election judges are unable to determine the voter's intent shall be marked on the back "Defective" if it is totally defective or "Defective as to .....," naming the office or question if it is defective only in part.

History: *1981 c 29 art 5 s 23*

204C.24 ELECTION RETURNS; SUMMARY STATEMENTS.

Subdivision 1. **Information requirements.** Precinct summary statements shall be submitted by the election judges in every precinct. For all elections, the election judges shall complete three or more copies of the summary statements, and each copy shall contain the following information for each kind of ballot:

(a) the number of ballots delivered to the precinct as adjusted by the actual count made by the election judges, the number of unofficial ballots made, and the number of absentee ballots delivered to the precinct;

(b) the number of votes each candidate received or the number of yes and no votes on each question, the number of undervotes, the number of overvotes, and the number of defective ballots with respect to each office or question;

(c) the number of spoiled ballots, the number of duplicate ballots made, the number of absentee ballots rejected, and the number of unused ballots, presuming that the total count provided on each package of unopened prepackaged ballots is correct;

(d) the number of individuals who voted at the election in the precinct which must equal the total number of ballots cast in the precinct, as required by sections 204C.20 and 206.86, subdivision 1;

(e) the number of voters registering on election day in that precinct; and

(f) the signatures of the election judges who counted the ballots certifying that all of the ballots cast were properly piled, checked, and counted; and that the numbers entered by the election judges on the summary statements correctly show the number of votes cast for each candidate and for and against each question.

At least two copies of the summary statement must be prepared for elections not held on the same day as the state elections.

Subd. 2. **Sealing in envelopes.** The election judges shall place a full set of completed summary statements in each of three separate envelopes and seal them so that the envelopes cannot be opened without leaving evidence that they have been opened. The election judges shall then sign each envelope over the sealed part so that no envelope can be opened without disturbing the continuity of the signatures. Each of the envelopes shall show substantially the following information on its face:

"Summary statements of the returns of the .... election precinct, (Town) or (City) of ....., or (School District Number) ...., in the County of ....., State of Minnesota."

History: *1981 c 29 art 5 s 24; 1981 c 217 s 7; 1983 c 253 s 15; 1984 c 447 s 31; 1987 c 175 s 8; 1987 c 266 art 1 s 40; 1988 c 646 s 6; 1999 c 132 s 22; 2005 c 156 art 6 s 47; 2010 c 201 s 40*

NOTES AND DECISIONS

204C.24

The function of canvassing election returns is ministerial, and it entails review only of the precinct summary statements of returns, not examination of actual ballots. *Coleman v. Ritchie*, 759 N.W.2d 47 (Minn. 2009).

County auditor can appoint messenger only when and if judges do not perform their duties by delivering election returns. Op. Atty. Gen. 183S, October 31, 1962.

During the time that an election judge is performing his duties, he does not have the right to be performing any other public duties of any kind or nature. Op. Atty. Gen. 183L, May 27, 1953.

204C.25 DISPOSITION OF BALLOTS.

After the count and the summary statements have been completed, in the presence of all the election judges, the counted, defective and blank ballots shall be placed in envelopes, and the envelopes shall be sealed. The election judges shall sign each envelope over the sealed part so that the envelope cannot be opened without disturbing the continuity of the signatures. The number of ballots in each envelope, the name of the town or city, and the name of the precinct shall be plainly written upon the envelopes. The number and name of the district must be plainly written on envelopes containing school district ballots. The spoiled ballots shall be placed in separate envelopes and returned with the unused ballots to the county auditor or municipal or school district clerk from whom they were received.

History: *1981 c 29 art 5 s 25; 1983 c 253 s 16; 1987 c 266 art 1 s 41; 2013 c 131 art 2 s 35*

204C.26 SUMMARY STATEMENTS AND ENVELOPES FOR BALLOT RETURNS; ELECTION OFFICIALS TO FURNISH.

Subdivision 1. **Summary statements.** For state elections, each official responsible for printing ballots shall furnish three or more blank summary statement forms for the returns of those ballots for each precinct. At least two copies of the summary statement must be prepared for elections not held on the same day as the state elections. The blank summary statement forms shall be furnished at the same time and in the same manner as the ballots. The county auditor shall furnish blank summary statement forms containing separate space for the summary statement of the returns of the state general election ballot.

Subd. 2. **Summary statements; contents.** The blank summary statement forms furnished to each precinct shall identify the precinct, ward number if any, city, school district if applicable, or town, date, and kind of election and, under appropriate headings identifying each color ballot, shall contain spaces for the election judges to enter the information required by section 204C.24, subdivision 1.

Each blank summary statement form shall also contain a certificate to be signed by the election judges stating that the national flag was displayed on a suitable staff during voting hours; that all of the ballots cast were properly piled, checked, and counted; and that the numbers entered by the election judges on the summary statements correctly show the number of votes cast for each candidate and for and against each question.

Subd. 3. **Secretary of state.** No later than ten weeks before the state primary in each even-numbered year, the secretary of state shall prescribe the form for summary statements of election returns and the methods by which returns for the state primary and state general election shall be recorded by precinct, county, and state election officials. Each county auditor and municipal or school district clerk required to furnish summary statements shall prepare them in the manner prescribed by the secretary of state. The summary statement of the primary returns shall be in the same form as the summary statement of the general election returns except that a separate part of the summary statement shall be provided for the partisan primary ballot and a separate part for the nonpartisan primary ballot.

Subd. 4. **Envelopes for counted ballots.** Each official responsible for printing ballots shall also furnish envelopes to contain those ballots after they have been counted. The envelopes shall be made of heavy paper, printed or marked to distinguish the color of the ballots to be contained in them. They shall be of convenient size to hold the ballots and shall be furnished at the same time and in the same manner as the ballots.

History: *1981 c 29 art 5 s 26; 1981 c 217 s 8; 1987 c 266 art 1 s 42,43; 1999 c 132 s 23* ; *2010 c 184 s 19; 2014 c 264 s 18*

NOTES AND DECISIONS

204C.26

Statutory requirement that all ballots must be initialed by election judges is intended to assure voter that he is given an authentic ballot, to enable public to identify actual ballot cast in event of election contest, and to prevent fraud. *Johnson v. Trinka*, 277 Minn. 470, 154 N.W. 2d 185 (1967).

County auditor can appoint messenger only when and if judges do not perform their duties by delivering election returns. Op. Atty. Gen. 183S, October 31, 1962.

During the time that an election judge is performing his duties, he does not have the right to be performing any other public duties of any kind or nature. Op. Atty. Gen. 183L, May 27, 1953.

204C.27 DELIVERY OF RETURNS TO COUNTY AUDITORS.

One or more of the election judges in each precinct shall deliver two sets of summary statements; all spoiled ballots; and the envelopes containing the ballots either directly to the municipal clerk for transmittal to the county auditor's office or directly to the county auditor's office as soon as possible after the vote counting is completed but no later than 24 hours after the end of the hours for voting. One or more election judges shall deliver the remaining set of summary statements and returns, all unused and spoiled municipal and school district ballots, the envelopes containing municipal and school district ballots, and all other things furnished by the municipal or school district clerk, to the municipal or school district clerk's office within 24 hours after the end of the hours for voting. The municipal or school district clerk shall return all polling place rosters and completed voter registration cards to the county auditor within 48 hours after the end of the hours for voting.

History: *1981 c 29 art 5 s 27; 1984 c 560 s 16; 1987 c 175 s 9; 1987 c 266 art 1 s 44; 1990 c 585 s 29; 2013 c 131 art 2 s 36*

NOTES AND DECISIONS

204C.27

County auditor can appoint messenger only when and if judges do not perform their duties by delivering election returns. Op. Atty. Gen. 183S, October 31, 1962.

During the time that an election judge is performing his duties, he does not have the right to be performing any other public duties of any kind or nature. Op. Atty. Gen. 183L, May 27, 1953.

204C.28 ELECTION NIGHT; DUTIES OF COUNTY AUDITORS AND MUNICIPAL CLERKS.

Subdivision 1. **County auditor.** Every county auditor shall remain at the auditor's office to receive delivery of the returns, to permit public inspection of the summary statements, and to tabulate the votes until all have been tabulated and the results made known, or until 24 hours have elapsed since the end of the hours for voting, whichever occurs first. Every county auditor shall, in the presence of the municipal clerk or the election judges who deliver the returns, make a record of all materials delivered, the time of delivery, and the names of the municipal clerk or election judges who made delivery. The record must include the number of ballots delivered to the precinct, as certified by section 204B.28, and the total number of ballots returned, as certified by the election judges under section 204C.24. A discrepancy between the number of ballots delivered to the

precinct and the number of total ballots returned by election judges that cannot be reconciled by taking into account the adjustments made by the election judge counts and any unofficial ballots must be noted, but does not necessarily require disqualification of the votes from that precinct or invalidation of the election. The county auditor shall file the record and all envelopes containing ballots in a safe and secure place with envelope seals unbroken. Access to the record and ballots shall be strictly controlled. Accountability and a record of access shall be maintained by the county auditor during the period for contesting elections or, if a contest is filed, until the contest has been finally determined. Thereafter, the record, shall be retained in the auditor's office for the same period as the ballots as provided in section 204B.40.

The county auditor shall file all envelopes containing ballots in a safe place with seals unbroken. If the envelopes were previously opened by proper authority for examination or recount, the county auditor shall have the envelopes sealed again and signed by the individuals who made the inspection or recount. The envelopes may be opened by the county canvassing board if necessary to procure election returns that the election judges inadvertently may have sealed in the envelopes with the ballots. In that case, the envelopes shall be sealed again and signed in the same manner as otherwise provided in this subdivision.

Subd. 2. **Clerks.** The clerk of every first, second, and third class city shall remain at the clerk's office to receive delivery of returns, or until 24 hours have elapsed since the end of the hours for voting, whichever occurs first. The clerk of every first class city shall keep a book in which, in the presence of the election judges or other individuals who deliver the returns, the clerk shall make a record of all materials delivered, the time of delivery, and the names of the election judges or other individuals who made delivery. The record must include the number of ballots delivered to the precinct, as certified by section 204B.28, and the total number of ballots returned, as certified by the election judges under section 204C.24. A discrepancy between the number of ballots delivered to the precinct and the number of total ballots returned by election judges that cannot be reconciled by taking into account the adjustments made by the election judge counts and any unofficial ballots must be noted, but does not necessarily require disqualification of the votes from that precinct or invalidation of the election. The book shall be retained in the clerk's office for the same period as the ballots as provided in section 204B.40.

Subd. 3. **School district returns and materials.** At a school district election held in conjunction with a state election, the county auditor or municipal clerk shall deliver the summary statements of the school district election returns, all unused and spoiled school district ballots, and the envelope containing the school district ballots from each precinct to the clerk of the appropriate school district within 48 hours after the polls close.

History: *1981 c 29 art 5 s 28; 1986 c 444; 1987 c 266 art 1 s 45; 2005 c 156 art 6 s 48; 2010 c 201 s 41, 42*

204C.29 IMPROPER DELIVERY OF RETURNS.

Subdivision 1. **Failure of election judges to make delivery; penalty.** If the election judges fail to deliver returns as required by section 204C.27, the county auditor or municipal or school district clerk to whom the returns should have been delivered shall dispatch a special messenger to obtain them. The messenger shall receive the same compensation as an election judge would receive for performing the same service and shall be subject to the same penalties as an election judge for violation of any provision of the Minnesota election law.

Subd. 2. **Irregularities in delivery.** An officer to whom election returns are required to be made shall not refuse to receive them because they are delivered in any manner other than that prescribed by law, except that the returns must be sealed. No canvassing board shall refuse to include any returns in its canvass of votes because of any informality in holding the election or making returns. All returns shall be received and the votes canvassed by the canvassing board and included in its statements when there is substantial compliance with the provisions of the Minnesota election law.

Subd. 3. **Damaging returns or preventing delivery; penalty.** No individual who is appointed to carry a report, certificate, or certified copy of election returns shall intentionally mutilate, tear, deface or obliterate any portion of it or do any act to prevent its delivery. No individual shall take or accept from a messenger any report, certificate or certified copy of election returns with intent to prevent its delivery, or having taken or accepted it, shall mutilate, tear, deface, obliterate or destroy any portion of it. A violation of this subdivision is a felony.

History: *1981 c 29 art 5 s 29; 1987 c 266 art 1 s 46*

204C.30 ELECTION RETURNS; ADDITIONAL DUTIES OF COUNTY AUDITOR.

Subdivision 1. [Repealed, 2015 c 70 art 1 s 63]

Subd. 2. [Repealed, 1984 c 560 s 26]

History: *1981 c 29 art 5 s 30*

204C.31 CANVASSING BOARDS; MEMBERSHIP.

Subdivision 1. **County canvassing board.** The county canvassing board shall consist of the county auditor, the court administrator of the district court, the mayor or chair of the town board of the county's most populous municipality, and two members of the county board selected by the board from its members who are not candidates at the election. Any member of the canvassing board may appoint a designee to appear at the meeting of the board, except that no designee may be a candidate for public office. If one of these individuals fails to appear at the meeting of the canvassing board and in the absence of any selection by the county board from among its own members, the county auditor shall appoint an eligible voter of the county who is not a public official or a candidate for public office to fill the vacancy. Three members constitute a quorum.

Subd. 2. **State Canvassing Board.** The state canvassing board shall consist of the secretary of state, two judges of the supreme court, and two judges of the district court selected by the secretary of state. None of the judges shall be a candidate at the election. If a judge fails to appear at the meeting of the canvassing board, the secretary of state shall fill the vacancy in membership by selecting another judge who is not a candidate at the election. Not more than two judges of the supreme court shall serve on the canvassing board at one time.

Subd. 3. **Duties of canvassing boards.** The returns from every election held in this state must be reported to a legally constituted canvassing board. The duties of each canvassing board are limited to those duties specified in sections 204C.32 to 204C.39.

History: *1981 c 29 art 5 s 31; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 175 s 10; 1989 c 291 art 1 s 13; 1993 c 223 s 13; 1997 c 147 s 39*

NOTES AND DECISIONS

204C.31

Canvassing board does not determine whether write-in candidate has qualifications for position. Op. Atty. Gen. 399E, December 3, 1962.

Only the county canvassing board canvasses returns for statewide office and forwards results of said canvass to secretary of state. Op. Atty. Gen. 183E, November 15, 1962.

County canvassing board may not open ballot boxes and inspect each paper ballot except after notice to candidates. Op. Atty. Gen. 183C, November 12, 1962.

County canvassing board must inspect the registering counter or other mechanical device on each voting machine used and compare the numbers with those reported by the election officials. Op. Atty. Gen. 183C, November 8, 1962.

When the county auditor inadvertently fails to include the congressional candidates' names on the primary ballot, the county canvassing board should perform their duties in the routine manner. Op. Atty. Gen. 183B, September 13, 1962.

State canvassing board may be convened as soon as possible when required subsequent to special election. Op. Atty. Gen. 185B-1, February 25, 1958.

Clerk of court and auditor may serve on canvassing board even though candidates for reelection. Op. Atty. Gen. 183C, November 1, 1950.

204C.32 CANVASS OF STATE PRIMARIES.

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office on either the second or third day following the state primary. After taking the oath of office, the canvassing board shall publicly canvass the election returns delivered to the county auditor. The board shall complete the canvass by the third day following the state primary and shall promptly prepare and file with the county auditor a report that states:

(a) The number of individuals voting at the election in the county, and in each precinct;

(b) The number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;

(c) For each major political party, the names of the candidates running for each partisan office and the number of votes received by each candidate in the county and in each precinct;

(d) The names of the candidates of each major political party who are nominated; and

(e) The number of votes received by each of the candidates for nonpartisan office in each precinct in the county and the names of the candidates nominated for nonpartisan office.

Upon completion of the canvass, the county auditor shall mail or deliver a notice of nomination to each nominee for county office voted for only in that county. The county auditor shall transmit one of the certified copies of the county canvassing board report for state and federal offices to the secretary of state by express mail or similar service immediately upon conclusion of the county canvass. The secretary of state shall mail a notice of nomination to each nominee for state or federal office.

Subd. 2. **State canvass.** The state canvassing board shall meet at the secretary of state's office seven days after the state primary to canvass the certified copies of the county canvassing board reports received from the county auditors. Immediately after the canvassing board declares the results, the secretary of state shall certify the names of the nominees to the county auditors. The secretary of state shall mail to each nominee a notice of nomination.

History: *1981 c 29 art 5 s 32; 1983 c 303 s 14; 1984 c 560 s 17; 1993 c 223 s 14; 1997 c 147 s 40; 2000 c 467 s 20; 2010 c 194 s 18 ; 2011 c 65 s 4*

NOTES AND DECISIONS

204C.32

State canvassing board may be directed to reconvene to correct error. *Haroldson v. Norman*, 146 Minn. 426, 178 N.W. 1003 (1920).

Function of canvassing boards is ministerial. *Taylor v. Taylor*, 10 Minn. 107, Gil. 81 (1865).

Clerk of court and auditor may serve on canvassing board even though candidates for reelection. Op. Atty. Gen. 183C, November 1, 1950.

Canvassing board does not determine whether write-in candidates has qualifications for position. Op. Atty. Gen. 399E, December 3, 1962.

Only the county canvassing board canvasses returns for statewide office and forwards results of said canvass to secretary of state. Op. Atty. Gen. 183E, November 15, 1962.

County canvassing board may not open ballot boxes and inspect each paper ballot except after notice to candidates. Op. Atty. Gen. 183C, November 12, 1962.

County canvassing board must inspect the registering counter or other mechanical device on each voting machine used and compare the numbers with those reported by the election officials. Op. Atty. Gen. 183C, November 8, 1962.

When the county auditor inadvertently fails to include the congressional candidates' names on the primary ballot, the county canvassing board should perform their duties in the routine manner as provided in this section. Op. Atty. Gen. 183B, September 13, 1962.

State canvassing board may be convened as soon as possible when required subsequent to special election. Op. Atty. Gen. 185B-1, February 25, 1958.

204C.33 CANVASS OF STATE GENERAL ELECTIONS.

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office between the third and tenth days following the state general election. After taking the oath of office, the board shall promptly and publicly canvass the general election returns delivered to the county auditor. Upon completion of the canvass, the board shall promptly prepare and file with the county auditor a report which states:

(a) The number of individuals voting at the election in the county and in each precinct;

(b) The number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;

(c) The names of the candidates for each office and the number of votes received by each candidate in the county and in each precinct;

(d) The number of votes counted for and against a proposed change of county lines or county seat; and

(e) The number of votes counted for and against a constitutional amendment or other question in the county and in each precinct.

The result of write-in votes cast on the general election ballots must be compiled by the county auditor before the county canvass, except that write-in votes for a candidate for federal, state, or county office must not be counted unless the candidate has timely filed a request under section 204B.09, subdivision 3. The county auditor shall arrange for each municipality to provide an adequate number of election judges to perform this duty or the county auditor may appoint additional election judges for this purpose. The county auditor may open the envelopes or containers in which the voted ballots have been sealed in order to count and record the write-in votes and must reseal the voted ballots at the conclusion of this process. The county auditor must prepare a separate report of votes received by precinct for write-in candidates for federal, state, and county offices who have requested under section 204B.09 that votes for those candidates be tallied.

Upon completion of the canvass, the county canvassing board shall declare the candidate duly elected who received the highest number of votes for each county and state office voted for only within the county. The county auditor shall transmit a certified copy of the county canvassing board report for state and federal offices to the secretary of state by messenger, express mail, or similar service immediately upon conclusion of the county canvass.

Subd. 2. **County canvassing board reports; public availability.** The county auditor of each county shall provide a certified copy of the county canvassing board report to anyone who requests it upon payment to the auditor of costs of reproduction actually incurred by the auditor's office. The auditor shall not take into account the general office expenses or other expenses.

Subd. 3. **State canvass.** The state canvassing board shall meet at the secretary of state's office on the third Tuesday following the state general election to canvass the certified copies of the county canvassing board reports received from the county auditors and shall prepare a report that states:

(a) The number of individuals voting in the state and in each county;

(b) The number of votes received by each of the candidates, specifying the counties in which they were cast; and

(c) The number of votes counted for and against each constitutional amendment, specifying the counties in which they were cast.

All members of the state canvassing board shall sign the report and certify its correctness. The state canvassing board shall declare the result within three days after completing the canvass.

History: *1981 c 29 art 5 s 33; 1983 c 303 s 15; 1997 c 147 s 41; 2000 c 467 s 21; 2004 c 293 art 2 s 26; 2010 c 194 s 19, 20; 2010 c 201 s 43*

NOTES AND DECISIONS

204C.33

The function of canvassing election returns is ministerial, and it entails review only of the precinct summary statements of returns, not examination of actual ballots. *Coleman v. Ritchie*, 759 N.W.2d 47 (Minn. 2009).

Although county canvassing board could not be reconvened under former M.S. 204A.515, if obvious error will thereby be corrected, fact that reconvened is but a technical irregularity. *Application of Anderson*, 264 Minn. 257, 119 N.W. 2d 1 (1962). *But see* M.S. 204C.38.

State canvassing board may be directed to reconvene to correct error. *Haroldson v. Norman*, 146 Minn. 426, 178 N.W. 1003 (1920).

Court has jurisdiction to review whether constitutional amendment was legally adopted. In re *McConaughy*, 106 Minn. 392, 119 N.W. 408 (1909).

Function of canvassing boards is ministerial. *Taylor v. Taylor*, 10 Minn. 107, Gil. 81 (1865).

Canvassing board does not determine whether write-in candidate has qualifications for position. Op. Atty. Gen. 339E, December 3, 1962.

Only the county canvassing board canvasses returns for statewide office and forwards results of said canvass to secretary of state. Op. Atty. Gen. 183E, November 15, 1962.

County canvassing board may not open ballot boxes and inspect each paper ballot except after notice to candidates. Op. Atty. Gen. 183C, November 12, 1962.

County canvassing board must inspect the registering counter or other mechanical device on each voting machine used and compare the numbers with those reported by the election officials. Op. Atty. Gen. 183C, November 8, 1962.

When the county auditor inadvertently fails to include the congressional candidates' names on the primary ballot, the county canvassing board should perform their duties in the routine manner as provided in this section. Op. Atty. Gen. 183B, September 13, 1962.

Secretary of state has no statutory authority to withhold certificate of election of representative in congress, but Congress may have authority to direct that procedure be held in abeyance. Op. Atty. Gen. 185B-1, December 4, 1958.

The duties of canvassing board as provided by Minnesota statutes are purely ministerial. Such a board may not determine that the death of a party nominee results in the nomination of the party candidate receiving the next highest number of votes. Op. Atty. Gen. 28B-1, September 22, 1948.

204C.34 TIE VOTES.

In case of a tie vote for nomination or election to an office, the canvassing board with the responsibility for declaring the results for that office shall determine the tie by lot.

History: *1981 c 29 art 5 s 34*

204C.35 FEDERAL, STATE, AND JUDICIAL RACES.

Subdivision 1. **Publicly funded recounts**. (a) In a state primary when the difference between the votes cast for the candidates for nomination to:

(1) a state legislative office is less than one-half of one percent of the total number of votes counted for that nomination or is ten votes or less and the total number of votes cast for the nomination is 400 votes or less; or

(2) a statewide federal office, state constitutional office, statewide judicial office, congressional office, or district judicial office is less than one-quarter of one percent of the total number of votes counted for that nomination or is ten votes or less and the total number of votes cast for the nomination is 400 votes or less; and the difference determines the nomination, the canvassing board with responsibility for declaring the results for that office shall manually recount the vote upon receiving a written request from the candidate whose nomination is in question.

Immediately following the meeting of the board that has responsibility for canvassing the results of the nomination, the filing officer must notify the candidate that the candidate has the option to request a recount of the votes at no cost to the candidate. This written request must be received by the filing officer no later than 5:00 p.m. on the second day after the canvass of the primary for which the recount is being sought.

(b) In a state general election when the difference between the votes of a candidate who would otherwise be declared elected to:

(1) a state legislative office is less than one-half of one percent of the total number of votes counted for that office or is ten votes or less and the total number of votes cast for the office is 400 votes or less; or

(2) a statewide federal office, state constitutional office, statewide judicial office, congressional office, or district judicial office and the votes of any other candidate for that office is less than one-quarter of one percent of the total number of votes counted for that office or is ten votes or less if the total number of votes cast for the office is 400 votes or less, the canvassing board shall manually recount the votes upon receiving a written request from the candidate whose election is in question.

Immediately following the meeting of the board that has responsibility for canvassing the results of the general election, the filing officer must notify the candidate that the candidate has the option to request a recount of the votes at no cost to the candidate. This written request must be received by the filing officer no later than 5:00 p.m. on the second day after the canvass of the election for which the recount is being sought.

(c) A recount must not delay any other part of the canvass. The results of the recount must be certified by the canvassing board as soon as possible.

(d) Time for notice of a contest for an office which is recounted pursuant to this section shall begin to run upon certification of the results of the recount by the canvassing board.

Subd. 2. **Discretionary candidate recounts.** (a) A losing candidate whose name was on the ballot for nomination or election to a statewide federal office, state constitutional office, statewide judicial office, congressional office, state legislative office, or district judicial office may request a recount in a manner provided in this section at the candidate's own expense when the vote difference is greater than the difference required by this section. The votes shall be manually recounted as provided in this section if the candidate files a request during the time for filing notice of contest of the primary or election for which a recount is sought.

(b) The requesting candidate shall file with the filing officer a bond, cash, or surety in an amount set by the filing officer for the payment of the recount expenses. The requesting candidate is responsible for the following expenses: the compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount.

(c) a discretionary recount of a primary must not delay delivery of the notice of nomination to the winning candidate under section 204C.32.

(d) The requesting candidate may provide the filing officer with a list of up to three precincts that are to be recounted first and may waive the balance of the recount after these precincts have been counted. If the candidate provides a list, the recount official must determine the expenses for those precincts in the manner provided by paragraph (b).

(e) The results of the recount must be certified by the canvassing board as soon as possible.

(f) If the winner of the race is changed by the optional recount, the cost of the recount must be paid by the jurisdiction conducting the recount.

(g) If a result of the vote counting in the manual recount is different from the result of the vote counting reported on election day by a margin greater than the standard for acceptable performance of voting systems provided in section 206.89, subdivision 4, the cost of the recount must be paid by the jurisdiction conducting the recount.

Subd. 3. **Scope of recount.** A recount conducted as provided in this section is limited in scope to the determination of the number of votes validly cast for the office to be recounted. Only the ballots cast in the election and the summary statements certified by the election judges may be considered in the recount process. Original ballots that have been duplicated under section 206.86, subdivision 5, are not within the scope of a recount and must not be examined except as provided by a court in an election contest under chapter 209.

Subd. 4. **Filing officer.** For the purpose of this section, the secretary of state is the filing officer for candidates for all federal offices and for state offices voted on in more than one county. The county auditor is the filing officer for state offices voted on in only one county.

History: *1981 c 29 art 5 s 35; 1981 c 187 s 1; 1983 c 253 s 17; 1989 c 291 art 1 s 14; 1990 c 486 s 1; 1993 c 68 s 1; 1998 c 254 art 2 s 24; 1Sp2001 c 10 art 18 s 28; 2004 c 293 art 2 s 27; 2008 c 336 s 2, 3; 2010 c 201 s 44, 45; 2013 c 131 art 2 s 37, 38; 2015 c 70 art 1 s 42, 43*

NOTES AND DECISIONS

204C.35

During automatic administrative recount, absent a voluntary agreement between local election officials and two candidates for seat in United States Senate that absentee ballots had been rejected in error and that the absentee-ballot envelopes should be opened and the ballots should be counted, resolution of whether the absentee ballots were rejected in error would have to await an election contest proceeding. *Coleman v. Ritchie*, 759 N.W. 2d 47 (Minn. 2009).

A manual administrative recount, which is necessary when the margin of victory in an election is less than one-half of one percent, is intended to ensure that the votes cast in the election were accurately counted. *Coleman v. Ritchie*, 759 N.W.2d 47 (Minn. 2009).

204C.36 RECOUNTS IN COUNTY, SCHOOL DISTRICT, AND MUNICIPAL ELECTIONS.

Subdivision 1. **Publicly funded recounts**. (a) Except as provided in paragraphs (b) and (c), a losing candidate for nomination or election to a county, municipal, or school district office may request a recount of the votes cast for the nomination or election to that office if the difference between the vote cast for that candidate and for a winning candidate for nomination or election is less than one-quarter of one percent of the total votes counted for that office. In case of offices where two or more seats are being filled from among all the candidates for the office, the one-quarter of one percent difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected.

(b) A losing candidate for nomination or election to a county, municipal, or school district office may request a recount of the votes cast for nomination or election to that office if the difference between the votes cast for that candidate and for a winning candidate for nomination or election is less than one-half of one percent, and the total number of votes cast for the nomination or election of all candidates is more than 400 but less than 50,000. In cases of offices where two or more seats are being filled from among all the candidates for the office, the one-half of one percent difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected.

(c) A losing candidate for nomination or election to a county, municipal, or school district office may request a recount of the votes cast for nomination or election to that office if the difference between the vote cast for that candidate and for a winning candidate for nomination or election is ten votes or less, and the total number of votes cast for the nomination or election of all candidates is no more than 400. In cases of offices where two or more seats are being filled from among all the candidates for the office, the ten vote difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected.

(d) Candidates for county offices shall file a written request for the recount with the county auditor. Candidates for municipal or school district offices shall file a written request with the municipal or school district clerk as appropriate. All requests shall be filed by 5:00 p.m. on the fifth day after the canvass of a primary or special primary or by 5:00 p.m. on the seventh day of the canvass of a special or general election for which a recount is sought.

(e) Upon receipt of a request made pursuant to this section, the county auditor shall recount the votes for a county office at the expense of the county, the governing body of the municipality shall recount the votes for a municipal office at the expense of the municipality, and the school board of the school district shall recount the votes for a school district office at the expense of the school district.

Subd. 2. **Discretionary candidate recounts.** (a) A losing candidate for nomination or election to a county, municipal, or school district office may request a recount in the manner provided in this section at the candidate's own expense when the vote difference is greater than the difference required by subdivision 1, clauses (a) to (e). The votes shall be manually recounted as provided in this section if the requesting candidate files with the county auditor, municipal clerk, or school district clerk a bond, cash, or surety in an amount set by the governing body of the jurisdiction or the school board of the school district for the payment of the recount expenses.

(b) The requesting candidate may provide the filing officer with a list of up to three precincts that are to be recounted first and may waive the balance of the recount after these precincts have been counted. If the candidate provides a list the recount official must determine the expenses for those precincts in the manner provided by paragraph (b).

(c) A discretionary recount of a primary must not delay delivery of the notice of nomination to the winning candidate under section 204C.32.

(d) The results of the recount must be certified by the canvassing board as soon as possible.

(e) If the winner of the race is changed by the optional recount, the cost of the recount must be paid by the jurisdiction conducting the recount.

(f) If a result of the vote counting in the manual recount is different from the result of the vote counting reported on election day by a margin greater than the standard for acceptable performance of voting systems provided in section 206.89, subdivision 4, the cost of the recount must be paid by the jurisdiction conducting the recount.

Subd. 3. **Discretionary ballot question recounts**. A recount may be conducted for a ballot question when the difference between the votes for and the votes against the question is less than or equal to the difference provided in subdivision 1. A recount may be requested by any person eligible to vote on the ballot question. A written request for a recount must be filed with the filing officer of the county, municipality, or school district placing the question on the ballot and must be accompanied by a petition containing the signatures of 25 voters eligible to vote on the question. Upon receipt of a written request when the difference between the votes for and the votes against the question is less than or equal to the difference provided in subdivision 1, the county auditor shall recount the votes for a county question at the expense of the county, the governing body of the municipality shall recount the votes for a municipal question at the expense of the municipality, and the school board of the school district shall recount the votes for a school district question at the expense of the school district. If the difference between the votes for and the votes against the question is greater than the difference provided in subdivision 1, the person requesting the recount shall also file with the filing officer of the county, municipality, or school district a bond, cash, or surety in an amount set by the appropriate governing body for the payment of recount expenses. The written request, petition, and any bond, cash, or surety required must be filed during the time for notice of contest for the election for which the recount is requested.

Subd. 4. **Expenses**. In the case of a question, a person, or a candidate requesting a discretionary recount, is responsible for the following expenses: the compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount.

Subd. 5. **Notice of contest**. Time for notice of contest of a nomination or election to a county office which is recounted pursuant to this section shall begin to run upon certification of the results of the recount by the county canvassing board. Time for notice of contest of a nomination or election to a municipal office which is recounted pursuant to this section shall begin to run upon certification of the results by the governing body of the municipality. Time for notice of contest of a school district election that is recounted under this subdivision begins to run on certification of the results of the recount by the school board.

Subd. 6. **Scope of recount.** A recount conducted as provided in this section is limited in scope to the determination of the number of votes validly cast for the office or question to be recounted. Only the ballots cast in the election and the summary statements certified by the election judges may be considered in the recount process.

History: *1981 c 29 art 5 s 36; 1987 c 266 art 1 s 47; 1989 c 291 art 1 s 15; 1Sp2001 c 10 art 18 s 29,30; 2004 c 293 art 2 s 28; 2008 c 336 s 4; 2010 c 201 s 46, 47; 2013 c 131 art 2 s 39; 2015 c 70 art 1 s 44, 45*

NOTES AND DECISIONS

204C.36

Certificate of proper canvassing board declaring election result is prima facie evidence of result and places on contestant burden of showing that person declared elected did not receive majority of votes. *Kearin v. Roach*, 381 N.W. 2d 531 (Minn. Ct. App. 1986).

204C.361 RULES FOR RECOUNTS.

(a) The secretary of state shall adopt rules according to the Administrative Procedure Act establishing uniform recount procedures. All recounts provided for by sections 204C.35, 204C.36, and 206.88, shall be conducted in accordance with these rules.

(b) Notwithstanding Minnesota Rules, part 8235.0800, the requirement that ballots be recounted by precinct means that a recount official shall maintain the segregation of ballots by precinct but the recount official may recount more than one precinct at a time in physically separate locations within the room in which the recount is administered.

History: *1983 c 253 s 18; 1989 c 291 art 1 s 16; 1990 c 426 art 1 s 25; 2004 c 293 art 2 s 29*

204C.37 COUNTY CANVASS; RETURN OF REPORTS TO SECRETARY OF STATE.

Changes effective August 1, 2016

A copy of the report required by sections 204C.32, subdivision 1 and 204C.33, subdivision 1 shall be certified under the official seal of the county auditor. The copy shall be enclosed in an envelope addressed to the secretary of state, with the county auditor's name and official address and the words "Election Returns" endorsed on the envelope. The copy of the canvassing board report ~~and the precinct summary statements~~ must be sent by express mail or delivered to the secretary of state. If the copy is not received by the secretary of state within ten days following the applicable election, the secretary of state shall immediately notify the county auditor, who shall deliver another copy to the secretary of state by special messenger.

History: *1981 c 29 art 5 s 37; 2000 c 467 s 22; 2010 c 201 s 48; 2016 c 161 art 1 s 10*

NOTES AND DECISIONS

204C.37

The function of canvassing election returns is ministerial, and it entails review only of the precinct summary statements of returns, not examination of actual ballots. *Coleman v. Ritchie*, 759 N.W.2d 47 (Minn. 2009).

204C.38 CORRECTION OF OBVIOUS ERRORS; WHEN CANDIDATES AGREE.

Subdivision 1. **Errors of election judges.** If the candidates for an office unanimously agree in writing that the election judges in any precinct have made an obvious error in the counting or recording of the votes for that office, they shall deliver the agreement to the county auditor of that county who shall reconvene the county canvassing board, if necessary, and present the agreement to it. The county canvassing board shall correct the error as specified in the agreement.

Subd. 2. **Errors of county canvassing board.** If the candidates for an office unanimously agree in writing that the county canvassing board has made an obvious error in the counting and recording of the vote for that office they shall notify the county auditor who shall reconvene the canvassing board. The county canvassing board shall promptly correct the error as specified in the agreement and file an amended report. When an error is corrected pursuant to this subdivision, the county canvassing board and the county auditor shall proceed in accordance with sections 204C.32 to 204C.36.

Subd. 3. **Errors of state canvassing board.** If the candidates for an office unanimously agree in writing that the state canvassing board has made an obvious error in the counting and recording of the vote for that office they shall deliver the agreement to the secretary of state. If a certificate of election has not been issued, the secretary of state shall reconvene the state canvassing board and present the agreement to it. The board shall promptly correct the error as specified in the agreement and file an amended statement. When an error is corrected pursuant to this subdivision by the state canvassing board, the state canvassing board and the secretary of state shall proceed in accordance with sections 204C.32 to 204C.36.

History: *1981 c 29 art 5 s 38*

NOTES AND DECISIONS

204C.38

Improper rejection of an absentee ballot envelope was not within the scope of errors subject to correction under statutory procedure for correction by county canvassing boards of obvious errors in the counting and recording of votes, and therefore county canvassing boards lacked statutory authority to count such ballots on that basis. *Coleman v. Ritchie*, 759 N.W.2d 47 (Minn. 2009).

During automatic administrative recount, absent a voluntary agreement between local election officials and two candidates for seat in United States Senate that absentee ballots had been rejected in error and that the absentee-ballot envelopes should be opened and the ballots should be counted, resolution of whether the absentee ballots were rejected in error would have to await an election contest proceeding. *Coleman v. Ritchie,* 759 N.W.2d 47 (Minn. 2009).

Former section intended to protect potential candidates for public office from errors and omissions of person charged with properly completed procedural and mechanical duties attendant to election process. It does not apply to error of applicant who in affidavit of candidacy inadvertently designated legislative district of her residence as "43B" instead of "43A" and who sought order directing county auditor to place her name on primary election ballot. *Schroeder v. Johnson*, 311 Minn. 144, 252 N.W. 2d 851 (1976).

Candidates not admitted or entitled to be admitted to practice law in state are not eligible for office of associate justice of Supreme Court. In re *Scarrella*, 300 Minn. 500, 221 N.W. 2d 562 (1974).

Premeditated attempt to group names of endorsed candidates on primary election ballots would raise inference of unfairness sufficiently serious to constitute an error. *Mattson v. McKenna*, 301 Minn. 103, 222 N.W. 2d 273 (1974).

Reconvened county canvassing board may be compelled under former section 204A.52, although letter is technically incorrect procedure. *Application of Andersen*, 264 Minn. 257, 119 N.W. 2d 1 (1962).

Candidate for election by petition held included by inference in former section. *Williams v. Donovan,* 253 Minn. 493, 92 N.W., 2d 915 (1958).

204C.39 CORRECTION OF OTHER OBVIOUS ERRORS.

Changes effective August 1, 2016

Subdivision 1. **Manner of correction.** A county canvassing board may determine by majority vote that the election judges have made an obvious error in counting or recording the votes for an office. The county canvassing board shall then promptly notify all candidates for that office of the determination, including a description of the error. A candidate who receives notification pursuant to this subdivision or any candidate who believes that the election judges in a precinct have made an obvious error in the counting or recording of the votes for an office may apply without unreasonable delay to the district court of the county containing the precinct in which the alleged error was made for an order determining whether or not an obvious error has been made. The applicant shall describe the alleged error in the application and may submit additional evidence as directed by the court. The applicant shall notify the county canvassing board and all candidates for the affected office in the manner directed by the court. If the court finds that the election judges made an obvious error it shall issue an order specifying the error and directing the county canvassing board to inspect the ballots and returns of the precinct in order to correct the error and to proceed further in accordance with this section or otherwise as the court may direct.

Subd. 2. **Inspection; time; place.** The county auditor shall schedule a meeting of the county canvassing board at the auditor's office as soon as practicable after the court issues an order under subdivision 1 and shall give sufficient advance notice of the meeting to the affected candidates. The board, in the presence of all the candidates for the office or their representatives shall inspect the ballots and returns, correct any error and proceed further in accordance with the order of the court. Preparation of the county canvassing board report with respect to other offices on the ballot shall not be delayed because of an inspection required by this section.

Subd. 3. **Report of canvassing board; addendum.** After the canvassing board has inspected the ballots and returns, it shall promptly submit to the county auditor an addendum to its regular report, which addendum shall contain the following information:

(a) A copy of the order of the court, if any;

(b) The minutes of the meeting showing the time, date, and place of the meeting, the names of the candidates or their representatives who were present, and the action taken by the board;

(c) A copy of the meeting notice given to each candidate and proof of service; and

(d) The names of the candidates for each office for which votes were inspected and the total number of votes received by each candidate for that office in the county and in each precinct.

Subd. 4. **Canvassing board; declaration of results; notification.** The canvassing board shall declare the results of the election upon completing the inspection for the office in question. The report and declaration shall be filed by the county auditor, who shall mail a certified copy to each candidate for that office. The county auditor shall promptly notify the secretary of state by ~~certified~~ United States mail and electronic mail of the action of the county canvassing board.

History: *1981 c 29 art 5 s 39; 1986 c 444; 2016 c 161 art 1 s 11*

NOTES AND DECISIONS

204C.39

Improper rejection of an absentee ballot envelope was not within the scope of errors subject to correction under statutory procedure for correction by county canvassing boards of obvious errors in the counting and recording of votes, and therefore county canvassing boards lacked statutory authority to count such ballots on that basis. *Coleman v. Ritchie*, 759 N.W.2d 47 (Minn. 2009).

During automatic administrative recount, absent a voluntary agreement between local election officials and two candidates for seat in United States Senate that absentee ballots had been reflected in error and that the absentee-ballot envelopes should be opened and the ballots should be counted, resolution of whether the absentee ballots were rejected in error would have to await an election contest proceeding. *Coleman v. Ritchie,* 759 N.W.2d 47 (Minn. 2009).

See notes to sections 204C.33, 204C.38.

204C.40 CERTIFICATES OF ELECTION.

Subdivision 1. **Preparation; method of delivery.** The county auditor shall prepare an election certificate for every county candidate declared elected by the county canvassing board, and the secretary of state shall prepare a certificate for every state and federal candidate declared elected by either a county canvassing board or the state canvassing board. Except as otherwise provided in this section, the secretary of state or county auditor, as appropriate, shall deliver an election certificate on demand to the elected candidate. In an election for United States representative, the secretary of state shall deliver the original election certificate to the chief clerk of the United States house of representatives. In an election for United States senator, the governor shall prepare an original certificate of election, countersigned by the secretary of state, and deliver it to the secretary of the United States senate. In an election for state representative or state senator, the secretary of state shall deliver the original election certificate to the chief clerk of the house or the secretary of the senate. The chief clerk of the house or the secretary of the senate shall give a copy of the certificate to the representative-elect or senator-elect. Upon taking the oath of office, the representative or senator shall receive the original certificate of election. If a recount is undertaken by a canvassing board pursuant to section 204C.35, no certificate of election shall be prepared or delivered until after the recount is completed. In case of a contest, the court may invalidate and revoke the certificate as provided in chapter 209.

Subd. 2. **Time of issuance; certain offices.** No certificate of election shall be issued until seven days after the canvassing board has declared the result of the election.

History: *1981 c 29 art 5 s 40; 1986 c 475 s 15; 1991 c 227 s 18; 1999 c 132 s 24; 2015 c 70 art 1 s 46*

NOTES AND DECISIONS

204C.40

State statute under which governor was prohibited from issuing a certificate of election to either United States Senate candidate until a state court had finally decided a then-pending election contest did not infringe upon or usurp the authority of United States Senate to determine the "Elections, Returns and Qualifications of its own Members," as provided by the United States Constitution; election contest under state law could properly be characterized as an integral part of the electoral process within the ambit of the broad powers delegated to the States, and nothing prevented the United States Senate from seating petitioner, the apparent winner, on a provisional or conditional basis. *Franken v. Pawlent y*, 762 N.W. 2d 558 (Minn. 2009).

No federal constitutional or statutory mandate requires governor to issue to petitioner, the apparent winner in election for United States Senate, a certificate of election by the date designated by Congress for commencement of newly-elected Senators' terms. *Franken v. Pawlenty,* 762 N.W.2d 558 (Minn. 2009).

Provision of state election-contest statute mandating issuance of certificate of election upon completion of recount did not conflict with nor otherwise supersede provision precluding issuance of certificate until state courts had finally decided a pending election contest. *Franken v. Pawlenty,* 762 N.W. 2d 558 (Minn. 2009).

State statute that precluded issuance of certificate of election until state courts had finally decided a pending election contest applied to elections for United States Senate; applicability of statute's contest tolling provision, under which governor refused to issue certificate, was dependent upon existence of a court of proper jurisdiction which could finally determine the contest, and despite exclusive authority of Senate to decide contests pending in Congress, "contest," as used in statute, applied to contests initiated pursuant to general election laws of the state, in state courts. *Franken v. Pawlenty*, 762 N.W.2d 558 (Minn. 2009).

Former section held not to apply to election contests pending in the Congress of the United States pursuant to U.S. Const. art 1, s 4, 5. *Odegard v. Olson*, 264 Minn. 439, 119 N.W. 2d 717 (1963).

Certificate of election is *prima facie* evidence against direct challenge to election and conclusive against collateral attack. *Doyle v. Ries*, 205 Minn. 82, 285 N.W. 480 (1939).

Secretary of state has no statutory authority to withhold certificate of election of representative in Congress, but Congress may have authority to direct that procedure be held in abeyance. Op. Atty. Gen. 185B-1, December 4, 1958.

204C.41 NEGLECT OF DUTY; OTHER OFFENSES BY ELECTION OFFICIALS; PENALTY.

An election officer or other individual required by law to safely keep and produce ballots on election day or to perform any other act, who intentionally fails or refuses to perform the act required, or who is required by law to abstain from any act, and intentionally does the act, or who in either of these cases is guilty of fraud, corruption, partiality or misbehavior in conducting or aiding in the conduct of an election, or in counting or making returns of votes, or who wrongfully refuses to make or deliver a certificate of election, or who falsely or corruptly performs any required act, for which a punishment has not been otherwise expressly provided for by law, is guilty of a felony.

History: *1981 c 29 art 5 s 41; 1986 c 444*

204C.50 [Repealed, 2006 (see MS 206.89).]

History: *2004 c 293 art 2 s 30; 2005 c 156 art 6 s 49, 50*

CHAPTER 204D - PARTICULAR ELECTIONS

204D.01 DEFINITIONS.

The definitions in chapter 200 apply to this chapter.

History: *1981 c 29 art 6 s 1*

204D.02 OFFICERS CHOSEN AT STATE GENERAL ELECTION; TERMS OF OFFICE.

Subdivision 1. **Officers.** All elective state and county officers, justices of the supreme court, judges of the court of appeals and district court, state senators and state representatives, and senators and representatives in Congress shall be elected at the state general election held in the year before their terms of office expire. Presidential electors shall be chosen at the state general election held in the year before the expiration of a term of a president of the United States.

Subd. 2. **Term of office.** The term of office of all elective state and county officers shall begin on the first Monday in January of the odd-numbered year following their election.

History: *1981 c 29 art 6 s 2; 1983 c 247 s 88; 1998 c 154 art 2 s 25*

NOTES AND DECISIONS

204D.02

Occurrence of first Monday in January on holiday does not preclude person from qualifying for office on that day. Op. Atty. Gen. 35-9a-24, December 26, 1978.

204D.03 TIME OF STATE ELECTIONS.

Subdivision 1. **State primary.** The state primary shall be held on the second Tuesday in August in each even-numbered year to select the nominees of the major political parties for partisan offices and the nominees for nonpartisan offices to be filled at the state general election, other than presidential electors.

Subd. 2. **State general election.** The state general election shall be held on the first Tuesday after the first Monday in November in each even-numbered year.

Subd. 3**. Exception; certain partisan candidates.** (a) If no more than one candidate files for nomination by a major political party for a partisan office, the candidate who filed must be declared the nominee upon the close of filing. If every candidate for a partisan office has been declared the nominee upon the close of filing, the office must be omitted from the state primary ballot. If all offices, both partisan and nonpartisan , have been omitted from the state primary ballot in a municipality or county, the governing body of the municipality or county may decide that the state primary will not be conducted in that municipality or county.

(b) Within 15 days after the close of filing, each municipal clerk or county auditor whose governing body has decided not to conduct the state primary shall post notice that the offices have been so omitted and the state primary canceled and shall send a copy of the notice to the secretary of state.

History: *1981 c 29 art 6 s 3; 2005 c 156 art 6 s 51; 2010 c 184 s 20*

NOTES AND DECISIONS

204D.03

The state legislature has the choice to decide whether or not the state should have a presidential primary election. Their decisions will not be interfered with by the courts. *Irish v. DFL Party of Minnesota*, 287 F. Supp. 794 (D. Minn. 1968).

Primary elections are intended to reduce number of candidates to not more than two for each office. *State ex rel. Hennepin County Bar Ass'n. v. Amdahl*, 264 Minn. 350, 119 N.W. 2d 169 (1963).

204D.04 BALLOT PREPARATION.

Subdivision 1. **Rotation of offices; prohibition.** There shall be no rotation of offices on any ballot required to be prepared pursuant to this chapter for a state primary or a state general election.

Subd. 2. **Instructions to printer; printer's bond.** (a)The official charged with the preparation and distribution of the ballots shall prepare instructions to the printer for rotation of the names of candidates and for layout of the ballot.

(b) Except as provided in paragraph (c), the instructions shall be approved by the legal advisor of the official before delivery to the printer.

(c) The legal advisor of a town official is not required to approve instructions regarding the rotation of the names of candidates on the ballot or the layout of the ballot.

(d) Before a contract exceeding $1,000 is awarded for printing ballots, the printer shall furnish, if requested by the official, a sufficient bond, letter of credit, or certified check, acceptable to the official responsible for printing the ballots, conditioned on printing the ballots in conformity with the Minnesota Election Law and the instructions delivered. The official responsible for printing the ballots shall set the amount of the bond, letter of credit, or certified check in an amount equal to the value of the purchase.

History: *1981 c 29 art 6 s 4; 1986 c 444; 1987 c 175 s 11; 1990 c 453 s 11; 1993 c 223 s 15; 1Sp2001 c 10 art 18 s 31; 2003 c 76 s 1; 2010 c 201 s 49*

NOTES AND DECISIONS

204D.04

Former M.S. 203A held applicable to city election. Op. Atty. Gen. 28B-2, October 17, 1934.

204D.05 STATE PRIMARY BALLOTS; PARTISAN AND NONPARTISAN; OFFICIAL IN CHARGE.

Subdivision 1. **State partisan primary ballot.** The state partisan primary ballot shall contain the names of the candidates seeking the nomination of each major political party for the partisan offices filled at the state general election.

Subd. 2. **State and county nonpartisan primary ballot.** The state and county nonpartisan primary ballot shall contain the names of the candidates seeking nomination for the nonpartisan offices filled at the state general election.

Subd. 3. **County auditor to prepare.** The county auditor of each county shall prepare the state partisan primary ballot and the state and county nonpartisan primary ballot.

History: *1981 c 29 art 6 s 5*

NOTES AND DECISIONS

204D.05

After primary election, candidate may not change the form in which his name is to appear on general election ballot. Op. Atty. Gen. 28B-2, October 6, 1954.

When three candidates file for office of state senator and one dies before primary ballots are printed, names of candidates should not be placed on ballot. Op. Atty. Gen. 28B-1, August 16, 1954.

Even if there is only one filing for a partisan office, including Congress, name must be placed on primary ballot, but when only two persons file for nonpartisan office, names are not included on primary ballot. Op. Atty. Gen. 28B-5, July 2, 1954.

Name adopted or used by candidate may be printed on official ballot. Op. Atty. Gen. 28B-2, April 21, 1938.

204D.06 CERTIFICATION OF NAMES BY SECRETARY OF STATE.

At least 42 days before a state primary, the secretary of state shall certify to the county auditors the names of all candidates who have properly filed affidavits of candidacy with the secretary of state and who will be voted for in their respective counties at that primary.

History: *1981 c 29 art 6 s 6; 1983 c 303 s 16*

NOTES AND DECISIONS

204D.06

Secretary of State was a proper party-respondent on ballot challenge by voter and judicial candidate seeking an order striking name of appointed associate justice of state Supreme Court from primary and general election ballots or, alternatively, striking designation of that associate justice as incumbent on those ballots; although Secretary of State was not directly responsible for printing and preparation of ballots, ballot challenge concerned office for which voting was conducted statewide and for which the Secretary of State had provided the challenged ballot information to all 87 county auditors. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

204D.07 PLACING NAMES ON BALLOTS.

Subdivision 1. **Duties of county auditor.** Except as provided in subdivisions 2 and 3, the county auditor shall place on the appropriate state primary ballot the name of each candidate who has properly filed an affidavit of candidacy with the auditor and of each candidate certified by the secretary of state pursuant to section 204D.06.

Subd. 2. **Exception; petition candidates.** The name of a candidate nominated by petition shall not be placed on any state primary ballot.

Subd. 3. **Exception; certain nonpartisan candidate.** If not more than twice the number of individuals to be elected to a nonpartisan office file for the nomination, their names and the name of the office shall be omitted from the state and county nonpartisan primary ballot and the candidates who filed shall be the nominees.

History: *1981 c 29 art 6 s 7; 1986 c 444*

204D.08 STATE PRIMARY BALLOTS.

Subdivision 1. **Form.** Except as provided in this section, state primary ballots shall be printed in the same manner as state general election ballots as far as practicable. A sufficient number shall be printed for each precinct and ward in the state. The secretary of state shall adopt rules for the format and preparation of the state primary ballot.

Subd. 2. **Blank lines prohibited.** At a primary election, no blank lines shall be provided for writing in the names of individuals whose names do not appear on the primary ballot.

Subd. 3. **Rotation of names.** On state primary ballots the name of each candidate for nomination to a partisan or nonpartisan office shall be rotated with the names of the other candidates for nomination to that office so that the name of each candidate appears substantially an equal number of times at the top, at the bottom, and at each intermediate place in that group of candidates. If the number of candidates for an office is equal to or less than the number to be elected, no rotation of candidate names is required and the official preparing the ballot shall determine the position of the candidates by lot.

Subd. 4. **State partisan primary ballot; party columns.** The state partisan primary ballot shall be headed by the words "State Partisan Primary Ballot." The ballot shall be printed on white paper. There must be at least three vertical columns on the ballot and each major political party shall have a separate column headed by the words "..... Party," giving the party name. Above the party names, the following statement shall be printed.

"Minnesota election law permits you to vote for the candidates of only one political party in a state partisan primary election."

If there are only two major political parties to be listed on the ballot, one party must occupy the left-hand column, the other party must occupy the right-hand column, and the center column must contain the following statement:

"Do not vote for candidates of more than one party."

The names of the candidates seeking the nomination of each major political party shall be listed in that party's column. If only one individual files an affidavit of candidacy seeking the nomination of a major political party for an office, the name of that individual shall be placed on the state partisan primary ballot at the appropriate location in that party's column.

In each column, the candidates for senator in Congress shall be listed first, candidates for representative in Congress second, candidates for state senator third, candidates for state representative fourth and then candidates for state office in the order specified by the secretary of state.

The party columns shall be substantially the same in width, type, and appearance. The columns shall be separated by a 12-point solid line.

Subd. 5. **Party columns; arrangement.** The names of candidates for nomination of the major political party that received the smallest average vote at the last state general election must be placed in the first column on the left side of the ballot. The names of candidates for nomination of the major political party that received the next smallest average vote at the last state general election must be placed in the second column, and so on. The average vote shall be computed in the manner provided in section 204D.13, subdivision 2.

Subd. 6. **State and county nonpartisan primary ballot.** The state and county nonpartisan primary ballot shall be headed "State and County Nonpartisan Primary Ballot." It shall be printed in the manner provided in the rules of the secretary of state. The names of candidates for nomination to the supreme court, court of appeals, district court, and all county offices shall be placed on this ballot.

No candidate whose name is placed on the state and county nonpartisan primary ballot shall be designated or identified as the candidate of any political party or in any other manner except as expressly provided by law.

History: *1981 c 29 art 6 s 8; 1983 c 247 s 89; 1987 c 222 s 3; 1988 c 646 s 7,8; 1989 c 291 art 1 s 17; 1998 c 254 art 2 s 26; 1999 c 132 s 25,26; 2013 c 131 art 2 s 40*

NOTES AND DECISIONS

204D.08

Statute requiring placement of the word "incumbent" on election ballot after name of judicial candidate who currently held the seat in question did not sufficiently interfere with First Amendment rights of candidates and voters to warrant strict scrutiny; statute did not deny any candidate access to the ballot, rotation system required by another statute ensured that names of each candidate would appear in first ballot position roughly an equal number of times, and incumbent designation did not prevent a voter from voting for any candidate of voter's choosing. *Clark v. Pawlenty*, 755 N.W. 2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

See M.S. 204D.05 and notes thereafter.

Secretary of State properly directed consolidated ballot for special primary held at same time as regular primary. *Johnson v. Growe*, 289 N.W.2d 490 (Minn. 1980).

Placement of candidates' names on ballots. *See Ulland v. Growe*, 262 N.W. 2d 412 (Minn. 1978), *cert. denied*, 436 U.S. 927 (1978).

Otherwise eligible candidate who would attain age of 21 before beginning of office term entitled to have name on primary ballot. *Jude v. Erdahl*, 296 Minn. 200, 207 N.W. 2d 715 (1973).

204D.09 EXAMPLE BALLOTS; SAMPLE PRIMARY BALLOTS.

Changes effective July 1, 2017, and applies to elections conducted on or after that date

Subdivision 1. **Example ballot**. ~~(a)~~ No later than May 1 of each year, the secretary of state shall supply each auditor with a copy of an example ballot to be used at the state primary and state general election. The example ballot must illustrate the format required for the ballots used in the primary and general elections that year. ~~(b)~~ The county auditor shall distribute copies of the example ballot to municipal and school district clerks in municipalities and school districts holding elections that year. The official ballot must conform in all respects to the example ballot.

Subd. 2. **Sample ballot**. At least 46 days before the state primary the county auditor shall prepare a sample ballot for each precinct for public inspection and transmit an electronic copy of these sample ballots to the secretary of state. The names of the candidates to be voted for in the county shall be placed on the sample ballots, with the names of the candidates for each office arranged in the base rotation as determined by section 206.61, subdivision 5. The county auditor shall post the sample ballots in a conspicuous place in the auditor's office and shall cause them to be published at least one week before the state primary in at least one newspaper of general circulation in the county.

History: *1981 c 29 art 6 s 9; 1986 c 444; 1Sp2001 c 10 art 18 s 32; 2010 c 184 s 21; 2010 c 201 s 50; 2013 c 131 art 2 s 41; 2016 c 162 s 8*

NOTES AND DECISIONS

204D.09

Secretary of state was a proper party-respondent on ballot challenge by voter and judicial candidate seeking an order striking name of appointed associate justice of state Supreme Court from primary and general election ballots or, alternatively, striking designation of that associate justice as incumbent on those ballots; although Secretary of State was not directly responsible for printing and preparation of ballots, ballot challenge concerned office for which voting was conducted statewide and for which the Secretary of State had provided the challenged ballot information to all 87 county auditors. *Clark v. Pawlenty*, 755 N.W.2d 293 (Minn. 2008), *certiorari denied* 129 S.Ct. 2056.

Secretary of State properly directed consolidated ballot for special primary held at same time as regular primary. *Johnson v. Growe*, 289 N.W.2d 490 (Minn. 1980).

Failure to give published notice of sample ballots is not such an irregularity as will invalidate the election. Op. Atty. Gen. 28A-7, June 30, 1938.

204D.10 PRIMARY RESULTS; NOMINEES.

Subdivision 1. **Partisan offices; nominees.** The candidate for nomination of a major political party for a partisan office on the state partisan primary ballot who receives the highest number of votes shall be the nominee of that political party for that office.

Subd. 2. M.S. 2008 [Repealed, 2010 c 201 s 82]

Subd. 3. **Nonpartisan offices; nominees**. The candidates for each office on the state and county nonpartisan primary ballot receiving the highest and the next highest number of votes shall be the nominees for that office. When more than one individual is to be elected to the same nonpartisan office, the number of nominees shall be equal to twice the number of individuals to be elected, and that number of candidates receiving the highest number of votes shall be the nominees for that office.

History: *1981 c 29 art 6 s 10; 1996 c 419 s 9,10; 2003 c 112 art 2 s 50; 2010 c 201 s 51, 82*

NOTES AND DECISIONS

204D.10

Minnesota law prohibiting candidates from appearing on ballot for more than one party is constitutional. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 117 S. Ct. 1364 (1997).

204D.11 STATE GENERAL ELECTION BALLOTS; CANDIDATES; OFFICIAL IN CHARGE; RULES; REIMBURSEMENT.

Subdivision 1. **State general election ballot; rules**. The names of the candidates for all state and federal offices, all proposed constitutional amendments, all county offices and questions, and all judicial offices voted on at the state general election shall be placed on a single ballot that shall be known as the "state general election ballot." This ballot shall be prepared by the county auditor subject to the rules of the secretary of state. The secretary of state shall adopt rules for preparation and time of delivery of the state general election ballot.

Subd. 2. [Repealed, 2013 c 131 art 2 s 85]

Subd. 3. [Repealed, 2013 c 131 art 2 s 85]

Subd. 4. **Special federal ballot**. (a) The names of all candidates for the offices of president and vice-president of the United States and senator and representative in Congress shall be placed on a ballot that shall be known as the "special federal ballot."

(b) This ballot shall be prepared by the county auditor in the same manner as the state general election ballot and shall be subject to the rules adopted by the secretary of state pursuant to subdivision 1. This ballot must be prepared and furnished in accordance with the federal Uniformed and Overseas Citizens Absentee Voting Act, United States Code, title 52, sections 20301 to 20310.

(c) The special federal ballot shall be the only ballot sent to citizens of the United States who are eligible to vote by absentee ballot for federal candidates in Minnesota.

Subd. 5. **Ballot headings**. The ballot containing the offices and questions in subdivisions 1 and 4, shall be headed with the words "State General Election Ballot."

Subd. 6. **Judicial ballot**. When it would not be possible to place all offices on a single ballot card for the state general election, the judicial offices may be placed instead on a separate judicial ballot. The judicial ballot shall be prepared by the county auditor in the manner provided in the rules of the secretary of state.

The judicial ballot must be headed with the words: "Judicial Nonpartisan General Election Ballot." Separate ballot boxes must be provided for these judicial ballots.

History: *1981 c 29 art 6 s 11; 1983 c 216 art 2 s 26; 1983 c 247 s 90; 1983 c 301 s 163; 1983 c 303 s 17,18; 1984 c 560 s 18-21; 1986 c 444; 1986 c 475 s 16-18; 1987 c 175 s 12; 1992 c 513 art 3 s 44,45; 1993 c 223 s 16-18; 1999 c 132 s 27; 1Sp2001 c 10 art 18 s 33; 2013 c 131 art 2 s 42- 45, 85; 2015 c 70 art 1 s 47*

204D.12 NAMES PLACED ON GENERAL ELECTION BALLOTS.

Without payment of an additional fee, the county auditor shall place on the appropriate state general election ballot the name of every candidate:

(a) Whose nomination at the state primary has been certified by the appropriate canvassing board;

(b) Who has been nominated by petition, including candidates certified by the secretary of state; and

(c) Who was nominated and whose name was omitted from the state nonpartisan primary ballot pursuant to section 204D.07, subdivision 3. Only the names of duly nominated candidates may be placed on a ballot.

History: *1981 c 29 art 6 s 12; 1996 c 419 s 7*

NOTES AND DECISIONS

204D.12

Minnesota law prohibiting candidates from appearing on ballot for more than one party is constitutional. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 117 S. Ct. 1364 (1997).

204D.13 BALLOT; PARTISAN OFFICES.

Subdivision 1. **Order of offices.** The candidates for partisan offices shall be placed on the state general election ballot in the following order: senator in Congress shall be first; representative in Congress, second; state senator, third; and state representative, fourth. The candidates for state offices shall follow in the order specified by the secretary of state. Candidates for governor and lieutenant governor shall appear so that a single vote may be cast for both offices.

Subd. 2. **Order of political parties.** The first name printed for each partisan office on the state general election ballot shall be that of the candidate of the major political party that received the smallest average number of votes at the last state general election. The succeeding names shall be those of the candidates of the other major political parties that received a succeedingly higher average number of votes respectively. For the purposes of this subdivision, the average number of votes of a major political party shall be computed by dividing the total number of votes counted for all of the party's candidates for statewide office at the state general election by the number of those candidates at the election.

Subd. 3. **Nominees by petition; placement on ballot.** The names of candidates nominated by petition for a partisan office voted on at the state general election shall be placed on the state general election ballot after the names of the candidates for that office who were nominated at the state primary. No later than 11 weeks before the state general election, the secretary of state shall determine by lot the order of candidates nominated by petition. The drawing of lots must be by political party or principle. The political party or political principle of the candidate as stated on the petition shall be placed after the name of a candidate nominated by petition. The word "nonpartisan" shall not be used to designate any partisan candidate whose name is placed on the state general election ballot by nominating petition.

Subd. 4. [Expired]

History: *1981 c 29 art 6 s 13; 1983 c 253 s 20; 1996 c 419 s 8,10; 1999 c 132 s 28,29; 2000 c 467 s 23; 2013 c 131 art 2 s 46; 2014 c 264 s 19 & 20*

NOTES AND DECISIONS

204D.13

Minnesota law prohibiting candidates from appearing on ballot for more than one party is constitutional. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 117 S. Ct. 1364 (1997).

Secretary of State properly certified presidential elector candidates with party or principle as stated on petition notwithstanding dispute over entitlement to use of similar party name. *Scofield v. Kiffmeyer*, 620 N.W.2d 24 (Minn. 2000).

Prior statute designating order of candidates held constitutional as to order of party-designated candidates and independent candidates. *Ulland v. Growe*, 262 N.W. 2d 412, cert. denied 436 U.S. 927 (1978).

204D.14 BALLOTS; NONPARTISAN OFFICES.

Subdivision 1. **Rotation of names**. The names of candidates for nonpartisan offices on the state general election ballot and the judicial nonpartisan general election ballot shall be rotated in the manner provided for rotation of names on state partisan primary ballots by section 204D.08, subdivision 3.

Subd. 2. M.S. 1999 [Repealed, 1999 c 132 s 46]

Subd. 3. **Uncontested judicial offices.** Judicial offices for a specific court for which there is only one candidate filed must appear after all other judicial offices for that same court on the ballot.

History: *1981 c 29 art 6 s 14; 1983 c 303 s 19; 1986 c 362 s 5; 2004 c 293 art 2 s 31; 2005 c 156 art 6 s 52; 2013 c 131 art 2 s 47, 48*

204D.15 BALLOT; CONSTITUTIONAL AMENDMENT SAMPLE.

Subdivision 1. **Titles for constitutional amendments.** The secretary of state shall provide an appropriate title for each question printed on the state general election ballot. The title shall be approved by the attorney general, and shall consist of not more than one printed line above the question to which it refers. At the top of the ballot just below the heading, a conspicuous notice shall be printed stating that a voter's failure to vote on a constitutional amendment has the effect of a negative vote.

Subd. 2. [Repealed, 1997 c 147 s 79]

Subd. 3. **Sample ballot; constitutional amendments.** Four weeks before the state general election the secretary of state shall file sample copies of the portion of the state general election ballot that contains the proposed constitutional amendments in the Secretary of State's office for public inspection. Three weeks before the state general election the secretary of state shall transmit sample copies of the sample ballot to each county auditor. Each auditor shall post the sample ballot in a conspicuous place in the auditor's office.

History: *1981 c 29 art 6 s 15; 1981 c 217 s 9; 1983 c 303 s 20; 1986 c 444; 2013 c 131 art 2 s 49; 2014 c 264 s 21*

NOTES AND DECISIONS

204D.15

Secretary of State exceeded his statutory authority by providing titles for questions printed on the ballot regarding proposed constitutional amendments that were different from those titles passed by the legislature; when the legislature passed a title for the ballot question in the legislation adopting a proposed constitutional amendment, that was the "appropriate title" the Secretary had to provide, under statute requiring the Secretary to provide an appropriate title for each question printed on the ballot on which questions for proposed constitutional amendments appear. *Limmer v. Ritchie,* 819 N.W.2d 622 (Minn. 2012).

See M.S. 204D.09 and notes thereafter.

204D.16 SAMPLE GENERAL ELECTION BALLOTS; POSTING; PUBLICATION.

At least 46 days before the state general election, the county auditor shall post sample ballots for each precinct in the auditor's office for public inspection and transmit an electronic copy of these sample ballots to the secretary of state. No earlier than 15 days and no later than two days before the state general election the county auditor shall cause a sample state general election ballot to be published in at least one newspaper of general circulation in the county.

History: *1981 c 29 art 6 s 16; 1981 c 217 s 10; 2Sp1981 c 2 s 3; 1986 c 444; 2013 c 131 art 2 s 50*

204D.165 SAMPLE BALLOTS TO SCHOOLS.

The county auditor, two weeks before the applicable primary or general election, shall provide one copy of an appropriate sample ballot to a school district upon request. The school district may have the sample ballots reproduced at its expense for classroom educational purposes and for educational activities authorized under section 204B.27, subdivision 7.

History: *1990 c 608 art 7 s 3; 1991 c 237 s 6; 2013 c 131 art 2 s 51*

204D.169 [Repealed, 2011 c 65 s 9]

204D.17 STATE SENATOR; STATE REPRESENTATIVE; VACANCY IN OFFICE; SPECIAL ELECTION.

Subdivision 1. **Special elections; exceptions.** A vacancy in the office of state senator or state representative shall be filled for the unexpired term by special election upon the writ of the governor as provided in sections 204D.17 to 204D.27; except that if the legislature will not be in session before the expiration of the vacant term no special election is required.

Subd. 2. **Two or more vacancies.** Two or more vacancies may be filled at the same special election and the candidates may be nominated at the same special primary. Any special primary or special election held pursuant to sections 204D.17 to 204D.27, may be held on the same day as any other election.

History: *1981 c 29 art 6 s 17; 2010 c 201 s 52*

NOTES AND DECISIONS

204D.17

Use of regular ballot when special primary coincided with regular primary permitted. *Johnson v. Growe*, 289 N.W. 2d 490 (Minn. 1980).

Court had no authority to enjoin election to fill vacancy in U.S. Senate seat. *State ex rel. Holm v. District Court*, 156 Minn. 270, 194 N.W. 630 (1923).

204D.18 GENERAL ELECTION LAWS; APPLICATION.

Except as provided in sections 204D.17 to 204D.27, all of the provisions of the Minnesota election law are applicable to special elections as far as practicable.

History: *1981 c 29 art 6 s 18*

204D.19 SPECIAL ELECTIONS; WHEN HELD.

Subdivision 1. **Vacancy filled at general election.** When a vacancy occurs more than 150 days before the next state general election, and the legislature will not be in session before the final canvass of the state general election returns, the vacancy shall be filled at the next state general election.

Subd. 2. **Special election when the legislature will be in session.** Except for vacancies in the legislature which occur at any time between the last day of session in an odd-numbered year and the 40th day prior to the opening day of session in the succeeding even-numbered year, when a vacancy occurs and the legislature will be in session so that the individual elected as provided by this section could take office and exercise the duties of the office immediately upon election, the governor shall issue within five days after the vacancy occurs a writ calling for a special election. The special election shall be held as soon as possible, consistent with the notice requirements of section 204D.22, subdivision 3, but in no event more than 35 days after the issuance of the writ. A special election must not be held during the four days before or the four days after a holiday as defined in section 645.44, subdivision 5.

Subd. 3. **Special election at other times.** When a vacancy occurs at a time other than those described in subdivisions 1 and 2 the governor shall issue a writ, calling for a special election to be held so that the individual elected may take office at the opening of the next session of the legislature, or at the reconvening of a session of the legislature.

Subd. 4. **Writ when vacancy results from election contest.** If a vacancy results from a successful election contest, the governor shall issue 22 days after the first day of the legislative session a writ calling for a special election unless the house in which the contest may be tried has passed a resolution which states that it will or

will not review the court's determination of the contest. If the resolution states that the house will not review the court's determination, the writ shall be issued within five days of the passage of the resolution.

Subd. 5. [Repealed, 1999 c 132 s 46]

Subd. 6. **Writ when vacancy results from vacancy in nomination.** If a vacancy in office is due to a vacancy in nomination under section 204B.13, the governor shall issue a writ in the manner provided in this section.

History: *1981 c 29 art 6 s 19; 1993 c 375 art 7 s 6; 2008 c 295 s 14; 2010 c 201 s 53; 2013 c 131 art 2 s 52; 2013 c 131 art 5 s 9*

204D.195 DATE OF SPECIAL ELECTION; CERTAIN TIMES PROHIBITED.

Notwithstanding any other provision of law, a special primary and special general election may not be held for a period beginning the day following the date of the state primary election, and ending the day prior to the date of the state general election.

History: *2010 c 201 s 54*

204D.20 NOMINATIONS; VACANCY.

Subdivision 1. **Special primary.** Except as provided in subdivision 2, the candidates of the major political parties to fill a vacancy shall be nominated at a special primary. The candidate of each party who receives the highest number of votes at the special primary shall be nominated

Subd. 2. **No special primary; when.** No special primary shall be held to nominate candidates to fill a vacancy if only one individual from each major political party files as a candidate for that party's nomination. In that case, the individuals who have filed are nominated.

Subd. 3. **Nominations by petition.** Candidates to fill a vacancy may also be nominated by petition under the conditions and in the manner provided by law for candidates filing by petition for like office at the state general election as far as practicable.

History: *1981 c 29 art 6 s 20; 2010 c 201 s 55*

NOTES AND DECISIONS

204D.20

Secretary of State properly directed consolidated ballot for special primary held at same time as regular primary. *Johnson v. Growe*, 289 N.W.2d 490 (Minn. 1980).

204D.21 TIME OF SPECIAL PRIMARY.

Subdivision 1. **Nomination at state primary.** When a special election is to be held on the same day as the state general election, as provided in section 204D.19, subdivision 1, candidates for nomination to fill the vacancy shall be nominated at the state primary.

Subd. 2. **Nomination at special primary on day of regular primary.** Candidates for nomination to fill a vacancy shall be nominated at a special primary on the day of the regular state primary when the vacancy is to be filled at a special election to be held more than 14 days after the regular state primary.

Subd. 3. **Nomination at special primary on other day.** In all cases other than those provided in subdivisions 1 and 2, a special primary for the nomination of candidates shall be held not later than the 14th day before the special election.

History: *1981 c 29 art 6 s 21*

NOTES AND DECISIONS

204D.21

Use of regular ballot when special primary coincided with regular primary permitted. *Johnson v. Growe*, 289 N.W. 2d 490 (Minn. 1980).

204D.22 WRIT OF ELECTION.

Changes effective August 1, 2016

Subdivision 1. **Filing with secretary of state.** A writ calling for a special election shall state the office to be filled, the opening and closing dates of filing for candidacy, and the dates of the special primary and special election. The writ shall be filed with the secretary of state immediately upon issuance.

Subd. 2. **Posting of writ.** Immediately upon receipt of the writ, the secretary of state shall send a certified copy of the writ by ~~certified~~ United States mail and electronic mail to the county auditor of each county in which candidates to fill the vacancy are to be voted upon. The county auditor shall post a copy of the writ in the auditor's office at least five days before the close of the time for filing affidavits of candidacy for the special election.

Subd. 3. **Notice of special election.** The county auditor of a county in which a special election is to be held shall direct the clerk of each municipality in which the election is to be held to post a notice of the special primary and special election at least seven days before the special primary and at least 14 days before the special election in the manner provided in sections 204B.33 and 204B.34. If the special primary is to be held 14 days before the special election, a single notice of both elections may be posted seven days before the primary.

When the special primary or special election is to be held on the same day as any other election, notice of the special primary or special election may be included in the notice of the other election, if practicable.

Subd. 4. **Failure of notice.** No omission or defect in any notice required to be given by this section shall invalidate a special primary or special election.

History: *1981 c 29 art 6 s 22; 1986 c 444; 2016 c 161 art 1 s 12*

204D.23 AFFIDAVITS OF CANDIDACY; NOMINATING PETITIONS.

Subdivision 1. **Place and manner of filing.** Candidates for nomination to fill a vacancy at a special primary shall file their affidavits of candidacy and nominating petitions with the same officers and in the same manner and shall pay the same fees as provided by law for candidates for like offices at the state primary.

Subd. 2. **Time of filing.** Except as provided in subdivision 3, the affidavits and petitions shall be filed no later than 14 days before the special primary.

Subd. 3. **Filing at regular time.** If a vacancy occurs before the opening of the time for filing affidavits of candidacy for the state primary and the special primary is held on the same day as the state primary, the affidavits and petitions shall be filed during the time for filing affidavits for the state primary.

Subd. 4. **Filing with the secretary of state; certification.** Within 24 hours after the filings have closed, the secretary of state shall certify to the county auditors the names of the candidates who have filed with the secretary of state and who will be voted for in those counties at the special primary.

Subd. 5. **Withdrawal of candidates.** A candidate may withdraw from the special primary ballot by filing an affidavit of withdrawal with the same official who received the affidavit of candidacy. The affidavit of withdrawal must be filed no later than 5:00 p.m. of the day after the last day for filing affidavits of candidacy.

History: *1981 c 29 art 6 s 23; 1989 c 291 art 1 s 18; 2008 c 295 s 15*

204D.24 SPECIAL ELECTIONS; PRECINCTS; ELECTION JUDGES; VOTERS.

Subdivision 1. **Precincts; polling places; officials**. The election precincts, polling places and officials for any special primary or special election shall be the same as at the last preceding general election in that municipality unless changed according to law. When a special primary or special election is held on the same day as another primary or election, the same precincts, polling places and officials shall be used for both. If separate special election ballots are required pursuant to section 204D.25, separate ballot boxes shall be used.

Subd. 2. **Voter registration**. An individual may register to vote at a special primary or special election at any time before the day that the polling place rosters for the special primary or special election are prepared by the secretary of state. The secretary of state shall provide the county auditors with notice of this date at least seven days before the printing of the rosters. This subdivision does not apply to a special election held on the same day as the state primary, state general election, or the regularly scheduled primary or general election of a municipality, school district, or special district.

History: *1981 c 29 art 6 s 24; 1993 c 223 s 19; 1Sp2001 c 10 art 18 s 34*

204D.25 SPECIAL ELECTION BALLOTS.

Subdivision 1. **Form.** Except as provided in subdivision 2, the county auditor shall prepare separate ballots for a special primary and special election as required by sections 204D.17 to 204D.27. The ballots shall be headed "Special Primary Ballot" or "Special Election Ballot" as the case may be, followed by the date of the special primary or special election. Immediately below the title of each office to be filled shall be printed the words "To fill vacancy in term expiring .....," with the date of expiration of the term and any other information that is necessary to distinguish the office from any other office to be voted upon at the same election. For a special primary or special election, the instructions to voters may use the singular tense when referring to candidates and offices when only one office is to be filled at the special election. Otherwise the form of the ballots shall comply as far as practicable with the laws relating to ballots for state primaries and state general elections. The county auditor shall post a sample of each ballot in the auditor's office as soon as prepared and not later than four days before the special primary or special election. Publication of the sample ballot for a special primary or special election is not required.

Subd. 2. **Use of regular ballots.** The county auditor shall place the names of the candidates to fill the vacancy upon the regular ballots used for like offices at the state primary or state general election, designating the office to be filled in the same manner as provided in subdivision 1 for separate special primary or special election ballots if:

(a) The candidates at the special election are to be voted for on the day of the state general election or are to be nominated on the day of the state primary; and

(b) The ballots for the state general election or state primary have not been printed when the names of the candidates to be elected or nominated to fill a vacancy have been finally determined.

History: *1981 c 29 art 6 s 25; 1986 c 444; 2000 c 467 s 24*

204D.26 CONGRESSIONAL OR LEGISLATIVE DISTRICTS; CHANGE IN BOUNDARIES.

No change in the boundaries of any congressional or legislative district is effective with respect to any election to fill a vacancy in the representation of that district if the term of the office which is vacant commenced before the change was made.

History: *1981 c 29 art 6 s 26*

204D.27 SPECIAL ELECTION RETURNS

Subdivision 1. **County canvass.** The returns of a special primary or special election held pursuant to sections 204D.17 to 204D.27 shall be delivered promptly upon completion to the county auditor of the county in which the special primary or special election is held. Except as provided in subdivisions 2 to 4, the county canvassing board shall canvass and certify the returns to the secretary of state on the next day, excluding Sundays and legal holidays, following the special primary or special election.

Subd. 2. **County canvass; special primary on day of regular state primary.** When a special primary is held on the day of the state primary and the special election will be held on the day of the next state general election, the returns of the special primary shall be canvassed and certified by the county canvassing board at their regular meeting.

Subd. 3. **State canvass; special primary.** When the special primary is held on the day of the state primary and the special election will be held more than 20 days after that day, the returns of the special primary shall be canvassed by the county canvassing board at its regular meeting.

Subd. 4. **County and state canvass; vacancy filled at state general election.** When the special election is held on the day of the state general election and separate special election ballots were not required, the returns of the special election shall be canvassed and certified by the county and state canvassing boards at their regular meetings.

Subd. 5. **Canvass; special primary; state canvassing board.** Not later than four days after the returns of the county canvassing boards are certified to the secretary of state, the state canvassing board shall complete its canvass of the special primary. The secretary of state shall then promptly certify to the county auditors the names of the nominated individuals, prepare notices of nomination, and notify each nominee of the nomination.

Subd. 6. **Canvass; special election; senator or representative in Congress; State Canvassing Board.** Except as provided in subdivision 4, the state canvassing board shall complete its canvass of a special election for senator or representative in Congress and declare the results within seven days after the returns of the county canvassing boards are certified to the secretary of state.

Subd. 7. **Special congressional election contest; conduct.** In case of a contest of a special election for senator or representative in Congress the notice of contest shall be filed within five days after the canvass is completed, and the contest otherwise shall proceed in the manner provided by law for contesting elections.

Subd. 8. **Certificate of congressional election.** No certificate of election in a special election for senator or representative in Congress may be issued by the secretary of state to any individual declared elected by the county or state canvassing board until seven days after the canvassing board has canvassed the returns and declared the results of the election. In case of a contest the certificate may not be issued until the district court determines the contest.

Subd. 9. **Canvass; special legislative election; State Canvassing Board.** Except as provided in subdivision 4, the state canvassing board shall complete its canvass of a special election for state senator or state representative and declare the results within four days, excluding Sundays and legal holidays, after the returns of the county canvassing boards are certified to the secretary of state.

Subd. 10. **Special legislative election contest; conduct.** In case of a contest of a special election for state senator or state representative, the notice of contest shall be filed within two days, excluding Sundays and legal holidays, after the canvass is completed, and the contest otherwise shall proceed in the manner provided by law for contesting elections.

Subd. 11. **Certificate of legislative election.** A certificate of election in a special election for state senator or state representative shall be issued by the secretary of state to the chief clerk of the house or the secretary of the senate two days, excluding Sundays and legal holidays, after the appropriate canvassing board finishes canvassing the returns for the election. In case of a contest the certificate shall not be issued until the district court determines the contest.

Subd. 12. **Recounts.** In a special primary or special election, the provisions of section 204C.35 apply, except that the secretary of state may immediately proceed to recount the votes upon review of the certified reports of the county canvassing boards if it is apparent from the review that a recount is required.

History: *1981 c 29 art 6 s 27; 1986 c 444; 1989 c 291 art 1 s 19; 1993 c 223 s 20; 2000 c 467 s 25; 2004 c 293 art 2 s 33; 2005 c 156 art 6 s 53; 2008 c 295 s 16; 2015 c 70 art 1 s 48*

204D.28 UNITED STATES SENATE VACANCY; MANNER OF FILLING.

Subdivision 1. **Scope of section.** Every vacancy in the office of United States senator shall be filled in the manner provided in this section.

Subd. 2. **Definitions.** The definitions in subdivisions 3 to 5 apply to this section.

Subd. 3. **Vacancy.** "Vacancy" means a vacancy in the office of United States senator.

Subd. 4. **November election.** "November election" means:

(a) The state general election in even-numbered years; or

(b) The first Tuesday after the first Monday in November of odd-numbered years.

Subd. 5. **Regular state primary.** "Regular state primary" means:

(a) The state primary at which candidates are nominated for offices elected at the state general election; or

(b) A primary held on the second Tuesday in August of odd-numbered years.

Subd. 6. **Special election required; exception; when held.** Every vacancy shall be filled for the remainder of the term by a special election held pursuant to this subdivision; except that no special election shall be held in the year before the term expires.

The special election shall be held at the next November election if the vacancy occurs at least 11 weeks before the regular state primary preceding that election. If the vacancy occurs less than 11 weeks before the regular state primary preceding the next November election, the special election shall be held at the second November election after the vacancy occurs.

Subd. 7. **Special primary; when held.** A special primary shall be held at the regular state primary preceding the November election at which the special election is held.

Subd. 8. **Notice of special election.** The secretary of state shall issue an official notice of any special election required to be held pursuant to this section not later than 16 weeks before the special primary, except that if the vacancy occurs 16 weeks or less before the special primary, the secretary of state shall issue the notice no later than two days after the vacancy occurs. The notice shall state the office to be filled, the opening and closing dates for filing of candidacy and the dates of the special primary and special election. For the purposes of those provisions of sections 204D.17 to 204D.27 that apply generally to special elections, this notice shall be used in place of the writ of the governor.

Subd. 9. **Filing by candidates.** The time for filing of affidavits and nominating petitions for candidates to fill a vacancy at a special election shall open 12 weeks before the special primary or on the day the secretary of state issues notice of the special election, whichever occurs later. Filings shall close ten weeks before the special primary.

Subd. 10. **United States senator; candidates; designation of term.** When the names of candidates for both offices of United States senator are required to be placed on the same ballot, the expiration date of the term of each office shall be printed on the ballot opposite the name of each candidate for nomination or election to that office.

Subd. 11. **Temporary appointment.** The governor may make a temporary appointment to fill any vacancy. An appointee shall hold office until a successor is elected and qualified at a special election or until a successor is elected pursuant to subdivision 12.

Subd. 12. **Succession by regularly elected senator.** An individual who is elected to the office of United States senator for a regular six-year term when the office is vacant or is filled by an individual appointed pursuant to subdivision 11, shall also succeed to the office for the remainder of the unexpired term.

Subd. 13. **Application of other laws.** Except as otherwise provided in this section, all of the provisions of sections 204D.22 to 204D.27 that apply generally to other special elections apply to a special election held pursuant to this section.

History: *1981 c 29 art 6 s 28; 2010 c 184 s 22, 23, 24, 25*

NOTES AND DECISIONS

204D.28

In anticipation of vacancy in U.S. Senate, use of consolidated ballot for coincident special and regular primaries permitted. *Johnson v. Growe*, 289 N.W. 2d 490 (Minn. 1980).

204D.29 REPRESENTATIVE IN CONGRESS VACANCY.

Subdivision 1. **Scope; definition.** (a) A vacancy in the office of representative in Congress must be filled as specified in this section.

(b) "Vacancy," as used in this section, means a vacancy in the office of representative in Congress.

Subd. 2. **Vacancy 27 weeks or more before state primary.** (a) If a vacancy occurs 27 weeks or more before the state primary, the governor must issue a writ within three days of the vacancy for a special election for that office to be held between 20 and 24 weeks of the vacancy, but not fewer than 47 days before a state primary. A special primary must be held 11 weeks before the special election or on the second Tuesday in August if the general election is held on the first Tuesday after the first Monday in November if any major party has more than one candidate after the time for withdrawal has expired.

(b) The filing period for a special election under this subdivision must end on or before the 131st day before the special election. Minor party and independent candidates must submit their petitions by the last day for filing and signatures on the petitions must be dated from the date of the vacancy through the last day for filing. There must be a one-day period for withdrawal of candidates after the last day for filing.

Subd. 3. **Vacancy more than 22 weeks but fewer than 27 weeks before state primary.** (a) If a vacancy occurs more than 22 weeks but fewer than 27 weeks before the state primary, the governor must issue a writ within three days of the vacancy for a special election for that office to be held on the day of the state primary with a special primary held 11 weeks before the state primary, if any major party has more than one candidate after the time for withdrawal has expired. The regularly scheduled election to fill the next full term shall proceed pursuant to law.

(b) The filing period for a special election under this subdivision must end on or before the 147th day before the state primary. Minor party and independent candidates must submit their petitions by the last day for filing and signatures on the petitions must be dated from the date of the vacancy through the last day for filing. There must be a one-day period for withdrawal of candidates after the last day for filing. Candidates for a special election under this subdivision are not subject to the prohibition in section 204B.06 against having more than one affidavit of candidacy on file for the same election.

(c) The winner of a special election on the day of the state primary under subdivision shall serve the remainder of the vacant term and is eligible to be seated in Congress upon issuance of the certificate of election. The winner of the regularly scheduled term for that office at the general election shall take office on the day new members of congress take office.

Subd. 4. **Vacancy 22 or fewer weeks before state primary but before general election day.** (a) If a vacancy occurs from 22 weeks before the state primary to the day before the general election, no special election will be held. The winner of the general election for the next full term for that office will serve the remainder of the unexpired term and is eligible to be seated in Congress immediately upon issuance of a certificate of election.

(b) If the incumbent filed an affidavit of candidacy for reelection as the candidate of a major political party and was nominated for the general election ballot by that party and a vacancy occurs from the day of the state primary until the date of the general election, there is a vacancy in nomination to be resolved pursuant to section 204B.13.

Subd. 5. **Vacancy on or after election day and before the day new members of Congress take office.** (a) If a vacancy occurs between the day of the general election and the day new members of Congress take office and the incumbent was not the winner of the general election, the winner of the general election for the next full term for that office is eligible to be seated in Congress immediately upon issuance of a certificate of election or the vacancy, whichever occurs last.

(b) If a vacancy occurs on or after election day but before the day new members of Congress take office and the incumbent was the winner of the general election, the vacancy must be filled pursuant to subdivision 2.

History: *2010 c 201 s 56*

CHAPTER 205 - MUNICIPAL ELECTIONS

205.01 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.01 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in chapter 200 and in this section apply to this chapter.

Subd. 2. **Municipal election.** "Municipal election" means an election held in any municipality at which the voters of the municipality nominate or choose by ballot any public officials for the municipality or decide any public question relating to the municipality that is lawfully submitted to them.

History: *1959 c 675 art 6 s 1; 1981 c 29 art 7 s 6*

205.02 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.02 STATUTES APPLICABLE.

Subdivision 1. **Minnesota election law.** Except as provided in this chapter the provisions of the Minnesota election law apply to municipal elections, so far as practicable.

Subd. 2. **City elections.** In all statutory and home rule charter cities, the primary, general and special elections held for choosing city officials and deciding public questions relating to the city shall be held as provided in this chapter, except that sections 205.065, subdivisions 4 to 6; 205.07, subdivision 3; 205.10; 205.121; and 205.17, subdivision 3, do not apply to a city whose charter provides the manner of holding its primary, general or special elections.

History: *1959 c 675 art 6 s 2; 1983 c 62 s 1; 1987 c 62 s 5; 1989 c 209 art 2 s 1; 1994 c 646 s 3; 2012 c 187 art 1 s 32; 2013 c 131 art 2 s 53*

NOTES AND DECISIONS

205.02

M.S. 205.07 pertaining to dates of municipal elections applies to home-rule charter cities. Op. Atty. Gen. 64f, October 27, 1995.

205.021 [Repealed, 1983 c 62 s 12; 1983 c 216 art 2 s 11]

205.03 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.03 MS 1982 [Repealed, 1983 c 62 s 12]

205.04 MS 1957 Renumbered 205.19

205.04 MS 1982 [Repealed, 1983 c 62 s 12]

205.041 MS 1973 Supp [Repealed, 1974 c 337 s 18]

205.05 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.05 MS 1974 [Repealed, 1976 c 44 s 70]

205.06 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.06 MS 1974 [Repealed, 1976 c 44 s 70]

205.065 PRIMARIES.

Changes effective August 1, 2016

Subdivision 1. **Establishing primary.** A municipal primary for the purpose of nominating elective officers may be held in any city on the second Tuesday in August of any year in which a municipal general election is to be held for the purpose of electing officers. The date of a municipal primary held in an odd-numbered year may be postponed for inclement weather as provided in section 205.105.

Subd. 2. **Resolution or ordinance.** The governing body of a city may, by ordinance or resolution adopted by April 15 in the year when a municipal general election is held, elect to choose nominees for municipal offices by a primary as provided in this section. The resolution or ordinance, when adopted, is effective for all ensuing municipal elections until it is revoked. The municipal clerk shall notify the secretary of state and the county auditor within 30 days after the adoption of the resolution or ordinance.

Subd. 3. [Repealed, 1994 c 646 s 28.]

Subd. 4. **Candidates, filing.** The clerk shall place upon the primary ballot without partisan designation the names of individuals whose candidacies have been filed and for whom the proper filing fee has been paid. When not more than twice the number of individuals to be elected to a municipal office file for nomination for the office, their names shall not be placed upon the primary ballot and shall be placed on the municipal general election ballot as the nominees for that office. When more than one council member is to be elected for full terms at the same election, the candidates' names shall be placed under one office on the ballot with the number to be elected to the office specified directly underneath the title and identification of the office.

Subd. 5. **Results.** (a)The municipal primary shall be conducted and the returns made in the manner provided for the state primary so far as practicable. If the primary is conducted:

(1) only within that municipality, a canvass may be conducted on either the second or third day after the primary; or

(2) in conjunction with the state primary, the canvass must be conducted on the third day after the primary, except as otherwise provided in paragraph (b).

The governing body of the municipality shall canvass the returns, and the two candidates for each office who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to the office, who receive the highest number of votes, shall be the nominees for the office named. Their names shall be certified to the municipal clerk who shall place them on the municipal general election ballot without partisan designation and without payment of an additional fee.

(b) Following a municipal primary as described in paragraph (a), clause (2), a canvass may be conducted on the second day after the primary if the county auditor of each county in which the municipality is located agrees to administratively review the municipality's primary voting statistics for accuracy and completeness within a time that permits the canvass to be conducted on that day.

Subd. 6. **Recount.** A losing candidate at the municipal primary may request a recount of the votes for that nomination subject to the requirements of section 204C.36.

Subd. 7. [Repealed, 2011 c 65 s 9]

History: *1983 c 62 s 2; 1987 c 62 s 6,7; 1989 c 209 art 1 s 19; 1994 c 646 s 4,5; 2010 c 184 s 26, 27; 2010 c 194 s 21; 2010 c 201 s 57; 2011 c 65 s 5; 2011 c 65 s 9; 2016 c 161 art 1 s 13*

NOTES AND DECISIONS

205.065

Where charter provides for primary election, charter controls timing of the primary. Op. Atty. Gen. 64-M, September 14, 1951.

205.07 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.07 CITY GENERAL ELECTION.

Subdivision 1. **Date of election.** The municipal general election in each city shall be held on the first Tuesday after the first Monday in November in every even-numbered year. Notwithstanding any provision of law to the contrary and subject to the provisions of this section, the governing body of a city may, by ordinance passed at a regular meeting held before June 1 of any year, elect to hold the election on the first Tuesday after the first Monday in November in each odd-numbered year. A city may hold elections in either the even-numbered year or the odd-numbered year, but not both. When a city changes its elections from one year to another, and does not provide for the expiration of terms by ordinance, the term of an incumbent expiring at a time when no municipal election is held in the months immediately prior to expiration is extended until the date

for taking office following the next scheduled municipal election. If the change results in having three council members to be elected at a succeeding election, the two individuals receiving the highest vote shall serve for terms of four years and the individual receiving the third highest number of votes shall serve for a term of two years. To provide an orderly transition to the odd or even year election plan, the governing body of the city may adopt supplementary ordinances regulating initial elections and officers to be chosen at the elections and shortening or lengthening the terms of incumbents and those elected at the initial election. The term of office for the mayor may be either two or four years. The term of office of council members is four years. Whenever the time of the municipal election is changed, the city clerk immediately shall notify in writing the county auditor and secretary of state of the change of date. Thereafter the municipal general election shall be held on the first Tuesday after the first Monday in November in each odd-numbered or even-numbered year until the ordinance is revoked and notification of the change is made. A municipal general election scheduled to be held in an odd-numbered year may be postponed for inclement weather as provided in section 205. 105.

Subd. 1a. **City council members; expiration of terms.** The terms of all city council members of charter cities expire on the first Monday in January of the year in which they expire. All officers of charter cities chosen and qualified shall hold office until their successors qualify.

Subd. 2. [Repealed, 1976 c 44 s 70]

Subd. 3. **Effect of ordinance; referendum.** An ordinance changing the year of the municipal election is effective 240 days after passage and publication or at a later date fixed in the ordinance. Within 180 days after passage and publication of the ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition shall be signed by eligible voters equal in number to ten percent of the total number of votes cast in the city at the last municipal general election. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by a majority of the voters voting on the question at a general or special election held at least 60 days after submission of the petition. If the petition is filed, the governing body may reconsider its action in adopting the ordinance.

History: *1959 c 675 art 6 s 7; 1973 c 123 art 3 s 4; 1974 c 337 s 3; 1976 c 44 s 5; 1981 c 29 art 7 s 38; 1983 c 62 s 3; 1986 c 444; 1991 c 227 s 19,20; 1994 c 646 s 6; 1995 c 8 s 5; 2010 c 201 s 58, 59; 2014 c 264 s 22*

NOTES AND DECISIONS

205.07

Upon effective date of 1994 and 1995 amendments, this section would apply to both home-rule and statutory cities. Op. Atty. Gen. 64f, October 27, 1995.

The adoption of a resolution rather than ordinance changing the date for a village election and so worded as to affect future elections, is valid and would control future election. Op. Atty. Gen. 472F, October 26, 1966.

205.075 TOWN GENERAL ELECTION.

Subdivision 1. **Date of election.** The general election in a town must be held on the second Tuesday in March, except as provided in subdivision 2 or when moved for bad weather as provided in section 365.51, subdivision 1.

Subd. 2. **Alternate date.** A town may, by resolution or ordinance, designate the first Tuesday after the first Monday in November of either the even-numbered or the odd-numbered year as the date of the town general election. Town supervisors elected at a November town general election shall serve four-year terms. The ordinance or resolution changing the date of the town general election must include a plan to shorten or lengthen the terms of office to provide an orderly transition to the November election schedule. The ordinance or resolution changing the date of the town general election may be proposed by the town board or by a resolution of the electors adopted at the annual town meeting and is effective upon an affirmative vote of the electors at the next town general election.

Subd. 2a. **Return to March election.** The town board of a town that has adopted the alternative November election date under subdivision 2 may, after having conducted at least two elections on the alternative date, adopt a resolution designating the second Tuesday in March as the date of the town general election. The resolution must be adopted by a unanimous vote of the town supervisors and must include a plan to shorten or

lengthen the terms of office to provide an orderly transition to the March election schedule. The resolution becomes effective upon an affirmative vote of the electors at the next town general election.

Subd. 3. **More than one seat to be filled at any election.** A candidate filing for town supervisor when more than one seat is to be filled at an election held under subdivision 2 must designate when filing the specific seat which the candidate is seeking.

Subd. 4. **Election judges; party balance.** The provisions of sections 204B.19, subdivision 5; 204B.21, subdivision 2; 204C.15; 204C.19; 206.83; and 206.86, subdivision 2, relating to party balance in the appointment of judges and to duties to be performed by judges of different major political parties do not apply to a town election not held in conjunction with a statewide election.

History: *1994 c 646 s 7; 1997 c 19 s 1; 1999 c 132 s 30; 2004 c 293 art 2 s 34; 2008 c 295 s 17; 2010 c 180 s 5, 6*

205.08 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.08 MS 1974 [Repealed, 1976 c 44 s 70]

205.09 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.09 MS 1974 [Repealed, 1976 c 44 s 70]

205.091 [Repealed, 1976 c 44 s 70]

205.10 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.10 MUNICIPAL SPECIAL ELECTIONS.

Changes effective August 1, 2016

Subdivision 1. **Questions.** Special elections may be held in a city or town on a question on which the voters are authorized by law or charter to pass judgment. A special election may be ordered by the governing body of the municipality on its own motion or, on a question that has not been submitted to the voters in an election within the previous six months, upon a petition signed by a number of voters equal to 20 percent of the votes cast at the last municipal general election. A question is carried only with the majority in its favor required by law or charter. The election officials for a special election shall be the same as for the most recent municipal general election unless changed according to law. Otherwise special elections shall be conducted and the returns made in the manner provided for the municipal general election.

Subd. 2. **Vacancies in city offices**. Special elections shall be held in statutory cities to fill vacancies in elective city offices as provided in section 412.02, subdivision 2a.

Subd. 3. **Prohibition.** No special election authorized under subdivision 1 may be held within 56 days after the state general election.

Subd. 4. **Vacancies in town offices**. Special elections must be held with the town general election to fill vacancies in town offices as provided in section 367.03, subdivision 6.

Subd. 5. **Limit on ballot questions.** The governing body of a city or town may not act to submit a ballot question at a general or special election and may not accept a petition for submission of a ballot question at a general or special election unless all election-related deadlines can be met, including publication deadlines for all required notices. A petition rejected under this subdivision may be resubmitted at a time when compliance with all election-related deadlines is possible. Nothing in this subdivision requires the scheduling of a special election for a ballot question.

Subd. 6. **Cancellation.** A special election ordered by the governing body of the municipality on its own motion under subdivision 1 may be cancelled by motion of the governing body, but not less than ~~46~~ 74 days before the election.

History: *1959 c 675 art 6 s 10; 1976 c 2 s 74; 1976 c 44 s 6; 1981 c 29 art 7 s 38; 1981 c 172 s 1; 1983 c 62 s 4; 1993 c 375 art 7 s 7; 1994 c 646 s 8,9; 1997 c 147 s 42; 1999 c 75 s 1; 1999 c 132 s 31,32; 2003 c 75 s 1; 2008 c 244 art 1 s 15; 2013 c 131 art 2 s 54; 2016 c 161 art 1 s 14*

NOTES AND DECISIONS

205.10

City may not conduct advisory election unless specifically authorized. Ops. Atty. Gen. 64-O, September 27, 1972; 218-R, May 18, 1961.

Contract for joint police protection not proper subject for referendum. Op. Atty. Gen. 472-O, May 5, 1969.

Bond issue must be initiated by council resolution, not petitions. Op. Atty. Gen. 471G, October 24, 1962.

205.105 POSTPONEMENT OF ELECTION; INCLEMENT WEATHER.

Subdivision 1. **Applicability.** This section applies to a primary, special, or general election held in a city that is not held in conjunction with a state or federal election, and to town elections when postponement of the town election is not subject to section 365.51.

Subd. 2. **Postponement of election.** (a) In the event of severe or inclement weather, the municipal clerk may postpone an election when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. When one or more jurisdictions are holding elections in conjunction with one another, the jurisdiction that covers the largest geographic area has the authority, after consulting with the other auditors and clerks, to make the decision to postpone all of the elections. A decision to postpone an election must apply to every precinct in the jurisdiction.

(b) A decision to postpone an election must be made no later than 6:00 p.m. on the day before the election. The clerk must contact the election judges and notify local media outlets of the postponement. The clerk must also post a notice on the jurisdiction's Web site, if practicable.

(c) A postponed election must be rescheduled for the next following Tuesday after the election was originally scheduled. The date on which the postponed election will be held shall be considered the date of the election for purposes of absentee voting under chapter 203B. An election that is postponed due to weather may be postponed again if necessary under this section.

History: *2010 c 201 s 60*

205.11 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.11 MS 1982 [Repealed, 1983 c 62 s 12]

205.12 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.12 MS 1974 [Repealed, 1976 c 44 s 70]

205.121 NOMINATING PETITIONS; CITIES OF FIRST CLASS; SIGNATURES.

A nominating petition filed on behalf of a candidate for municipal office in a city of the first class shall be signed by eligible voters who maintain residence in the election district from which the candidate is to be elected. The number of signers shall equal 500, or two percent of the total number of individuals who voted in the municipality, ward, or other election district at the last preceding municipal general election, whichever is greater.

History: *1981 c 29 art 7 s 9*

205.13 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.13 CANDIDATES, FILING.

Subdivision 1. **Affidavit of candidacy**. An individual who is eligible and desires to become a candidate for an office to be voted for at the municipal general election shall file an affidavit of candidacy with the municipal clerk. Candidates for a special election to fill a vacancy held as provided in section 412.02, subdivision 2a, must file an affidavit of candidacy for the specific office to fill the unexpired portion of the term. Subject to the approval of the county auditor, the town clerk may authorize candidates for township offices to file affidavits of candidacy with the county auditor. The affidavit shall be in the same form as that in section 204B.06. The municipal clerk shall also accept an application signed by not less than five voters and filed on behalf of an eligible voter in the municipality whom they desire to be a candidate, if service of a copy of the application has

been made on the candidate and proof of service is endorsed on the application being filed. Upon receipt of the proper filing fee, the clerk shall place the name of the candidate on the official ballot without partisan designation.

Subd. 1a. **Filing period**. In a city nominating candidates at a primary, an affidavit of candidacy for a city office voted on in November must be filed no more than 84 days nor less than 70 days before the city primary. In municipalities that do not hold a primary, an affidavit of candidacy must be filed no more than 70 days and not less than 56 days before the municipal general election held in March in any year, or a special election not held in conjunction with another election, and no more than 98 days nor less than 84 days before the municipal general election held in November of any year. The municipal clerk's office must be open for filing from 1:00 p.m. to 5:00 p.m. on the last day of the filing period.

Subd. 1b. **Absent candidates**. A candidate for municipal office who will be absent from the state during the filing period may submit a properly executed affidavit of candidacy, the appropriate filing fee, and any necessary petitions in person to the filing officer. The candidate shall state in writing the reason for being unable to submit the affidavit during the filing period. The affidavit, filing fee, and petitions must be submitted to the filing officer during the seven days immediately preceding the candidate's absence from the state. In cities of the first class, and in any city where the use of nominating petitions is permitted under the city's charter, a nominating petition for a candidate who will be absent from the state during the filing period may be signed during the 14 days immediately preceding the date when the affidavit of candidacy is filed.

Subd. 2. **Notice of filing dates**. At least two weeks before the first day to file affidavits of candidacy, the municipal clerk shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the clerk's office and the closing time for filing on the last day for filing. The clerk shall post a similar notice at least ten days before the first day to file affidavits of candidacy. The notice must separately list any office for which affidavits of candidacy may be filed to fill the unexpired portion of a term when a special election is being held to fill a vacancy as provided in section 412.02, subdivision 2a.

Subd. 3. **Filing fees** (a) Except as otherwise provided in this section, the filing fee for a municipal office is as follows:

(1) In first class cities, $20;

(2) In second and third class cities, $5; and

(3) In fourth class cities and towns, $2.

(b) A home rule charter or statutory city may adopt, by ordinance, a filing fee of a different amount not to exceed the following:

(1) in first class cities, $80;

(2) in second and third class cities, $40; and

(3) in fourth class cities, $15.

(c) A home rule charter city that sets filing fees by authority provided in city charter is not subject to the fee limits in this section.

Subd. 4. **Petition in place of fees**. A candidate for municipal office may file a petition in place of the filing fees specified in subdivision 3. The petition shall meet the requirements of section 204B.11, subdivision 2.

Subd. 5. **Nominating petition; cities of the first class**. A nominating petition filed on behalf of a candidate for municipal office in a city of the first class shall be signed by eligible voters who reside in the election district from which the candidate is to be elected. The number of signers shall be at least 500, or two percent of the total number of individuals who voted in the municipality, ward, or other election district at the last preceding municipal general election, whichever is greater.

Subd. 6. **Withdrawal**. A candidate for a municipal elective office may withdraw from the election by filing an affidavit of withdrawal with the municipal clerk no later than 5:00 p.m. two days after the last day for filing affidavits of candidacy. Thereafter, no candidate may file an affidavit of withdrawal.

History: *1959 c 675 art 6 s 13; 1976 c 44 s 8; 1978 c 572 s 3; 1981 c 29 art 7 s 10; 1983 c 62 s 5; 1985 c 72 s 4; 1987 c 62 s 8; 1994 c 646 s 10, 11; 1997 c 147 s 43; 2000 c 467 s 26,27; 1Sp2001 c 10 art 18 s 35; 2010 c 184 s 28; 2010 c 201 s 61, 62*; *2011 c 65 s 6; 2013 c 131 art 2 s 55; 2014 c 264 s 23; 2015 c 70 art 1 s 49*

NOTES AND DECISIONS

205.13

Candidate must sign own affidavit. Op. Atty. Gen. 472H, October 29, 1963.

Affidavits of candidacy may, at discretion of filing officer, be submitted after close of business on last day for filing. Id.

205.14 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.14 MS 1982 [Repealed, 1983 c 62 s 12]

205.15 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.15 MS 1982 [Repealed, 1983 c 62 s 12]

205.16 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.16 NOTICE.

Subdivision 1. **Publication and posting.** In every municipality, the municipal clerk shall, except as otherwise provided in this section, give two weeks' published notice, and may also give ten days' posted notice, of the election, stating the time of the election, the location of each polling place, the offices to be filled, and all propositions or questions to be voted upon at the election. In a city of the fourth class or a town not located within a metropolitan county as defined in section 473.121, the governing body may dispense with publication of the notice of the municipal general election, in which case ten days' posted notice shall be given. The municipal clerk shall also post a copy of the notice in the clerk's office for public inspection.

Subd. 2. **Sample ballot, publication.** For every municipal election, the municipal clerk shall, at least two weeks before the election, publish a sample ballot in the official newspaper of the municipality, except that the governing body of a fourth class city or a town not located within a metropolitan county as defined in section 473.121 may dispense with publication.

Subd. 3. **Sample ballot, posting.** For every municipal election, the municipal clerk shall at least two weeks before the election prepare a sample ballot for the municipality, make them available for public inspection in the clerk's office, and post a sample ballot in each polling place on election day.

Subd. 4. **Notice to auditor.** At least 74 days before every municipal election, the municipal clerk shall provide a written notice to the county auditor, including the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. At least 74 days before every municipal, the municipal clerk must provide written notice to the county auditor of any special election canceled under section 205.10, subdivision 6.

Subd. 5. **Notice to secretary of state.** At least 74 days before every municipal election for which a notice is provided to the county auditor under subdivision 4, the county auditor shall provide a notice of the election to the secretary of state, in a manner and including information prescribed by the secretary of state.

History: *1959 c 675 art 6 s 16; 1976 c 2 s 77,78; 1976 c 44 s 11; 1978 c 572 s 6,7; 1981 c 29 art 7 s 38; 1983 c 62 s 6; 1989 c 291 art 1 s 20; 1991 c 227 s 21; 1994 c 646 s 12,13; 1999 c 132 s 33; 2004 c 293 art 2 s 35,36; 2008 c 244 art 1 s 16; 2010 c 184 s 29, 30; 2010 c 201 s 63, 64, 65, 66; 2013 c 131 art 2 s 56, 57*

205.17 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.17 BALLOTS.

Subdivision 1. **Municipal offices; questions; general election ballot**. In all statutory and home rule charter cities, and in all towns, the municipal clerk shall have printed the official ballot containing the names of all candidates for municipal offices and municipal ballot questions. The ballot shall be printed in quantities of 25, 50, or 100, shall be headed "City or Town Election Ballot," shall state the name of the city or town and the date of the election, and shall conform in other respects to the state general election ballot. The names shall be arranged on city ballots in the manner provided for the state elections. On town ballots names of the candidates for each office shall be arranged either:

(1) alphabetically according to the candidates' surnames; or

(2) in the manner provided for state elections if the town electors chose at the town's annual meeting to arrange the names in that way for at least two consecutive years.

Subd. 2. [Repealed, 2013 c 131 art 2 s 85]

Subd. 3. **Primary ballots**. The municipal primary ballot shall conform as far as practicable with the municipal general election ballot. No blank spaces shall be provided for writing in the names of candidates.

Subd. 4. [Repealed, 2013 c 131 art 2 s 85]

Subd. 5. **Statutory cities; vacancies**. In statutory cities, the names of candidates to fill vacancies at a special election held as provided in section 412.02, subdivision 2a, shall be placed on the municipal primary and general election ballots. The names of candidates to fill a vacancy in the office of council member in a statutory city shall be listed under the separate heading "Special election for council member to fill vacancy in term expiring .....," with the date of expiration of the term and any other information necessary to distinguish the office. Under the heading for the office of mayor in a special election shall be the words "To fill vacancy in term expiring ....."

Subd. 6. **Form of ballot**. The ballots for municipal elections must be prepared by the municipal clerk in the manner provided in the rules of the secretary of state.

Subd. 7. **Example ballot**. No later than 30 days before absentee ballots must be prepared and delivered under section 204B.35 for use in a town general election conducted in March, the secretary of state shall supply each town clerk in a town conducting a March general election with a copy of an example ballot. The example ballot must illustrate the format required for the ballots used in the general election that year.

History: *1959 c 675 art 6 s 17; 1973 c 387 s 2; 1976 c 2 s 79,80; 1976 c 44 s 12,13; 1976 c 224 s 4; 1981 c 29 art 7 s 13,38; 1981 c 172 s 2; 1983 c 62 s 7; 1983 c 253 s 21; 1986 c 444; 1994 c 646 s 14; 1997 c 18 s 1; 1997 c 147 s 44; 2000 c 467 s 28; 1Sp2001 c 10 art 18 s 36; 2013 c 131 art 2 s 58, 59, 85*

205.175 VOTING HOURS.

Subdivision 1. **Minimum voting hours.** In all municipal elections, the polling places will remain open for voting from 5:00 p.m. to 8:00 p.m.

Subd. 2. **Metropolitan area municipalities.** The governing body of a municipality which is located within a metropolitan county included in the definition of metropolitan area in section 200.02, subdivision 24, may designate the time during which the polling places will remain open for voting at the next succeeding and all subsequent municipal elections, provided that the polling places shall open no later than 10:00 a.m. and shall close no earlier than 8:00 p.m. The resolution shall remain in force until it is revoked by the municipal governing body.

Subd. 3. **Other municipalities.** The governing body of a municipality other than a municipality described in subdivision 2, may by resolution adopted prior to giving notice of the election, designate the time, in addition to the minimum voting hours provided in subdivision 1, during which the polling places will remain open for voting at the next succeeding and all subsequent municipal elections. The resolution shall remain in force until it is revoked by the municipal governing body or changed because of request by voters as provided in this subdivision. If a petition requesting longer voting hours, signed by a number of voters equal to 20 percent of the

votes cast at the last municipal election, is presented to the municipal clerk no later than 30 days prior to the municipal election, then the polling places for that election shall open at 10:00 a.m. and close at 8:00 p.m. The municipal clerk shall give ten days' notice of the changed voting hours and notify the county auditor of the change. Municipalities covered by this subdivision shall certify their election hours to the county auditor in January of each year.

History: *1983 c 62 s 8; 1984 c 396 s 1,2; 1984 c 560 s 22,23; 1994 c 646 s 15; 2005 c 156 art 6 s 54.*

205.18 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.18 MS 1992 [Repealed, 1994 c 646 s 28]

205.185 PROCEDURE.

Subdivision 1. **Materials, ballots**. The municipal clerk shall prepare and have printed the necessary election materials, including ballots, for a municipal election.

Subd. 2. **Election, conduct.** A municipal election shall be by secret ballot and shall be held and the returns made in the manner provided for the state general election, except as expressly provided by law.

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** (a) Between the third and tenth days after an election, the governing body of a city conducting any election including a special municipal election, or the governing body of a town conducting the general election in November shall act as the canvassing board, canvass the returns, and declare the results of the election. The governing body of a town conducting the general election in March shall act as the canvassing board, canvass the returns, and declare the results of the election within two days after an election.

(b) After the time for contesting elections has passed, the municipal clerk shall issue a certificate of election to each successful candidate. In case of a contest, the certificate shall not be issued until the outcome of the contest has been determined by the proper court.

(c) In case of a tie vote, the canvassing board having jurisdiction over the municipality shall determine the result by lot. The clerk of the canvassing board shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

Subd. 4. **Recount**. A losing candidate at a municipal election may request a recount of the votes for that office subject to the requirements of section 204C.36.

History: *1983 c 62 s 9; 1999 c 132 s 34; 1Sp2001 c 10 art 18 s 37; 2004 c 293 art 2 s 37, 38; 2010 c 194 s 22*

205.19 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.19 MS 1982 [Repealed, 1983 c 62 s 12]

205.20 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.20 MS 1992 [Repealed, 1994 c 646 s 28]

205.21-205.83 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

205.84 REDISTRICTING; CITIES WITH WARDS.

Subdivision 1. **General provisions.** (a) In a city electing council members by wards, wards shall be as equal in population as practicable and each ward shall be composed of compact, contiguous territory. Each council member shall be a resident of the ward for which elected, but, except as otherwise provided by paragraph (b), a change in ward boundaries does not disqualify a council member from serving for the remainder of a term.

(b) Notwithstanding any home rule charter provision to the contrary, in a city of the first class where council members are elected by ward to serve for four years to terms that are not staggered, if the population of any ward changes by five percent or more, all council members must be elected to new terms at the first municipal general election after ward boundaries are redefined under subdivision 2; provided, however, that if no municipal general election would otherwise occur in the year ending in "2" or the year ending in "3," a municipal general election must be held in one of those years.

Subd. 2. **Effective date.** After the official certification of the federal decennial or special census, the governing body of the city shall either confirm the existing ward boundaries as conforming to the standards of subdivision 1 or redefine ward boundaries to conform to those standards as provided in section 204B.135, subdivision 1. If the governing body of the city fails to take either action within the time required, no further compensation shall be paid to the mayor or council member until the wards of the city are either reconfirmed or redefined as required by this section. An ordinance establishing new ward boundaries pursuant to section 204B.135, subdivision 1, becomes effective on the date of the state primary election in the year ending in two, except that new ward boundaries established by a municipality in a year ending in one are effective on the date of the municipal primary election in the year ending in one.

Subd. 3. **Transition schedule.** The governing body of a city electing more than one council member in each ward may adopt an orderly transition schedule to biennial November elections in which only one council member in each ward is elected in any municipal general election.

History: *1974 c 337 s 17; 1981 c 29 art 7 s 38; 1983 c 62 s 11; 1986 c 444; 1991 c 349 s 38; 1995 c 8 s 6; 1999 c 237 s 3; 2010 c 313 s 5, 6*

CHAPTER 205A - SCHOOL DISTRICT ELECTIONS

205A.01 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in chapter 200 and in this section apply to this chapter.

Subd. 2. **School District.** "School district" means an independent or special school district, as defined in section 120A.05.

History: *1987 c 266 art 1 s 48; 1999 c 86 art 1 s 46*

205A.02 ELECTION LAW APPLICABLE.

Except as provided by law, the Minnesota Election Law applies to school district elections. Elections in common school districts shall be governed by section 123B.94.

History: *1987 c 266 art 1 s 49; 2004 c 293 art 2 s 39*

205A.03 PRIMARIES.

Changes effective August 1, 2016

Subdivision 1. **Resolution requiring primary in certain circumstances.** The school board of a school district may, by resolution adopted by April 15 of any year, decide to choose nominees for school board by a primary as provided in this section. The resolution, when adopted, is effective for all ensuing elections of board members in that school district until it is revoked. If the board decides to choose nominees by primary and if there are more than two candidates for a specified school board position or more than twice as many school board candidates as there are at-large school board positions available, the school district must hold a primary.

Subd. 2. **Date**. The school district primary must be held on the second Tuesday in August in the year when the school district general election is held. The clerk shall give notice of the primary in the manner provided in section 205A.07. The date of a school district primary held in an odd-numbered year may be postponed for inclement weather as provided in section 205A.055.

Subd. 3. **Candidates, filing**. The clerk shall place upon the primary ballot without partisan designation the names of individuals whose candidacies have been filed and for whom the proper filing fee has been paid. When not more than twice as many school board candidates as there are at-large school board positions available file for nomination for the office or when not more than two candidates for a specified school board position file for nomination for that office, their names must not be placed upon the primary ballot and must be placed on the school district general election ballot as the nominees for that office. When more than one school board member is to be elected for full terms at the same election, the candidates' name shall be placed under one office on the ballot with the number to be elected to the office specified directly underneath the title and identification of the office.

Subd. 4. **Results.** (a) The school district primary must be conducted and the returns made in the manner provided for the state primary as far as practicable. If the primary is conducted:

(1) only within that school district, a canvass may be conducted on either the second or third day after the primary; or

(2) in conjunction with the state primary, the canvass must be conducted on the third day after the primary, except as otherwise provided in paragraph (b).

The school board of the school district shall canvass the returns, and the two candidates for each specified school board position who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to at-large school board positions who receive the highest number of votes, are the nominees for the office named. Their names must be certified to the school district clerk who shall place them on the school district general election ballot without partisan designation and without payment of an additional fee.

(b) following a school district primary as described in paragraph (a), clause (2), a canvass may be conducted on the second day after the primary if the county auditor of each county in which the school district is located agrees to administratively review the school district's primary voting statistics for accuracy and completeness within a time that permits the canvass to be conducted on that day.

Subd. 5. Recount. A losing candidate at the school district primary may request a recount of the votes for that nomination subject to section 204C.36.

Subd. 6. [Repealed, 2011 c 65 s 9]

History: *1987 c 266 art 1 s 50; 1994 c 646 s 16,17; 1Sp2003 c 9 art 2 s 43-45; 2008 c 295 s 18; 2010 c 184 s 31, 32; 2010 c 194 s 23; 2010 c 201 s 67; 2011 c 65 s 7; 2011 c 65 s 9; 2016 c 161 art 1 s 15*

205A.04 GENERAL ELECTION.

Subdivision 1. **School district general election.** The general election in each school district must be held on the first Tuesday after the first Monday in November of either the odd-numbered or the even-numbered year. A general election held in an odd-numbered year may be postponed for inclement weather as provided in section 205A.055.

Subd. 2. [Repealed, 1994 c 646 s 28]

Subd. 3. **Change in year of general election.** The school board may, by resolution, change the year in which the school district general election will be held. The resolution must be approved no later than four weeks before the first day to file affidavits of candidacy for the general election. A plan for the orderly transition to the new election year must be included in the resolution. The terms of school board members may be lengthened or shortened by one year as part of the transition process.

History: *1987 c 266 art 1 s 51; 1991 c 227 s 22; 1994 c 646 s 18*; *2010 c 201 s 68; 2013 c 131 art 2 s 60*

205A.046 SCHOOL BOARD MEMBER TERM EXPIRATION.

The terms of all school board members expire on the first Monday in January of the year in which they expire.

History: *2010 c 201 s 69*

205A.05 SPECIAL ELECTIONS.

Changes effective August 1, 2016

Subdivision 1. **Questions.** (a) Special elections must be held for a school district on a question on which the voters are authorized by law to pass judgment. The school board may on its own motion call a special election to vote on any matter requiring approval of the voters of a district. Upon petition filed with the school board of 50 or more voters of the school district or five percent of the number of voters voting at the preceding school district general election, whichever is greater, the school board shall by resolution call a special election to vote on any matter requiring approval of the voters of a district. A question is carried only with the majority in its favor required by law. The election officials for a special election are the same as for the most recent school district general election unless changed according to law. Otherwise, special elections must be conducted and the returns made in the manner provided for the school district general election.

(b) A special election may not be held:

(1) during the 56 days before and the 56 days after a regularly scheduled primary or general election conducted wholly or partially within the school district;

(2) on the date of a regularly scheduled town election or annual meeting in March conducted wholly or partially within the school district; or

(3) during the 30 days before or the 30 days after a regularly scheduled town election in March conducted wholly or partially within the school district.

(c) Notwithstanding any other law to the contrary, the time period in which a special election must be conducted under any other law may be extended by the school board to conform with the requirements of this subdivision.

Subd. 2. **Vacancies in school district offices.** Special elections to fill vacancies in elective school district offices shall be held in school districts ~~in conjunction with school district primary and general elections to fill vacancies in elective school district offices~~ pursuant to section 123B.095. When more than one vacancy exists in an office elected at-large, voters must be instructed to vote for up to the number of vacancies to be filled.

Subd. 3. **Cancellation.** A special election ordered by the school board on its own motion under subdivision 1 may be canceled by motion of the school board, but not less than 74 days before an election held in conjunction with a regularly scheduled election for federal, state, county, city, or school board office or a special election for federal office, or 46 days before any other election.

History: *1987 c 266 art 1 s 52; 1990 c 453 s 12; 1993 c 375 art 7 s 8; 1997 c 147 s 45; 1999 c 132 s 35; 2007 c 146 art 1 s 19; 2008 c 244 art 1 s 17; 2010 c 184 s 33; 2010 c 201* s *70; 2013 c 131 art 2 s 61, 62; 2014 c 264 s 24; 2015 c 70 art 1 s 50; 2016 c 161 art 1 s 16*

NOTES AND DECISIONS

205A.05

Petition rules promulgated by the Secretary of State in chapter 8205 of Minnesota Rules generally apply to special school district elections relating to referenda. School district clerk is the proper filing officer for a school district special petition when the school district sits in more than one county. Op. Atty. Gen. 185-b, June 15, 2007.

Voters, by petition, may compel special election on bonds for school facilities construction. Op. Atty. Gen. 159-A-3, March 11, 1998.

205A.055 POSTPONEMENT OF ELECTION; INCLEMENT WEATHER.

Subdivision 1. **Applicability.** This section applies to a primary, special, or general election held in a school district that is not held in conjunction with a state or federal election.

Subd. 2. **Postponement of election.** (a) In the event of severe or inclement weather, the school district clerk may postpone an election when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. When one or more jurisdictions are holding elections in conjunction with one another, the jurisdiction that covers the largest geographic area has the authority, after consulting with the other auditors and clerks, to make the decision to postpone all of the elections. A decision to postpone an election must apply to every precinct in the jurisdiction.

(b) A decision to postpone an election must be made no later than 6:00 p.m. on the day before the election. The clerk must contact the election judges and notify local media outlets of the postponement. The clerk must also post a notice on the jurisdiction's Web site, if practicable.

(c) A postponed election must be rescheduled for the next following Tuesday after the election was originally scheduled. The date on which the postponed election will be held shall be considered the date of the election for purposes of absentee voting under chapter 203B. An election that is postponed due to weather may be postponed again if necessary under this section.

History: *2010 c 201 s 71*

205A.06 CANDIDATES, FILING.

Changes effective August 1, 2016

Subdivision 1. **Affidavit of candidacy**. An individual who is eligible and desires to become a candidate for an office to be voted on at the election must file an affidavit of candidacy with the school district clerk. The affidavit must be in ~~substantially~~ the ~~same~~ form ~~as that in~~ prescribed by section 204B.06~~, subdivision 1~~. The school district clerk shall also accept an application signed by at least five voters and filed on behalf of an eligible voter in the school district whom they desire to be a candidate, if service of a copy of the application has been made on the candidate and proof of service is endorsed on the application being filed. No individual shall be

nominated by nominating petition for a school district elective office. Upon receipt of the proper filing fee, the clerk shall place the name of the candidate on the official ballot without partisan designation.

Subd. 1a. **Filing period**. In school districts that have adopted a resolution to choose nominees for school board by a primary election, affidavits of candidacy must be filed with the school district clerk no earlier than the 84th day and no later than the 70th day before the second Tuesday in August in the year when the school district general election is held. In all other school districts, affidavits of candidacy must be filed no earlier than the 98th day and no later than the 84th day before the school district general election.

Subd. 1b. **School board member; sex offender; ineligible to file affidavit of candidacy**. A sex offender who has been convicted of an offense for which registration is required under section 243.166 is ineligible to become a candidate for the office of school board member and may not file an affidavit of candidacy for that office. Ineligibility is determined by the registration requirements in effect at the time the offender files for office, not by the registration requirements, if any, that were in effect at the time the offender was convicted.

Subd. 1c. **Absent candidates**. A candidate for the office of school board member who will be absent from the state during the filing period may submit a properly executed affidavit of candidacy, the appropriate filing fee, and any necessary petitions in person to the filing officer. The candidate shall state in writing the reason for being unable to submit the affidavit during the filing period. The affidavit, filing fee, and petitions must be submitted to the filing officer during the seven days immediately preceding the candidate's absence from the state.

Subd. 2. **Notice of filing dates**. At least two weeks before the first day to file affidavits of candidacy, the school district clerk shall publish a notice in the official newspaper stating the first and last dates on which affidavits of candidacy may be filed in the clerk's office and the closing time for filing on the last day for filing. The clerk shall post a similar notice in the administrative offices of the school district at least ten days before the first day to file affidavits of candidacy.

Subd. 3. **Filing fees.** The filing fee for a school district office is $2.

Subd. 4. **Petition in place of fees.** A candidate for school district office may file a petition in place of the filing fees in subdivision 3. The petition must meet the requirements of section 204B.11, subdivision 2.

Subd. 5. **Withdrawal.** A candidate for a school district elective office may withdraw from the election by filing an affidavit of withdrawal with the school district clerk no later than 5:00 p.m. two days after the last day for filing affidavits of candidacy. After that date, no candidate may file an affidavit of withdrawal.

History: *1987 c 266 art 1 s 53; 1994 c 646 s 19,20; 1999 c 101 s 2; 2000 c 467 s 29,30; 1Sp2003 c 9 art 2 s 46; 2008 c 295 s 19; 2010 c 184, s 34; 2011 c 65 s 8; 2012 c 187 art 1 s 33; 2016 c 161 art 1 s 17*

205A.07 NOTICE.

Subdivision 1. **Publication and posting.** The clerk of a school district shall give two weeks' published notice and give ten days' posted notice of a school district primary, general, or special election, stating the time of the election, the location of each polling place, the offices to be filled, and all propositions or questions to be voted upon at the primary, general, or special election. The notice shall be posted in the administrative offices of the school district for public inspection.

Subd. 2. **Sample ballot, posting.** For every school district primary, general, or special election, the school district clerk shall at least four days before the primary, general, or special election, post a sample ballot in the administrative offices of the school district for public inspection, and shall post a sample ballot in each polling place on election day.

Subd. 3. **Notice to auditor.** At least 74 days before every school district election, the school district clerk shall provide a written notice to the county auditor of each county in which the school district is located. The notice must include the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. For the purposes of meeting the timelines of this section, in a bond election, a notice, including a proposed question, may be provided to the county auditor before receipt of a review and comment from the commissioner of education and before actual initiation of the election. At least 74 days before every school district election, the school district clerk must provide written notice to the county auditor of any special election canceled under section 205A.05, subdivision 3.

Subd. 3a. **Notice to commissioner of education.** At least 74 days before every school district election under section 123B.62, 123B.63, 126C.17, 126C.69, or 475.58, the school district clerk shall provide a written notice to the commissioner of education. The notice must include the date of the election and the title and language for each ballot question to be voted on at the election. At least 74 days before every school district election, the school district clerk must provide a written notice to the commissioner of education of any special election canceled under section 205A.05, subdivision 3. The certified vote totals for each ballot question shall be provided in a written notice to the commissioner in a timely manner.

Subd. 3b. **Notice to secretary of state.** At least 74 days before every school district election for which a notice is provided to the county auditor under subdivision 3, the county auditor shall provide a notice of the election to the secretary of state, in a manner and including information prescribed by the secretary of state.

Subd. 4. **No additional posting requirements.** A school district is only required to comply with the election posting requirements specified in the Minnesota Election Law and the education code and is not required to comply with additional posting requirements specified in any other law.

History: *1987 c 266 art 1 s 54; 1989 c 291 art 1 s 21; 1990 c 453 s 13; 1991 c 227 s 23; 1Sp1995 c 3 art 16 s 13; 1999 c 132 s 36; 2003 c 130 s 12; 1Sp2003 c 9 art 1 s 49; 2004 c 293 art 2 s 40,41; 2008 c 244 art 1 s 18, 19; 2010 c 184 s 35, 36, 37; 2010 c 201 s 72, 73, 74; 2013 c 131 art 2 s 63- 65*

205A.08 BALLOTS.

Subdivision 1. **General election ballot.** The names of all candidates for offices and all ballot questions to be voted on at a school district general election must be placed on a single ballot.

Subd. 2. **Primary ballots.** The school district primary ballot must conform as far as practicable with the school district general election ballot except that no blank spaces may be provided for writing in the names of candidates.

Subd. 3. **Vacancies.** The names of candidates to fill vacancies at a school district special election held in conjunction with the primary or general election must be placed on the school district primary and general election ballots. The names of candidates to fill a vacancy in the office of school board member in a school district must be listed under the separate heading

"Special election for school board member to fill vacancy in term expiring .....," with the date of expiration of the term and any other information necessary to distinguish the office.

Subd. 4. [Repealed, 2013 c 131 art 2 s 85]

Subd. 5. **Form of ballot.** The ballots for school district elections must be prepared by the school district clerk in the manner provided in the rules of the secretary of state.

History: *1987 c 266 art 1 s 55; 1997 c 147 s 46; 2013 c 131 art 2 s 66, 85*

205A.09 VOTING HOURS.

Subdivision 1. **Metropolitan area school districts.** At a school district election in a school district located in whole or in part within a metropolitan county included in the definition of metropolitan area in section 200.02, subdivision 24, the school board, by resolution adopted before giving notice of the election, may designate the time during which the polling places will remain open for voting at the next succeeding and all later school district elections. The polling places must open no later than 10:00 a.m. and close no earlier than 8:00 p.m. The resolution shall remain in force until it is revoked by the school board.

Subd. 2. **Other school districts.** At a school district election in a school district other than one described in subdivision 1, the school board, by resolution adopted before giving notice of the election, may designate the time during which the polling places will remain open for voting at the next succeeding and all later school district elections. All polling places must be open between the hours of 5:00 p.m. and 8:00 p.m. The resolution must remain in force until it is revoked by the school board or changed because of request by voters as provided in this subdivision. If a petition requesting longer voting hours, signed by a number of voters equal to 20 percent of the votes cast at the last school district election, is presented to the school district clerk no later than 30 days before a school district election, then the polling places for that election must open at 10:00 a.m. and close at 8:00 p.m. The school district clerk must give ten days' published notice and posted notice of the changed voting hours and notify appropriate county auditors of the change.

History: *1987 c 266 art 1 s 56; 1990 c 453 s 14; 1994 c 646 s 21;2005 c 156 art 6 s 55.*

205A.10 PROCEDURE.

Subdivision 1. **Materials, ballots.** The school district clerk shall prepare and have printed the necessary election materials, including ballots, for a school district election. The names must be arranged on school district ballots in the manner provided in section 204D.08, subdivision 3, for state elections.

Subd. 2. **Election, conduct.** A school district election must be by secret ballot and must be held and the returns made in the manner provided for the state general election, as far as practicable. The vote totals from a board established pursuant to section 203B.121 may be tabulated and reported by the school district as a whole rather than by precinct. For school district elections not held in conjunction with a statewide election, the school board shall appoint election judges as provided in section 204B.21, subdivision 2. The provisions of sections 204B.19, subdivision 5; 204B.21, subdivision 2; 204C.15 ; 204C.19; 206.83; and 206.86, subdivision 2, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties do not apply to school district elections not held in conjunction with a statewide election.

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** Between the third and tenth days after a school district election other than a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59, the school board shall canvass the returns and declare the results of the election. After the time for contesting elections has passed, the school district clerk shall issue a certificate of election to each successful candidate. If there is a contest, the certificate of election to that office must not be issued until the outcome of the contest has been determined by the proper court. If there is a tie vote, the school board shall determine the result by lot. The clerk shall deliver the certificate of election to the successful candidate by personal service or certified mail. The successful candidate shall file an acceptance and oath of office in writing with the clerk within 30 days of the date of mailing or personal service. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but that filing may be made at any time before action to fill the vacancy has been taken. The school district clerk shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

A school district canvassing board shall perform the duties of the school board according to the requirements of this subdivision for a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59.

Subd. 4. **Recount.** A losing candidate at a school district election may request a recount of the votes for that office subject to the requirements of section 204C.36.

Subd. 5. **School district canvassing board.** For the purpose of a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59, the school district canvassing board shall consist of one member of the school board other than the clerk, selected by the board, the clerk of the school board, the county auditor of the county in which the greatest number of school district residents reside, the court administrator of the district court of the judicial district in which the greatest number of school district residents reside, and the mayor or chair of the town board of the school district's most populous municipality. Any member of the canvassing board may appoint a designee to appear at the meeting of the board, except that no designee may be a candidate for public office. If one of the individuals fails to appear at the meeting of the canvassing board, the county auditor shall appoint an eligible voter of the school district, who must not be a member of the school board, to fill the vacancy. Not more than two school board members shall serve on the canvassing board at one time. Four members constitute a quorum.

The school board shall serve as the school district canvassing board for the election of school board members.

History: *1987 c 266 art 1 s 57; 1989 c 291 art 1 s 22-24; 1990 c 453 s 15,16; 1992 c 499 art 12 s 23; 1998 c 254 art 1 s 63; 2008 c 244 art 2 s 18; 2008 c 295 s 20; 2010 c 194 s 24; 2011 c 76 art 1 s 29*

205A.11 PRECINCTS; POLLING PLACES.

Changes effective August 1, 2016

Subdivision 1. **Established precincts.** School district elections must be conducted in the precincts, or when the school district boundary divides a precinct, parts of precincts that have been established by the county or municipal governing bodies as provided in section 204B.14. If an election other than the school district election is being held in any part of a precinct, all the voters of the precinct must vote at the polling place designated for the precinct as provided in section 204B.14.

Subd. 2. **Combined polling place.** When no other election is being held in two or more precincts on the day of a school district election, the school board may designate one or more combined polling places at which the voters in those precincts may vote in the school district election. In school districts that have organized into separate board member election districts under section 205A.12, a combined polling place for a school general election must be arranged so that it does not include more than one board member election district.

Subd. 2a. Notice of special elections. The school district clerk shall prepare a notice to the voters who will be voting in a combined polling place for a school district special election. The notice must include the following information: the date of the election, the hours of voting and the location of the voter's polling place. The notice must be sent by nonforwardable mail to every affected household in the school district with at least one registered voter. The notice must be mailed no later than 14 days before the election. The mailed notice is not required for a school district special election that is held on the second Tuesday in August, the Tuesday following the first Monday in November, or for a special election conducted entirely by mail. ~~In addition, the mailed notice is not required for voters residing in a township if the school district special election is held on the second Tuesday in March and the town general election is held on that day.~~ A notice that is returned as undeliverable must be forwarded immediately to the county auditor.

Subd. 3. **Procedure.** The designation of a polling place pursuant to this section remains effective until a different polling place is designated. No designation of a new or different polling place becomes effective less than 90 days prior to an election, except that a new polling place may be designated to replace a polling place that has become unavailable for use. The school board must notify the county auditor within 30 days after the establishment of a polling place as provided in this section. The notice must include a list of the precincts that will be voting at each polling place. The school board must send the notice required by section 204B.16, subdivision 1a, after a polling place is established as provided in this section, but no additional notices of this

kind are required for any subsequent similar elections until the location of the polling place or the combination of precincts voting at the polling place is changed. The secretary of state shall provide a single polling place roster for use in any polling place established as provided in this section. A single set of election judges must be appointed to serve in the polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all the precincts to be voting at the single polling place. A single ballot box may be provided for all the ballots.

History: *1987 c 266 art 1 s 58; 1990 c 453 s 17; 1994 c 607 s 6; 1995 c 8 s 7,8; 2008 c 244 art 2 s 19; 2010 c 184 s 38; 2010 c 201 s 75; 2016 c 161 art 1 s 18*

205A.12 SCHOOL BOARD ELECTION DISTRICTS.

Subdivision 1. **General provisions.** Any independent school district may alter its organization into separate election districts for the purpose of election of board members by following the procedures in this section.

Subd. 2. **Election.** Except in a school district located wholly or partly within a city of the first class, upon resolution of the board, made on its own motion or on presentation of a petition substantially in the form required in section 205A.13, signed by at least 50 electors of the district or ten percent of the number of votes cast in the most recent regular school board election, whichever is larger, the board shall adopt a proposal to divide the district into separate election districts. The proposal must designate one of the following options for election of members: single-member districts, from which one board member each must be elected; multimember districts, from which two or three members each must be elected; a combination of single-member and multimember districts; or a combination of single-member or multimember districts, or both, and election of one or more members at large. The proposal must be submitted to an election under this chapter. If the election is initiated by petition, the resolution calling the election must be adopted within six months after the date of receipt of the petition. Only one election within any two-year period may be held under this section.

Subd. 3. **Ballot question.** The question presented at the special election shall be: "Shall the school district be reorganized into election districts with boundaries as established in Resolution No. .... of the school board, dated .....?

Yes .....

No ....."

Subd. 4. **Election district boundaries.** Each proposed election district must be as equal in population as practicable and must be composed of compact, contiguous territory. The district may utilize the most recent federal decennial census figures available or may conduct a special census for this purpose. The board shall designate each election district by number.

Subd. 5. **Board elections.** If the proposal for the establishment of election districts is approved by the voters, the board shall specify the election districts from which vacancies shall be filled as they occur until such time as each board member represents an election district. A candidate for school board in a subsequent election must file an affidavit of candidacy to be elected as a school board member for the election district in which the candidate resides. If there are as many election districts as there are members of the board, one and only one member of the board shall be elected from each election district. In school districts where one or more board members are elected by election districts, candidates must indicate on the affidavit of candidacy the number of the district from which they seek election or, if appropriate, that they seek election from one of the offices elected at large. If the election districts have two or three members each, the terms of the members must be staggered. Each board member must be a resident of the election district for which elected but the creation of an election district or a change in election district boundaries shall not disqualify a board member from serving for the remainder of a term.

Subd. 5a. **School districts.** The school board of a school district may provide for the use by the district of an electronic voting system in one or more polling places or combined polling places in the school district for an election not held in conjunction with a statewide election. No system may be adopted or used unless it has been approved by the secretary of state pursuant to section 206.57. The school district shall notify the secretary of state of its decision in compliance with section 206.58, subdivision 4.

Subd. 6. **Redefining election district boundaries.** The school board may by resolution redefine district boundaries after a school district general election. The board shall hold a public hearing on the proposed resolution before its adoption. One week's published notice of the hearing must be given. After the official certification of the federal decennial or special census, the school board shall either confirm the existing election district boundaries as conforming to the standards of subdivision 4 or redefine election district boundaries to conform to those standards as provided in section 204B.135, subdivision 2. If the school board fails to take either action within the time required, no further compensation may be paid to the school board members until the districts are either reconfirmed or redefined as required by this section. A resolution establishing election district boundaries pursuant to section 204B.135, subdivision 2, becomes effective on the date of the state primary election in the year ending in two. Election district boundaries established at other times become effective 90 days after the adoption of the resolution.

Subd. 7. **Dissolution of election districts.** The governing body of a school district that enters into a consolidation or cooperation and combination agreement may, by resolution, dissolve election districts previously established as provided in this section as part of the consolidation or cooperation and combination plan. The resolution must include a plan for the orderly transition to at-large elections of school board members.

History: *1987 c 266 art 1 s 59; 1991 c 349 s 39; 1995 c 8 s 9; 1996 c 394 s 3,4; 2008 c 295 s 21*

NOTES AND DECISIONS

205A.12

Statute does not authorize school district, having established election districts, to revert to at-large elections. Op. Atty. Gen. 161a-11, April 11, 1990.

205A.13 REQUIREMENTS FOR PETITIONS.

Any petition to a school board authorized in this chapter or sections 126C.17, 126C.40, 126C.41 to 126C.48, and 124D.22, or any other law which requires the board to submit an issue to referendum or election, shall meet the requirements provided in section 204B.071.

History: *1987 c 266 art 1 s 60; 1991 c 130 s 37; 1992 c 499 art 12 s 29; 1996 c 305 art 1 s 55; 1998 c 397 art 11 s 3; 1999 c 132 s 37*

NOTES AND DECISIONS

205A.13

Petition rules promulgated by the Secretary of State in chapter 8205 of Minnesota Rules generally apply to special school district elections relating to referenda. School district clerk is the proper filing officer for a school district special petition when the school district sits in more than one county. Op. Atty. Gen. 185-b, June 15, 2007.

CHAPTER 206 - ELECTRONIC VOTING SYSTEMS

206.01 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.01 MS 1982 [Repealed, 1984 c 447 s 32]

206.02 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.02 MS 1982 [Repealed, 1984 c 447 s 32]

206.025 [Repealed, 1984 c 447 s 32]

206.026 [Repealed, 1984 c 447 s 32]

206.03 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.03 MS 1982 [Repealed, 1984 c 447 s 32]

206.04 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.04 MS 1982 [Repealed, 1984 c 447 s 32]

206.05 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.05 MS 1982 [Repealed, 1984 c 447 s 32]

206.06 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.06 MS 1982 [Repealed, 1984 c 447 s 32]

NOTES AND DECISIONS

206.06

Manual ballots may be used in certain districts and machines in others. Manual ballots may not be used in districts where machines are furnished merely because of crowded conditions. Op. Atty. Gen. 518, January 24, 1950.

206.065 [Repealed, 1997 c 147 s 79]

206.07 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.07 MS 1982 [Repealed, 1984 c 447 s 32]

NOTES AND DECISIONS

206.07

Slogans or diagrams may not be used on voting machines to remind voters to vote on amendments. Op. Atty. Gen. 28A-9, July 1, 1974.

Amendments cannot be printed on the voting machine to remind voters to vote on amendments. Id.

Write-in votes for presidential electors are authorized in this state even though M.S. 208.04, the specific statute on the presidential ballot, makes no provision for them, since that section's specific provisions must be held to assume the general law as it is declared by former M.S. 203A.12 and 206.07, which provide for blank spaces for write-ins on all general election ballots, including the presidential ballot. Op. Atty. Gen. 28C-5, October 5, 1968.

Amendments cannot be printed on the voting machine in type disproportionately larger than that used for the names of the candidates and the same ballot. Op. Atty. Gen. 28A-9, July 7, 1964.

206.075 [Repealed, 1984 c 447 s 32]

206.08 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.08 Subdivision 1. MS 1982 [Repealed, 1984 c 447 s 32]

206.08 Subd. 2. MS 1982 [Repealed, 1984 c 447 s 32]

206.08 Subd. 3. MS 1983 Supp [Repealed, 1984 c 447 s 32]

206.08 Subd. 4. MS 1982 [Repealed, 1984 c 447 s 32]

206.09 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.09 MS 1983 Supp [Repealed, 1984 c 447 s 32]

206.095 [Repealed, 1984 c 447 s 32]

206.10 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.10 MS 1982 [Repealed, 1984 c 447 s 32]

206.11 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.11 MS 1983 Supp [Repealed, 1984 c 447 s 32]

206.12 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.12 MS 1982 [Repealed, 1984 c 447 s 32]

206.13 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.13 MS 1982 [Repealed, 1984 c 447 s 32]

206.14 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.14 MS 1982 [Repealed, 1984 c 447 s 32]

206.15 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.15 MS 1982 [Repealed, 1984 c 447 s 32]

206.16 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.16 MS 1982 [Repealed, 1984 c 447 s 32]

206.17 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.17 MS 1982 [Repealed, 1984 c 447 s 32]

206.18 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.18 MS 1982 [Repealed, 1984 c 447 s 32]

NOTES AND DECISIONS

206.18

City clerk may open voting machines used in general election for inspection by county canvassing board. Op. Atty. Gen. 183C, November 15, 1962.

County canvassing board may authorize additional personnel to assist in performing its statutory duty to inspect voting machines. Op. Atty. Gen. 183C, November 12, 1962.

206.185 [Repealed, 1984 c 447 s 32]

206.19 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.19 Subdivision 1. MS 1983 Supp [Repealed, 1984 c 447 s 32]

206.19 Subd. 2. MS 1982 [Repealed, 1984 c 447 s 32]

206.19 Subd. 3. MS 1982 [Repealed, 1984 c 447 s 32]

206.195 [Repealed, 1984 c 447 s 32]

206.20 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.20 MS 1982 [Repealed, 1984 c 447 s 32]

NOTES AND DECISIONS

206.20

Though publication of voting machine ballot was not required, local officials may publish same as aid to voters. Op. Atty. Gen. 28C-9, October 23, 1952.

206.21 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.21 Subdivision 1. MS 1982 [Repealed, 1984 c 447 s 32]

206.21 Subd. 2. MS 1982 [Repealed, 1984 c 447 s 32]

206.21 Subd. 3. MS 1983 Supp [Repealed, 1984 c 447 s 32]

206.21 Subd. 4. MS 1982 [Repealed, 1984 c 447 s 32]

206.21 Subd. 5. MS 1982 [Repealed, 1984 c 447 s 32]

206.211 [Repealed, 1984 c 447 s 32]

206.212 [Repealed, 1967 c 437 s 10]

206.22 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.23 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.23 MS 1982 [Repealed, 1984 c 447 s 32]

206.24-206.54 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

206.55 MINNESOTA ELECTION LAW APPLIES.

The use of electronic voting systems is governed by sections 206.55 to 206.90 and by all other provisions of the Minnesota election law which are not inconsistent with sections 206.55 to 206.90.

History: *1984 c 447 s 1; 1997 c 147 s 47*

206.56 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in chapter 200 and in this section apply to sections 206.55 to 206.90.

Subd. 1a. **Assistive voting technology.** "Assistive voting technology" means touch-activated screen, buttons, keypad, sip-and-puff input device, keyboard, earphones, or any other device used with an electronic ballot marker that assists voters to use an audio or electronic ballot display in order to cast votes.

Subd. 1b. **Audio ballot reader.** "Audio ballot reader" means an audio representation of a ballot that can be used with other assistive voting technology to permit a voter to mark votes on a nonelectronic ballot.

Subd. 2. **Automatic tabulating equipment.** "Automatic tabulating equipment" includes machines, resident firmware, and programmable memory units necessary to automatically examine and count votes designated on a ballot.

Subd. 3. **Ballot.** "Ballot" includes paper ballots, ballot cards, and the paper ballot marked by an electronic marking device.

Subd. 4. [Repealed, 1997 c 147 s 79]

Subd. 5. **Ballot card.** "Ballot card" means a ballot which is marked so that votes may be counted by automatic tabulating equipment.

Subd. 6. [Repealed, 1997 c 147 s 79]

Subd. 7. **Counting center.** "Counting center" means a place selected by the governing body of a municipality where a central count electronic voting system is used for the automatic processing and counting of ballots.

Subd. 7a. **Electronic ballot display.** "Electronic ballot display" means a graphic representation of a ballot on a computer monitor or screen on which a voter may make vote choices for candidates and questions for the purpose of marking a nonelectronic ballot.

Subd. 7b. **Electronic ballot marker.** "Electronic ballot marker" means equipment that is part of an electronic voting system that uses an electronic ballot display or audio ballot reader to mark a nonelectronic ballot with votes selected by a voter.

Subd. 8. **Electronic voting system.** "Electronic voting system" means a system in which the voter records votes by means of marking a ballot so that votes may be counted by automatic tabulating equipment in the polling place where the ballot is cast or at a counting center.

An electronic voting system includes automatic tabulating equipment; nonelectronic ballot markers; electronic ballot markers, including electronic ballot display, audio ballot reader and devices by which the voter will register the voter's voting intent; software used to program automatic tabulators and layout ballots; computer programs used to accumulate precinct results; ballots; secrecy folders; system documentation; and system testing results.

Subd. 9. **Manual marking device.** "Manual marking device" means any approved device for directly marking a ballot by hand with ink, pencil, or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment.

Subd. 10. [Repealed, 1997 c 147 s 79]

Subd. 11. [Repealed, 1997 c 147 s 79]

Subd. 12. [Repealed, 1997 c 147 s 79]

Subd. 13. [Repealed, 1997 c 147 s 79]

Subd. 14. **Question.** "Question" means a statement of any constitutional amendment, local ordinance, charter amendment, or other proposition being submitted to the voters at an election.

Subd. 15. [Repealed, 1997 c 147 s 79]

Subd. 16. **User list.** "User list" means a list of the chief election officials of each county and municipality responsible for preparation of a program to be used with an electronic voting system or for administration of a counting center.

Subd. 17. **Municipality.** "Municipality" means city, town, or school district.

History: *1984 c 447 s 2; 1986 c 362 s 6; 1986 c 444; 1987 c 266 art 1 s 61; 1997 c 147 s 48-52*

206.57 EXAMINATION OF NEW VOTING SYSTEMS.

Subdivision 1. **Examination and report by secretary of state; approval.** A vendor of an electronic voting system may apply to the secretary of state to examine the system and to report as to its compliance with the requirements of law and as to its accuracy, durability, efficiency, and capacity to register the will of voters. The secretary of state or a designee shall examine the system submitted and file a report on it in the office of the secretary of state. Examination is not required of every individual machine or counting device, but only of each type of electronic voting system before its adoption, use, or purchase and before its continued use after significant changes have been made in an approved system. The examination must include the ballot programming, vote counting, and vote accumulation functions of each voting system.

If the report of the secretary of state or the secretary's designee concludes that the kind of system examined complies with the requirements of sections 206.55 to 206.90 and can be used safely, the system shall be deemed approved by the secretary of state, and may be adopted and purchased for use at elections in this state. A voting system not approved by the secretary of state may not be used at an election in this state. The secretary of state may adopt permanent rules consistent with sections 206.55 to 206.90 relating to the examination and use of electronic voting systems.

Subd. 2. **Examination fee.** The secretary of state may assess a fee to accompany the application to cover the actual and necessary costs for the examinations and licenses provided for in this section. The fee must be deposited in the state treasury. The expenses of administering this section must be paid from appropriations to the secretary of state.

Subd. 3. [Repealed, 1993 c 337 s 20]

Subd. 4. **Vendor bonds.** Vendors of electronic voting systems shall certify to the secretary of state that they will not offer for sale a system which is not certified for use in Minnesota elections. The vendor shall furnish a bond in the amount of $5,000 along with the certification to the secretary of state conditioned on offering the equipment for sale in accordance with Minnesota election laws and any conditions of the approval of the equipment granted as provided in this section.

Subd. 5. **Voting system for disabled voters.** In federal and state elections held after December 31, 2005; in county, city, and school district elections held after December 31, 2007; and, except as provided in subdivision 5a, in township elections held after December 31, 2009, the voting method used in each polling place must include a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

Subd. 5a. **Limited town exemptions.** (a) A town conducting an election not held in conjunction with any federal, state, county, or school district election is exempt from the requirements of subdivision 5 if the town has fewer than 500 registered voters, as determined by the secretary of state by June 1 of each year.

(b) A town that would otherwise satisfy the requirements of this subdivision is still required to comply with subdivision 5 at its next general town election if the voters at the preceding year's annual town meeting instruct the town to conduct elections in compliance with subdivision 5.

(c) If the secretary of state, after consultation with the Minnesota Association of Townships, county auditors, or other interested parties, determines that a town's share of the cost of compliance with subdivision 5 will not exceed $150 for an election, the town may not use the exemption under paragraph (a) and shall conduct elections under subdivision 5. In determining the town's cost of compliance, the secretary shall include any expense associated with programming, ballot preparation and printing, and the equipment costs directly related to compliance with subdivision 5.

Subd. 5b. **Township voting equipment study.** (a) Beginning in 2009 and at least once every other year until 2016, the secretary of state shall consult with interested parties, including, but not limited to, members of the legislature, town officers, county election officials, the National Federation of the Blind, the Minnesota State Council on Disability, and the Disability Law Center regarding:

(1) options for full compliance with Minnesota Statutes, section 206.57, subdivision 5; and

(2) ongoing costs of compliance with Minnesota Statutes, section 206.57, subdivision 5, and methods of reducing those costs.

(b) Beginning January 15, 2010, and until January 15, 2017, the secretary of state shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over elections policy and finance regarding the findings, discussions, and developments under paragraph (a).

Subd. 6. **Required certification.** In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority accredited by the Election Assistance Commission [or appropriate federal agency responsible for testing and certification of compliance with the federal voting systems guidelines]at the time of submission of the application required by subdivision 1 to be in conformity with voluntary voting system guidelines issued by the Election Assistance Commission or other previously referenced agency. The application must be accompanied by the certification report of the voting systems test laboratory. A certification under this section from an independent testing authority accredited by the Election Assistance Commission or other previously referenced agency meets the requirement of Minnesota Rules, part 8220.0350, item L. A vendor must provide a copy of the source code for the voting system to the secretary of state. A chair of a major political party or the secretary of state may select, in consultation with the vendor, an independent third-party evaluator to examine the source code to ensure that it functions as represented by the vendor and that the code is free from defects. A major political party that elects to have the source code examined must pay for the examination. Except as provided by this subdivision, a source code that is trade secret information must be treated as nonpublic information, according to section 13.37. A third-party evaluator must not disclose the source code to anyone else.

Subd. 7. M.S. 2008 [Repealed, 2010 c 201 s 82]

Subd. 8. **Ballot boxes.** Notwithstanding Minnesota Rules, part 8230.4355, ballot boxes used with precinct count voting systems are not required to contain two separate compartments to receive ballots.

History: *1984 c 447 s 3; 1984 c 640 s 32; 1986 c 362 s 7; 1986 c 444; 1989 c 291 art 1 s 25; 1995 c 233 art 2 s 56; 1997 c 147 s 53; 2004 c 293 art 1 s 32, 33; 2005c 162 s 12-14; 2007 special session c 1 s 3; 2008 c 336 s 5-7; 2010 c 201 s 76, 82; 2011 c 18 s 7; 2013 c 131 art 2 s 67*

206.58 AUTHORIZATION FOR USE.

Subdivision 1. **Municipalities.** The governing body of a municipality, at a regular meeting or at a special meeting called for the purpose, may provide for the use of an electronic voting system in one or more precincts and at all elections in the precincts, subject to approval by the county auditor. The governing body shall disseminate information to the public about the use of a new voting system at least 60 days prior to the election and shall provide for instruction of voters with a demonstration voting system in a public place for the six weeks immediately prior to the first election at which the new voting system will be used. No system may be adopted or used unless it has been approved by the secretary of state pursuant to section 206.57.

Subd. 2. **May use experimental systems.** The governing body of a municipality may provide for the experimental use of an electronic voting system in one or more precincts without formal adoption of the system. Use of the system at an election is as valid for all purposes as if the system had been permanently adopted.

If the governing body of a municipality decides to use an electronic voting system, it shall, at a regular or special meeting held not less than 30 days before the election, prescribe suitable rules and instructions consistent with sections 206.55 to 206.90 for using the system and shall submit the rules and instructions to the secretary of state for approval. When approved, a printed copy of the rules and instructions must be posted prominently in the polling place and must remain open to inspection by the voters throughout election day.

Subd. 3. **Counties.** The governing body of a county may provide for the use of an electronic voting system in one or more precincts of the county at all elections. The governing body of the municipality shall give approval before an electronic voting system may be adopted or used in the municipality under the authority of this section. No system may be adopted or used unless it has been approved by the secretary of state pursuant to section 206.57.

Subd. 4. **Certification of use of voting systems.** If a municipality adopts the use of an electronic voting system, the municipal clerk shall certify to the secretary of state within 30 days from the date of adoption that an electronic voting system will be used in the municipality and the date when use will commence.

History: *1984 c 447 s 4; 1986 c 362 s 8; 1987 c 266 art 1 s 62; 1997 c 147 s 54*

206.59 PAYMENT FOR VOTING SYSTEMS.

Payment for an electronic voting system may be provided for in the manner deemed in the best interests of the political division adopting and purchasing it. A municipality or county may make payment by appropriating money from the general fund, by levying a tax in the same manner as other taxes are levied, or by issuing and selling bonds or other certificates of indebtedness, which must be a charge upon the municipality or county adopting and purchasing the electronic voting system. Bonds or other certificates of indebtedness may be issued by a majority vote of the governing body of the municipality or county adopting and purchasing an electronic voting system, notwithstanding any contrary provision contained in any home rule charter or law of this state.

The bonds or certificates of indebtedness issued may bear interest at a rate not exceeding the rate provided in section 475.55 and may be made payable at a time not exceeding 20 years from the date of issue, as determined by the resolution or ordinance authorizing the issue. The bonds or certificates of indebtedness may be issued exclusive of and in addition to any limit of indebtedness fixed by the charter of a municipality, or by laws governing a municipality or county, but the bonds or certificates of indebtedness may not be issued or sold at less than par and accrued interest on them.

History: *1984 c 447 s 5; 1997 c 147 s 55*

NOTES AND DECISIONS

206.59

Municipality may lease voting machines from another municipality. Op. Atty. Gen. 518, April 17, 1984.

206.60 [Repealed, 1997 c 147 s 79]

206.61 BALLOTS.

Subdivision 1. **Official responsible for providing ballots.** The official charged with providing paper ballots when they are used shall provide all ballot cards, sample ballots, precinct summary statements, and other necessary supplies needed for electronic voting systems, except as otherwise provided by this section.

At general elections and primaries the county auditor of each county in which an electronic voting system is used shall provide all ballot cards and other necessary printed forms and supplies needed for the electronic voting system, including all forms needed for voting on candidates and questions, the ballots for which are required by the election laws to be provided by the state when paper ballots are used.

Subd. 2. [Repealed, 1997 c 147 s 79]

Subd. 3. **Candidates' names.** Candidates' names may be set in as large type as the length of the majority of names on the ballot permits. The remaining candidates' names may be set in smaller sizes of type as the length of each name requires, in order to fit the available space on the ballot card.

Subd. 4. **Order of candidates.** On the "State Partisan Primary Ballot" prepared for primary elections, and on the state general election ballot prepared for the general election, the order of the names of nominees or names of candidates for election shall be the same as required for paper ballots. More than one column or row may be used for the same office or party. Electronic ballot display and audio ballot readers must conform to the candidate order on the optical scan ballot used in the precinct.

Subd. 5. **Alternation.** The provisions of the election laws requiring the alternation of names of candidates must be observed as far as practicable by changing the order of the names on an electronic voting system in the various precincts so that each name appears on the machines or marking devices used in a municipality substantially an equal number of times in the first, last, and in each intermediate place in the list or group in which they belong. However, the arrangement of candidates' names must be the same on all voting systems used in the same precinct. If the number of names to be alternated exceeds the number of precincts, the election official responsible for providing the ballots, in accordance with subdivision 1, shall determine by lot the alternation of names.

If an electronic ballot marker is used with a paper ballot that is not an optical scan ballot card, the manner of alternation of candidate names on the paper ballot must be as prescribed for optical scan ballots in this subdivision.

The rules adopted by the secretary of state for the rotation of candidate names must use the number of registered voters in each precinct as of 8:00 a.m. on May 1 of the year when the rotation will be made as the basis for determining the rotation of names.

Subd. 6. [Repealed, 1997 c 147 s 79]

Subd. 7. [Repealed, 1997 c 147 s 79]

Subd. 8. [Repealed, 1997 c 147 s 79]

History: *1984 c 447 s 7; 1987 c 175 s 13; 1997 c 147 s 56-58; 2010 c 184 s 39; 2013 c 131 art 2 s 68*

NOTES AND DECISIONS

206.61

Slogans, diagrams or large print may not be used on voting machines to remind voters to vote on amendments. Op. Atty. Gen. 28a-9, June 7, 1964

206.62 SAMPLE BALLOTS.

The officials who prepare ballot cards shall provide each polling place with at least two sample ballots which are facsimiles of the card to be voted on in that precinct. The sample ballots may be either in full or reduced size. The sample ballots must be posted prominently in the polling place and must remain open to inspection by the voters throughout election day.

History: *1984 c 447 s 8; 1997 c 147 s 59*

206.63 [Repealed, 1997 c 147 s 79]

206.64 ACCESSIBILITY; INSTRUCTIONS; ASSISTANCE TO VOTERS.

Subdivision 1. **General provisions for electronic system voting.** Each electronic voting system booth must be placed and protected so that it is accessible to only one voter at a time and is in full view of all the election judges and challengers at the polling place. The election judges shall admit one individual at a time to each booth after determining that the individual is eligible to vote. Voting by electronic voting system must be secret, except for voters who need assistance. A voter may remain inside the voting booth for three minutes. A voter who refuses to leave the voting booth after three minutes must be removed by the election judges.

Subd. 2. [Repealed, 1997 c 147 s 79]

History: *1984 c 447 s 10; 1997 c 147 s 60*

206.66 VIOLATIONS; PENALTIES.

Subdivision 1. **Injuring voting machines.** An individual who intentionally injures or attempts to injure or render ineffectual any component of an electronic voting system, or who violates any of the provisions of sections 206.55 to 206.90, is guilty of a felony.

Subd. 2. **Violation of law, rules.** An individual who violates any rules adopted by the secretary of state or by the governing body of a municipality where an electronic voting system is used, or who violates any of the provisions of sections 206.55 to 206.90, is guilty of a gross misdemeanor.

Subd. 3. **Performance bond.** A vendor of electronic voting systems or related election services shall furnish the secretary of state with a sufficient bond conditioned on the performance of those machines, systems, or services in accordance with the Minnesota election law and any contract or agreement made with an election jurisdiction in Minnesota. The vendor bond required under section 206.57, subdivision 4, may serve as the performance bond required under this subdivision. The secretary of state shall send notice of the receipt or forfeiture of a bond under this subdivision to each official on the user list.

History: *1984 c 447 s 11; 1989 c 291 art 1 s 26; 1997 c 147 s 61*

206.68 [Repealed, 1997 c 147 s 79]

206.685 [Repealed, 1997 c 147 s 79]

206.69 [Repealed, 1997 c 147 s 79]

206.70 [Repealed, 1997 c 147 s 79]

206.71 [Repealed, 1997 c 147 s 79]

206.72 [Repealed, 1997 c 147 s 79]

206.73 [Repealed, 1997 c 147 s 79]

206.74 [Repealed, 1997 c 147 s 79]

206.75 [Repealed, 1997 c 147 s 79]

206.76 [Repealed, 1997 c 147 s 79]

206.77 [Repealed, 1997 c 147 s 79]

206.80 ELECTRONIC VOTING SYSTEMS.

An electronic voting system may not be employed unless it:

(1) permits every voter to vote in secret;

(2) permits every voter to vote for all candidates and questions for whom or upon which the voter is legally entitled to vote;

(3) provides for write-in voting when authorized;

(4) automatically rejects, except as provided in section 206.84 with respect to write-in votes, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast;

(5) permits a voter at a primary election to select secretly the party for which the voter wishes to vote;

(6) automatically rejects all votes cast in a primary election by a voter when the voter votes for candidates of more than one party; and

(7) provides every voter an opportunity to verify votes recorded on the permanent paper ballot either visually or using assistive voting technology, and to change votes or correct any error before the voter's ballot is cast and counted, produces an individual, discrete, permanent, paper ballot cast by the voter, and preserves the paper ballot as an official record available for use in any recount.

(b) An electronic voting system purchased on or after June 4, 2005, may not be employed unless it:

(1) accepts and tabulates, in the polling place or at a counting center, a marked optical scan ballot; or

(2) creates a marked optical scan ballot that can be tabulated in the polling place or at a counting center by automatic tabulating equipment certified for use in this state.

History: *1984 c 447 s 22; 1987 c 222 s 4; 1988 c 646 s 9; 1997 c 147 s 62*

206.805 STATE VOTING SYSTEMS CONTRACTS.

Subdivision 1. **Contracts required.** (a) The secretary of state, with the assistance of the commissioner of administration, shall establish one or more state voting systems contracts. The contracts should, if practical, include provisions for maintenance of the equipment purchased. The voting systems contracts must address precinct-based optical scan voting equipment, and ballot marking equipment for persons with disabilities and other voters. The contracts must give the state a perpetual license to use and modify the software. The contracts must include provisions to escrow the software source code, as provided in subdivision 2. Bids for voting systems and related election services must be solicited from each vendor selling or leasing voting systems that have been certified for use by the secretary of state. The contracts must be renewed from time to time.

(b) Counties and municipalities may purchase or lease voting systems and obtain related election services from the state contracts. All counties and municipalities are members of the cooperative purchasing venture of the Department of Administration for the purpose of this section. For the purpose of township elections, counties must aggregate orders under contracts negotiated under this section for products and services and may apportion the costs of those products and services proportionally among the townships receiving the products and services. The county is not liable for the timely or accurate delivery of those products or services.

Subd. 2 M.S. 2008 [Repealed, 2010 c 201 s 82]

History: *2005 c 162 s 19; 2010 c 201 s 82; 2014 c 286 art 1 s 4*

206.81 ELECTRONIC VOTING SYSTEMS; EXPERIMENTAL USE.

(a) The secretary of state may certify an electronic voting system for experimental use at an election prior to its approval for general use.

(b) Experimental use must be observed by the secretary of state or the secretary's designee and the results observed must be considered at any subsequent proceedings for certification for general use.

(c) The secretary of state may adopt rules consistent with sections 206.55 to 206.90 relating to experimental use. The extent of experimental use must be determined by the secretary of state.

History: *1984 c 447 s 23; 1986 c 444; 1997 c 147 s 63; 1Sp2001 c; 10 art 18 s 38; 2004 c 293 art 1 s 34; 2005 c 162 s 20*

206.82 PREPARATION OF ELECTRONIC VOTING SYSTEM PROGRAMS AND PLANS.

Subdivision 1. **Program.** A program for use in an election conducted by means of an electronic voting system shall be prepared at the direction of the county auditor or municipal clerk who is responsible for the conduct of the election and shall be independently verified by a competent person designated by that official. The term "competent person" as used in this section means a person who can demonstrate knowledge as a computer programmer and who is other than and wholly independent of any person operating or employed by the counting center or the corporation or other preparer of the program. A test deck prepared by a competent

person shall be used for independent verification of the program; it shall test the maximum digits used in totaling the returns and shall be usable by insertion during the tabulation process as well as prior to tabulation. The secretary of state shall adopt rules further specifying test procedures.

Subd. 2. **Plan.** The municipal clerk in a municipality where an electronic voting system is used and the county auditor of a county in which a counting center serving more than one municipality is located shall prepare a plan which indicates acquisition of sufficient facilities, computer time, and professional services and which describes the proposed manner of complying with section 206.80. The plan must be signed, notarized, and submitted to the secretary of state more than 60 days before the first election at which the municipality uses an electronic voting system. Before May 1 of each subsequent general election year, the clerk or auditor shall submit to the secretary of state notification of any changes to the plan on file with the secretary of state. The secretary of state shall review each plan for its sufficiency and may request technical assistance from the Office of Enterprise Technology or other agency which may be operating as the central computer authority. The secretary of state shall notify each reporting authority of the sufficiency or insufficiency of its plan within 20 days of receipt of the plan. The attorney general, upon request of the secretary of state, may seek a district court order requiring an election official to fulfill duties imposed by this subdivision or by rules promulgated pursuant to this section.

Subd. 3. **Bond.** Before a contract is awarded to any vendor for preparation of a program for use with an electronic voting system, the vendor shall furnish the secretary of state with a sufficient bond conditioned on preparing the program in conformity with Minnesota election law and the instructions delivered to the vendor by the county auditor or municipal clerk who is responsible for the conduct of the election. The secretary of state shall send notice of the receipt or forfeiture of any such bond to each official on the user list. On or before March 15 of every even-numbered year the county auditor shall send to the secretary of state the current user list for the county.

History: *1984 c 447 s 24; 1986 c 362 s 9; 1986 c 444; 1987 c 175 s 14; 2008 c 244 art 2 s 20; 2009 c 86 a 1 s 30; 2010 c 184 s 40*

206.83 TESTING OF VOTING SYSTEMS.

Within 14 days before election day, the official in charge of elections shall have the voting system tested to ascertain that the system will correctly mark ballots using all methods supported by the system, including through assistive technology, and count the votes cast for all candidates and on all questions. Public notice of the time and place of the test must be given at least two days in advance by publication once in official newspapers. The test must be observed by at least two election judges, who are not of the same major political party, and must be open to representatives of the political parties, candidates, the press, and the public. The test must be conducted by (1) processing a preaudited group of ballots punched or marked to record a predetermined number of valid votes for each candidate and on each question, and must include for each office one or more ballot cards which have votes in excess of the number allowed by law in order to test the ability of the voting system tabulator and electronic ballot marker to reject those votes; and (2) processing an additional test deck of ballots marked using the electronic ballot marker for the precinct, including ballots marked using the electronic ballot display, audio ballot reader, and any assistive voting technology used with the electronic ballot marker. If any error is detected, the cause must be ascertained and corrected and an errorless count must be made before the voting system may be used in the election. After the completion of the test, the programs used and ballot cards must be sealed, retained, and disposed of as provided for paper ballots.

History: *1984 c 447 s 25; 1988 c 424 s 1; 1993 c 223 s 21; 1997 c 147 s 64; 2005 c 162 s 23*

206.84 METHODS OF USING ELECTRONIC VOTING SYSTEMS.

Subdivision 1. **Instruction of judges, voters.** The officials in charge of elections shall determine procedures to instruct election judges and voters in the use of electronic voting system manual marking devices and the electronic ballot marker, including assistive voting technology.

Subd. 2. [Repealed, 1997 c 147 s 79]

Subd. 3. **Ballots.** The ballot information must be in the same order provided for paper ballots, except that the information may be in vertical or horizontal rows, or on a number of separate pages. The secretary of state shall provide by rule for standard ballot formats for electronic voting systems. Electronic ballot displays and audio ballot readers shall be in the order provided for on the optical scan ballot. Electronic ballot displays may employ zooms or other devices as assistive voting technology. Audio ballot readers may employ rewinds or audio cues as assistive voting technology.

Ballot cards may contain special printed marks as required for proper positioning and reading of the ballots by electronic vote counting equipment. Ballot cards must contain an identification of the precinct for which they have been prepared which can be read visually and which can be tabulated by the automatic tabulating equipment.

Subd. 4. [Repealed, 1997 c 147 s 79]

Subd. 5. [Repealed, 1997 c 147 s 79]

Subd. 6. **Duties of official in charge.** The official in charge of elections in each municipality where an electronic voting system is used shall have the voting systems put in order, set, adjusted, and made ready for voting when delivered to the election precincts. The official shall also provide each precinct with a container for transporting ballot cards to the counting location after the polls close. The container shall be of sturdy material to protect the ballots from all reasonably foreseeable hazards including auto collisions. The election judges shall meet at the polling place at least one hour before the time for opening the polls. Before the polls open the election judges shall compare the ballot cards used with the sample ballots, electronic ballot displays, and audio ballot reader furnished to see that the names, numbers, and letters on both agree and shall certify to that fact on forms provided for the purpose. The certification must be filed with the election returns.

Subd. 7. **Spoiled ballot cards.** A voter who spoils a ballot card or makes an error may return it to the election judges and obtain another. Except as otherwise provided in sections 206.55 to 206.90, the election judges shall conduct the election in the manner prescribed for precincts using paper ballots in chapters 204C and 204D.

History: *1984 c 447 s 26; 1986 c 362 s 10; 1986 c 444; 1987 c 222 s 5; 1997 c 147 s 65-67; 2005 c 162 s 24-26*

206.845 BALLOT RECORDING AND COUNTING SECURITY.

Subdivision 1. **Prohibited connections.** The county auditor and municipal clerk must secure ballot recording and tabulating systems physically and electronically against unauthorized access. Except for wired connections within the polling place, ballot recording and tabulating systems must not be connected to or operated on, directly or indirectly, any electronic network, including a local area network, a wide-area network, the Internet, or the World Wide Web. Wireless communications may not be used in any way in a vote recording or vote tabulating system. Wireless, device-to-device capability is not permitted. No connection by modem is permitted.

Transfer of information from the ballot recording or tabulating system to another system for network distribution or broadcast must be made by disk, tape, or other physical means of communication, other than direct or indirect electronic connection of the vote recording or vote tabulating system.

Subd. 2. **Transmission to central reporting location.** After the close of the polls, the head election judge must create a printed record of the results of the election for that precinct. After the record has been printed, the head election judge in a precinct that employs automatic tabulating equipment may transmit the accumulated tally for each device to a central reporting location using a telephone, modem, Internet, or other electronic connection. During the canvassing period, the results transmitted electronically must be considered unofficial until the canvassing board has performed a complete reconciliation of the results.

History: *2005 c 162 s 27*

206.85 OFFICIALS IN CHARGE OF COUNTING.

Subdivision 1. **Duties of responsible official.** The official in charge of elections in a municipality where an electronic voting system is used at a counting center must:

(a) be present or personally represented throughout the counting center proceedings;

(b) be responsible for acquiring sufficient facilities and personnel to ensure timely and lawful processing of votes;

(c) be responsible for the proper training of all personnel participating in counting center proceedings and deputize all personnel who are not otherwise election judges;

(d) maintain actual control over all proceedings and be responsible for the lawful execution of all proceedings in the counting center whether or not by experts;

(e) be responsible for assuring the lawful retention and storage of ballots and read-outs; and

(f) arrange for observation by the public and by candidates' representatives of counting center procedures by publishing the exact location of the counting center in a legal newspaper at least once during the week preceding the week of election and in the newspaper of widest circulation once on the day preceding the election, or once the week preceding the election if the newspaper is a weekly.

The official may make arrangements with news reporters which permit prompt reporting of election results but which do not interfere with the timely and lawful completion of counting procedures.

Subd. 2. **Counting center in more than one municipality.** If a counting center serves more than one municipality, the county auditor of the county where the center is located is in sole charge of overall administration of the center and must

(a) establish procedures to implement the timely and lawful completion of the counting center proceedings;

(b) coordinate training of all counting center personnel and require additional training as needed;

(c) ask the county attorney, at least 30 days prior to an election, whether circumstances require that the municipalities sharing the use of a counting center resolve their respective duties and financial responsibilities by execution of a joint powers agreement pursuant to section 471.59;

(d) coordinate, and if necessary, exercise the duties imposed by this section on the official in charge of elections in a municipality where an electronic voting system is used; and

(e) limit the number of ballots to be counted at a single counting center to no more than 100,000.

History: *1984 c 447 s 27; 1986 c 362 s 11; 1986 c 444; 2005 c 162 s 28*

206.86 COUNTING ELECTRONIC VOTING SYSTEM RESULTS.

Subdivision 1. **At the voting location.** In precincts where an electronic voting system is used, as soon as the polls are closed the election judges shall secure the voting systems against further voting. They shall then open the ballot box and count the number of ballot cards or envelopes containing ballot cards that have been cast to determine that the number of ballot cards does not exceed the number of voters shown on the election register or registration file. If there is an excess, the judges shall seal the ballots in a ballot container and transport the container to the county auditor or municipal clerk who shall process the ballots in the same manner as paper ballots are processed in section 204C.20, subdivision 2, then enter the ballots into the ballot counter. The total number of voters must be entered on the forms provided. The judges shall next count the write-in votes and enter the number of those votes on forms provided for the purpose.

Subd. 2. **Transportation of ballot cards.** The judges shall place all voted ballot cards, defective ballots, and damaged ballots in the container provided for transporting them to the counting center. The container must be sealed and delivered immediately to the counting center by two judges who are not of the same major political party. The judges shall also deliver to the counting center in a suitable container the unused ballot cards, the spoiled ballot envelope, and the ballot envelopes issued to the voters and deposited during the day in the ballot box.

Subd. 3. **Counting centers open; security.** Proceedings at the counting center are open to the public. They are under the direction of the official in charge of elections in each municipality where an electronic voting system is used and must be under the observation of at least two election judges who are not of the same major political party. Only persons employed and authorized for the purpose may touch any ballot card, ballot container, or statement of absentee ballot results.

Subd. 4. **Preliminary tabulation.** When the ballot cards arrive at a counting center where votes are counted by a multiple use computer, they must be given to the counting center election judges. For purposes of this subdivision a multiple use computer is automatic tabulating equipment which can perform functions other than counting votes. If the election judges at the precinct have determined that any ballot cards are not defective by reason of improper write-in votes, those ballot cards may be counted by the automatic tabulating equipment before inspection by the counting center election judges. The results of this preliminary tabulation may be made available to the public if the tabulation is clearly identified as unofficial.

After any preliminary tabulation has been made, the ballot cards must be returned to the counting center election judges who shall examine them for physical defects and prepare replacements, if necessary, as provided in subdivision 5.

Subd. 5. **Damaged, defective ballot cards.** If a ballot card is damaged or defective so that it cannot be counted properly by the automatic tabulating equipment, a true duplicate copy must be made of the damaged ballot card in the presence of two judges not of the same major political party and must be substituted for the damaged ballot card. Likewise, a duplicate ballot card must be made of a defective ballot card which may not include the votes for the offices for which it is defective. Duplicate ballot cards must be clearly labeled "duplicate," indicate the precinct in which the corresponding damaged or defective ballot was cast, bear a serial number which must be recorded on the damaged or defective ballot card, and be counted in lieu of the damaged or defective ballot card. If a ballot card is damaged or defective so that it cannot be counted properly by the automatic tabulating equipment, the ballot card must be tallied at the counting center by two judges not of the same major political party and the totals for all these ballot cards must be added to the totals for the respective precincts.

Subd. 6. **Final tabulation.** A final tabulation of ballots must be obtained from the automatic tabulating equipment after all damaged or defective cards have been replaced. The final tabulation, together with the returns of write-in and absentee votes and the precinct summary statements prepared in accordance with section 204C.24, constitute the official return of each precinct. Upon completion of the count the returns are open to the public. The automatic tabulating equipment must be programmed to provide a complete recapitulation of all ballots processed. It may be programmed to provide information in addition to that required in the official return of each precinct, if the officials in charge of elections deem that advisable in order to provide election statistics to evaluate the performance of the electronic voting system or other aspects of the election.

History: *1984 c 447 s 28; 1997 c 147 s 68,69; 1999 c 132 s 38*

206.87 CANVASSING BOARD DUTIES.

In a municipality where an electronic voting system is used the canvassing board shall be constituted and shall perform the same duties as provided in sections 204C.32, 204C.33, and 204C.39 on the canvassing of paper ballots.

History: *1984 c 447 s 29*

206.88 PARTIAL RECOUNTS ON ELECTRONIC VOTING SYSTEMS.

The secretary of state may conduct a recount to verify the accuracy of vote counting and recording in one or more precincts in which an electronic voting system was used in the election. The results of the recount must be reported to the appropriate canvassing board. Time for notice of nomination, election, or contest for an office recounted pursuant to this section must begin upon certification of the results of the recount by the canvassing board.

History: *1989 c 291 art 1 s 27*

206.89 POSTELECTION REVIEW OF VOTING SYSTEMS.

Subdivision 1. **Definition.** For purposes of this section "postelection review official" means the county auditor, unless the county auditor designates the municipal clerk as the "postelection review official" within 24 hours after the canvass of the state general election.

Subd. 2. **Selection for review; notice. Selection for review; notice.** At the canvass of the state primary, the county canvassing board in each county must set the date, time, and place for the postelection review of the state general election to be held under this section. The postelection review must not begin before the 11th day after the state general election and must be complete no later than the 18th day after the state general election.

At the canvass of the state general election, the county canvassing boards must select the precincts to be reviewed by lot. The ballots to be reviewed for a precinct include both the ballots counted at the polling place for that precinct and the absentee ballots counted centrally by a ballot board for that precinct. The county canvassing board of a county with fewer than 50,000 registered voters must conduct a postelection review of a total of at least two precincts. The county canvassing board of a county with between 50,000 and 100,000 registered voters must conduct a review of a total of at least three precincts. The county canvassing board of a county with over 100,000 registered voters must conduct a review of a total of at least four precincts, or three percent of the total number of precincts in the county whichever is greater. At least one precinct selected in each county must have had more than 150 votes cast at the general election.

The county auditor must notify the secretary of state of the precincts that have been chosen for review and the time and place the postelection review for that county will be conducted, as soon as the decisions are made. If the selection of precincts has not resulted in the selection of at least four precincts in each congressional district, the secretary of state may require counties to select by lot additional precincts to meet the congressional district requirement. The secretary of state must post this information on the office Web site.

Subd. 2a. **Exception.** No review is required under this section if the election for the office will be subject to a recount as provided in section 204C.35, subdivision 1.

Subd. 3. **Scope and conduct of review.** The county canvassing board shall appoint the post election review official as defined in subdivision 1. The post election review must be conducted of the votes cast for President or governor; United States Senator; and United States Representative. The post election review official may conduct postelection review of the votes cast for additional offices.

The postelection review must be conducted in public at the location where the voted ballots have been securely stored after the state general election or at another location chosen by the county canvassing board. The post election review official for each precinct selected must conduct the postelection review and may be assisted by election judges designated by the post election review official for this purpose. The party balance requirement of section 204B.19 applies to election judges designated for the review. The postelection review

must consist of a manual count of the ballots used in the precincts selected and must be performed in the manner provided by section 204C.21. The postelection review must be conducted in the manner provided for recounts under section 204C.361 to the extent practicable. The review must be completed no later than two days before the meeting of the state canvassing board to certify the results of the state general election.

Subd. 4. **Standard of acceptable performance by voting system.** A comparison of the results compiled by the voting system with the postelection review described in this section must show that the results of the electronic voting system differed by no more than one-half of one percent from the manual count of the offices reviewed. Valid votes that have been marked by the voter outside the vote targets or using a manual marking device that cannot be read by the voting system must not be included in making the determination whether the voting system has met the standard of acceptable performance for any precinct.

Subd. 5. **Additional review.** (a) If the postelection review in one of the reviewed precincts reveals a difference greater than one-half of one percent, or greater than two votes in a precinct where 400 or fewer voters cast ballots, the postelection review official must, within two days, conduct an additional review of the races indicated in subdivision 3 in at least three precincts in the same jurisdiction where the discrepancy was discovered. If all precincts in that jurisdiction have been reviewed, the county auditor must immediately publicly select by lot at least three additional precincts for review. The postelection review official must complete the additional review within two days after the precincts are selected and report the results immediately to the county auditor. If the second review in any of the reviewed precincts also indicates a difference in the vote totals compiled by the voting system that is greater than one-half of one percent from the result indicated by the postelection review, or greater than two votes in a precinct where 400 or fewer voters cast ballots, the county auditor must conduct a review of the ballots from all the remaining precincts in the county for the races indicated in subdivision 3. This review must be completed and the results must be reported to the secretary of state within one week after the second review was completed.

(b) If the results from the countywide reviews from one or more counties comprising in the aggregate more than ten percent of the total number of persons voting in the election clearly indicate that an error in vote counting has occurred, the secretary of state must notify the postelection review official of each county in the district that they must conduct a manual recounts of all the ballots in the district for the affected office using the procedure outlined in section 204C.35. The recount must be completed and the results reported to the appropriate canvassing board within two weeks after the postelection review official received notice from the secretary of state.

Subd. 6. **Report of results.** Upon completion of the postelection review, the post election review official must immediately report the results to the county auditor. The county auditor must then immediately submit the results of the postelection review electronically or in writing to the secretary of state not later than two days before the State Canvassing Board meets to canvass the state general election. The secretary of state shall report the results of the postelection review at the meeting of the State Canvassing Board to canvass the state general election.

Subd. 7. **Update of vote totals.** If the postelection review under this section results in a change in the number of votes counted for any candidate, the revised vote totals must be incorporated in the official result from those precincts.

Subd. 8. **Effect on voting systems.** If a voting system is found to have failed to record votes accurately and in the manner provided by the Minnesota election law, the voting system must not be used at another election until it has been examined and recertified by the secretary of state. If the voting system failure is attributable to either its design or to actions of the vendor, the vendor must forfeit the vendor bond required by section 206.57 and the performance bond required by section 206.66.

Subd. 9. **Costs of review.** The costs of the postelection review required by this section must be allocated as follows:

(1) the governing body responsible for each precinct selected for review must pay the costs incurred for the review conducted under subdivision 2 or 5, paragraph (a);

(2) the vendor of the voting system must pay any costs incurred by the secretary of state to examine and recertify the voting system; and

(3) the secretary of state must reimburse local units of government for the costs of any recount required under subdivision 5, paragraph (b).

Subd. 10. **Time for filing election contest.** The appropriate canvass is not completed and the time for notice of a contest of election does not begin to run until all reviews under this section have been completed.

History: *2006 c 242 s 34; 2008 c 244 art 1 s 20, 21;2008 c 295 s 22; 2008 c 336 s 8; 2010 c 194 s 24; 2013 c 131 art 2 s 69, 70*

206.895 SECRETARY OF STATE MONITOR.

The secretary of state must monitor and evaluate election procedures in precincts subject to the audit provided for in section 206.89 in at least four precincts in each congressional district. The precincts must be chosen by lot by the State Canvassing Board at its meeting to canvass the general election.

History: *2006 c 242 s 34*

206.90 OPTICAL SCAN VOTING SYSTEMS.

Subdivision 1. **Definition.** For the purposes of this section, "optical scan voting system" means an electronic voting system approved for use under sections 206.80 to 206.81 in which the voter records votes by marking with a pencil or other device, including an electronic ballot marker, a ballot on which the names of candidates, office titles, party designation in a partisan primary or election, and a statement of any question accompanied by the words "Yes" and "No" are printed.

Subd. 2. **Procedures.** To the extent possible, procedures for using an optical scan voting system must be the same as those used for other electronic voting systems, unless this section provides otherwise.

Subd. 3. **Availability of paper ballots.** At a state or county election where an optical scan voting system will be in use, the county auditor may provide ballot cards meeting the requirements of this section in lieu of paper ballots otherwise required to be prepared by the county auditor. In an election jurisdiction where an optical scan voting system has been adopted, the election official may provide paper ballots prepared in the same format used for the voting system.

Subd. 4. **Absentee voting.** An optical scan voting system may be used for absentee voting. The county auditor may supply an appropriate marking instrument to the voter along with the ballot.

Subd. 5. **Instruction of judges, voters.** In instructing judges and voters under section 206.84, subdivision 1, officials in charge of election precincts using optical scan voting systems shall include instruction on the proper mark for recording votes on ballot cards marked with a pencil or other writing instrument and the insertion by the voter of the ballot card into automatic tabulating equipment that examines and counts votes as the ballot card is deposited into the ballot box.

Officials shall include instruction on the insertion by the voter of the ballot card into an electronic ballot marker that can examine votes before the ballot card is deposited into the ballot box.

Subd. 6. **Ballots.** In precincts using optical scan voting systems, a single ballot card on which all ballot information is included must be printed in black ink on white colored material except that marks not to be read by the automatic tabulating equipment may be printed in another color ink. In state elections, a single ballot title must be used, as provided in sections 204D.08, subdivision 6, and 204D.11, subdivision 1. In odd-numbered years when both municipal and school district offices or questions appear on the ballot, the single ballot title “City (or Town) and School District Ballot” must be used.

On the front of the ballot must be printed the words "Official Ballot" and the date of the election and lines for the initials of at least two election judges.

When optical scan ballots are used, the offices to be elected must appear in the following order: federal offices; state legislative offices; constitutional offices; proposed constitutional amendments; county offices and questions; municipal offices and questions; school district offices and questions; special district offices and questions; and judicial offices.

On optical scan ballots, the names of candidates and the words "yes" and "no" for ballot questions must be printed as close to their corresponding vote targets as possible.

The line on an optical scan ballot for write-in votes must contain the words "write-in, if any."

If a primary ballot contains both a partisan ballot and a nonpartisan ballot, the instructions to voters must include a statement that reads substantially as follows: “This ballot card contains a partisan ballot and a nonpartisan ballot. On the partisan ballot you are permitted to vote for candidates of one political party only.” If a primary ballot contains political party columns on both sides of the ballot, the instructions to voters must include a statement that reads substantially as follows: “Additional political parties are printed on the other side of this ballot. Vote for one political party only.” At the bottom of each political party column on the primary ballot, the ballot must contain a statement that reads substantially as follows: “Continue voting on the nonpartisan ballot.” The instructions in section 204D.08, subdivision 4, do not apply to optical scan partisan primary ballots. Electronic ballot displays and audio ballot readers must follow the order of offices and questions on the optical scan or paper ballot used in the same precinct, or the sample ballot posted for that precinct.

Subd. 7. **Voting booths.** In precincts where an optical scan voting system is used, the number of voting booths must be sufficient to provide for the number of voters expected. Information needed to enable voters to mark ballot cards quickly and correctly must be posted in each voting booth.

Subd. 8. **Duties of election officials.** The official in charge of elections in each municipality where an optical scan voting system is used shall have the electronic ballot marker that examines and marks votes on ballot cards and the automatic tabulating equipment that examines and counts votes as ballot cards are deposited into ballot boxes put in order, set, adjusted, and made ready for voting when delivered to the election precincts. Whenever a ballot card created by an electronic ballot marker certified by the secretary of state is rejected by an optical scan voting system, two election judges who are members of different major political parties shall transcribe the votes on the ballot rejected by the optical scan voting system pursuant to the procedures set forth in section 206.86, subdivision 5.

Subd. 9. **Spoiled ballot cards.** Automatic tabulating equipment and electronic ballot markers must be capable of examining a ballot card for defects and returning it to the voter before it is counted and deposited into the ballot box and must be programmed to return as a spoiled ballot a ballot card with votes for an office or question which exceed the number which the voter is entitled to cast and at a primary a ballot card with votes for candidates of more than one party.

Subd. 10. **Counting write-in votes.** In precincts using optical scan voting systems, the judges shall count the write-in votes and enter the number of those votes on forms provided for the purpose. When the write-in votes are recorded on a medium that cannot be examined for write-in votes by the automatic tabulating equipment or the automatic tabulating equipment does not reject, with respect to write-in votes, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to count, all ballot envelopes or other medium on which write-in votes have been recorded must be serially numbered, starting with the number one and the same number must be placed on the ballot card of the voter. The judges shall compare the write-in votes with the votes cast on the ballot card. If the total number of votes for any office exceeds the number allowed by law, a notation to that effect must be entered on the back of the ballot card and the card must be returned to the counting center in an envelope marked "defective ballots";

however, valid votes on ballot cards containing invalid votes must be counted as provided in section 206.86, subdivision 5.

When the write-in votes are recorded on ballot cards that can be examined for write-in votes by the automatic tabulating equipment and the automatic tabulating equipment rejects all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast, the judges shall examine the ballot cards with write-in votes and count the valid write-in votes.

History: *1986 c 381 s 1; 1987 c 175 s 15; 1989 c 291 art 1 s 28; 1993 c 223 s 22; 1994 c 646 s 22; 1997 c 147 s 70,71; 1998 c 254 art 1 s 64; 2000 c 467 s 31; 2004 c 293 art 2 s 42; 2005 c 162 s 29-33; 2006 c 242 s 36; 2013 c 131 art 2 s 71; 2015 c 70 art 1 s 51*

206.91 M.S. 2008 [Repealed, 2010 c 201 s 82]

CHAPTER 207A - PRESIDENTIAL PRIMARY

Act is effective July 1, 2017, and applies to elections conducted on or after that date

207A.11 PRESIDENTIAL NOMINATION PRIMARY ESTABLISHED.

(a) A presidential nomination primary must be held each year in which a president and vice president of the United States are to be nominated and elected.

(b) The party chairs must jointly submit to the secretary of state, no later than March 1 in a year prior to a presidential election year, the single date on which the parties have agreed to conduct the presidential nomination primary in the next year. The date selected must not be the date of the town general election provided in section 205.075, subdivision 1. If a date is not jointly submitted by the deadline, the presidential nomination primary must be held on the first Tuesday in March in the year of the presidential election. No other election may be conducted on the date of the presidential nomination primary.

(c) The secretary of state must adopt rules to implement the provisions of this chapter. The secretary of state shall consult with the party chairs throughout the rulemaking process, including seeking advice about possible rules before issuing a notice of intent to adopt rules, consultation before the notice of comment is published, consultation on the statement of need and reasonableness, consultation in drafting and revising the rules, and consultation regarding any modifications to the rule being considered.

(d) For purposes of this chapter, "political party" or "party" means a major political party as defined in section 200.02, subdivision 7.

History: *2016 c 162 s 9*

207A.12 CONDUCTING PRESIDENTIAL NOMINATION PRIMARY.

(a) Except as otherwise provided by law, the presidential nomination primary must be conducted, and the results canvassed and returned, in the manner provided by law for the state primary.

(b) An individual seeking to vote at the presidential nomination primary must be registered to vote pursuant to section 201.054, subdivision 1. The voter must request the ballot of the party for whose candidate the individual wishes to vote. Notwithstanding section 204C.18, subdivision 1, the election judge must record in the polling place roster the name of the political party whose ballot the voter requested. When posting voter history pursuant to section 201.171, the county auditor must include the name of the political party whose ballot the voter requested. The voter instruction posters, pamphlets, and other informational materials prepared for a presidential primary by the secretary of state pursuant to section 204B.27 must include information about the requirements of this paragraph, including a notice that the voter's choice of a political party's ballot will be recorded and is public information.

(c) Immediately after the state canvassing board declares the results of the presidential nomination primary, the secretary of state must notify the chair of each party of the results.

(d) The results of the presidential nomination primary must bind the election of delegates in each party.

History: *2016 c 162 s 10*

207A.13 FORM OF BALLOTS; CANDIDATES ON BALLOT.

Subdivision 1. **Form.** (a) Except as provided by law, presidential nomination primary ballots shall be printed in the same manner as state primary ballots as far as practicable. A sufficient number of each ballot shall be printed for each precinct and ward in the state.

(b) There must be separate ballots for the names of the candidates of each political party. Each ballot must be headed by the words "Presidential Nomination Primary Ballot." The heading must also indicate the party that appears on the ballot.

(c) If requested by a party chair, the ballot for that party must contain a place for a voter to indicate a preference for having delegates to the party's national convention remain uncommitted. If requested by a party chair, the ballot for that party must contain a blank line printed below the other choices on the ballot so that a voter may write in the name of a person who is not listed on the ballot. A request under this paragraph must be submitted to the secretary of state no later than 63 days before the presidential nomination primary.

Subd. 2. **Candidates on the ballot.** (a) Each party must determine which candidates are to be placed on the presidential nomination primary ballot for that party. The chair of each party must submit to the secretary of state the names of the candidates to appear on the ballot for that party no later than 63 days before the presidential nomination primary. Once submitted, changes must not be made to the candidates that will appear on the ballot.

(b) No later than the seventh day before the presidential nomination primary, the chair of each party must submit to the secretary of state the names of write-in candidates, if any, to be counted for that party.

History: *2016 c 162 s 11*

207A.14 NOTICE OF PRESIDENTIAL NOMINATION PRIMARY; SAMPLE BALLOTS.

Subdivision 1. **Notice of primary to counties and municipalities.** Twenty weeks before a presidential nomination primary is to be held, the secretary of state shall provide notice to the county auditor of each county of the date of the presidential nomination primary. Within ten days after notification by the secretary of state, each county auditor shall provide notice of the date of the presidential nomination primary to each municipal clerk in the county.

Subd. 2. **Sample ballots.** No later than 70 days before the presidential nomination primary, the secretary of state must supply each county auditor with sample ballots to be used at the presidential nomination primary. The sample ballots must illustrate the format required for the ballots used in the presidential nomination primary.

Subd. 3. **Notice of primary to public.** At least 15 days before the date of the presidential nomination primary, each municipal clerk shall post a public notice stating the date of the presidential nomination primary, the location of each polling place in the municipality, the hours during which the polling places in the municipality will be open, and information about the requirements of section 207A.12, paragraph (b), including a notice that the voter's choice of a political party's ballot will be recorded and is public information. The county auditor shall post a similar notice in the auditor's office with information for any polling places in unorganized territory in the county. The governing body of a municipality or county may publish the notice in addition to posting it. Failure to give notice does not invalidate the election.

History: *2016 c 162 s 12*

207A.15 PRESIDENTIAL NOMINATION PRIMARY ELECTION EXPENSES; LOCAL REIMBURSEMENT.

Subdivision 1. **Presidential nomination primary elections account; special revenue fund.** (a) A presidential nomination primary elections account is created in the special revenue fund.

(b) No later than September 1 of the year preceding a presidential election year, the secretary of state shall certify to the commissioner of management and budget the estimated state and local cost of administering the presidential nomination primary election. The secretary of state may make supplemental certifications to the commissioner of management and budget if new information indicates that the actual costs of conducting the election will exceed the secretary's initial estimate.

(c) Within 15 days of a certification under paragraph (b), the commissioner of management and budget must transfer an amount equal to the certification from the general fund to the presidential nomination primary elections account. The funds in the presidential nomination primary elections account are appropriated to the secretary of state for:

(1) state costs associated with administering the presidential nomination primary election; and

(2) making the reimbursements required by subdivision 2.

The commissioner of management and budget must transfer back to the general fund any funds remaining in the presidential nomination primary elections account 120 days after the results of a presidential nomination primary election have been certified by the State Canvassing Board.

Subd. 2. **Reimbursable local expenses.** (a) The secretary of state shall reimburse the counties and municipalities for expenses incurred in the administration of the presidential nomination primary from money contained in the presidential nomination primary elections account. The following expenses are eligible for reimbursement: preparation and printing of ballots; postage for absentee ballots; publication of the sample ballot; preparation of polling places in an amount not to exceed $150 per polling place; preparation of electronic voting systems in an amount not to exceed $100 per precinct; compensation for temporary staff or overtime payments; salaries of election judges; and compensation of county canvassing board members.

(b) Within 60 days after the results of a presidential nomination primary are certified by the State Canvassing Board, the county auditor must submit a request for payment of the costs incurred by the county for conducting the presidential nomination primary, and the municipal clerk must submit a request for payment of the costs incurred by the municipality for conducting the presidential nomination primary. The request for payment must be submitted to the secretary of state, and must be accompanied by an itemized description of actual county or municipal expenditures, including copies of invoices. In addition, the county auditor or municipal clerk must certify that the request for reimbursement is based on actual costs incurred by the county or municipality in the presidential nomination primary.

(c) The secretary of state shall provide each county and municipality with the appropriate forms for requesting payment and certifying expenses under this subdivision. The secretary of state must not reimburse expenses unless the request for payment and certification of costs has been submitted as provided in this subdivision. The secretary of state must complete the issuance of reimbursements to the counties and municipalities no later than 90 days after the results of the presidential nomination primary have been certified by the State Canvassing Board.

History: *2016 c 162 s 13*

CHAPTER 208 - PRESIDENTIAL ELECTORS

208.01 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.01 DEFINITIONS.

The words used in this chapter have the meanings prescribed to them in chapter 200.

History: *1959 c 675 art 9 s*

208.02 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.02 ELECTION OF PRESIDENTIAL ELECTORS AND ALTERNATES

Presidential electors and alternates shall be chosen at the state general election held in the year preceding the expiration of the term of the president of the United States.

History: *1959 c 675 art 9 s 2; 1981 c 29 art 7 s 38; 2015 c 70 art 2 s 2*

208.03 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.03 NOMINATION OF PRESIDENTIAL ELECTORS AND ALTERNATES.

Presidential electors and alternates for the major political parties of this state shall be nominated by delegate conventions called and held under the supervision of the respective state central committees of the parties of this state. At least 71 days before the general election day the chair of the major political party shall certify to the secretary of state the names of the persons nominated as presidential electors, the names of ~~eight~~ persons nominated as alternate presidential electors, and the names of the party candidates for president and vice-president. The chair shall also certify that the party candidates for president and vice president have no affidavit on file as a candidate for any office in this state at the ensuing general election.

History: *1959 c 675 art 9 s 3; 1979 c 251 s 2; 1981 c 29 art 7 s 38; 1981 c 217 s 1; 1986 c 444; 1986 c 475 s 20;2005 c 156 art 6 s 57; 2010 c 184 s 42; 2010 c 201 s 77; 2012 c 250 s 2; 2015 c 70 art 2 s 3*

NOTES AND DECISIONS

208.03

Party name protection law applies only to names of major political parties. *Scofield v. Kiffmeyer*, 620 N.W.2d 24 (Minn. 2000).

Court will not change political party or principle as stated on presidential elector nominating petition absent showing of significant degree of confusion. Mere similarity of party name is not sufficient. Id.

Courts lacked jurisdiction to pass on decisions of party central committee or convention. *Democratic Farmer-Labor State Central Committee v. Holm*, 227 Minn. 52, 33 N.W.2d 831 (1948).

Presidential and vice-presidential "candidates" nominated by petition have right to withdraw. Op. Atty. Gen. 28C-5, September 26, 1968.

Nominating petitions for presidential electors could be made under former M.S. 202A.28. Op. Atty. Gen. 185B-3, January 15, 1960. *See* M.S. 204B.07.

It is improper and illegal to place name of naturalized citizen on ballot as candidate for president. Op. Atty. Gen. 28C-5, February 19, 1952.

208.04 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.04 PREPARATION OF BALLOTS.

Subdivision 1. **Form of presidential ballots.** When presidential electors and alternates are to be voted for, a vote cast for the party candidates for president and vice-president shall be deemed a vote for that party's electors and alternates as filed with the secretary of state. The secretary of state shall certify the names of all duly nominated presidential and vice-presidential candidates to the county auditors of the counties of the state. Each county auditor, subject to the rules of the secretary of state, shall cause the names of the candidates of each major political party and the candidates nominated by petition to be printed in capital letters, set in type of the same size and style as for candidates on the state general election ballot, before the party designation. To the left of, and on the same line with the names of the candidates for president and vice-president, near the margin, shall be placed a square or box, in which the voters may indicate their choice by marking an "X."

The form for the presidential ballot and the relative position of the several candidates shall be determined by the rules applicable to other state officers. The state ballot, with the required heading, shall be printed on the same piece of paper and shall be below the presidential ballot with a blank space between one inch in width.

Subd. 2. **Applicable rules.** The rules for preparation, state contribution to the cost of printing, and delivery of presidential ballots are the same as the rules for state general election ballots under section 204D.11, subdivision 1.

History: *1959 c 675 art 9 s 4; 1961 c 606 s 2; 1976 c 224 s 7; 1979 c 251 s 3; 1981 c 29 art 7 s 23,24; 1984 c 560 s 25; 1999 c 132 s 39; 2005 c 156 art 6 s 58; 2013 c 131 art 2 s 72, 73*

NOTES AND DECISIONS

208.04

Court would not mandate change of party or principle as stated upon nominating petitions for presidential electors, despite similarity to that of other candidates, absent showing of significant degree of confusion. *Scofield v. Kiffmeyer*, 620 N.W.2d 24 (Minn. 2000).

Party Name Protection Act applies only to names of major political parties. Id.

Write-in votes for presidential electors are authorized in this state even though M.S. 208.04 makes no provision for them, since that section's specific provisions must be held to assume the general law as it is declared by former M.S. 203A.12 and 206.07, which provide for blank spaces for write-ins on all general election ballots; including the presidential ballot. Op. Atty. Gen. 28C-5, October 5, 1968. *See* M.S. 204B.36, subd. 2 and 204D.08, subd. 2, relating to primary elections

208.05 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.05 STATE CANVASSING BOARD.

The state canvassing board at its meeting on the date provided in section 204C.33 shall open and canvass the returns made to the secretary of state for presidential electors and alternates, prepare a statement of the number of votes cast for the persons receiving votes for these offices, and declare the person or persons receiving the highest number of votes for each office duly elected. When it appears that more than the number of persons to be elected as presidential electors or alternates have the highest and an equal number of votes, the secretary of state, in the presence of the board shall decide by lot which of the persons shall be declared elected. The governor shall transmit to each person declared elected a certificate of election, signed by the governor, sealed with the state seal, and countersigned by the secretary of state.

History: *1959 c 675 art 9 s 5; 1961 c 606 s 3; 1979 c 251 s 4; 1981 c 29 art 7 s 38; 1981 c 217 s 2; 2005 c 156 art 6 s 59; 2010 c 194 s 26*

NOTES AND DECISIONS

208.05

Write-in votes for presidential candidates whose electors have not been certified as such to the secretary of state under M.S. 208.03 or former 202A.32, would be a nullity since the state canvassing board under the authority of M.S. 208.05 determines the election only of electors, but an effective write-in would either write in the office of presidential elector and names of as many as ten candidates for a presidential elector, or employ a sticker for the same purpose. Op. Atty. Gen. 28C-5, October 5, 1968.

208.06 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.06 ELECTORS AND ALTERNATES TO MEET AT CAPITOL.

The presidential electors and alternate presidential electors, before 12:00 M. on the day before that fixed by Congress for the electors to vote for president and vice-president of the United States, shall notify the governor that they are at the state capitol and ready at the proper time to fulfill their duties as electors. The governor shall deliver to the electors present a certificate of the names of all the electors. The electors shall meet at 12:00 p.m. in the executive chamber of the State Capitol and shall perform all the duties imposed upon them as electors by the Constitution and laws of the United States and this state in the manner provided in section 208.46.

History: *1959 c 675 art 9 s 6; 1979 c 251 s 5; 2005 c 156 art 6 s 60; 2015 c 70 art 2 s 4*

208.07 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.07 [Repealed, 2015 c 70 art 2 s 15]

208.08 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.08 [Repealed, 2015 c 70 art 2 s 15]

208.09 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.10 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.11 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

208.21 [Repealed, 1976 c 224 s 10]

208.22 [Repealed, 1976 c 224 s 10]

208.23 [Repealed, 1976 c 224 s 10]

208.24 [Repealed, 1976 c 224 s 10]

208.25 [Repealed, 1976 c 224 s 10]

208.26 [Repealed, 1976 c 224 s 10]

208.27 [Repealed, 1976 c 224 s 10]

208.28 [Repealed, 1976 c 224 s 10]

208.29 [Repealed, 1976 c 224 s 10]

208.30 [Repealed, 1976 c 224 s 10]

208.31 [Repealed, 1976 c 224 s 10]

208.32 [Repealed, 1976 c 224 s 10]

208.33 [Repealed, 1976 c 224 s 10]

208.34 [Repealed, 1976 c 224 s 10]

208.35 [Repealed, 1976 c 224 s 10]

208.40 SHORT TITLE.

Sections 208.40 to 208.48 may be cited as the "Uniform Faithful Presidential Electors Act."

History: *2015 c 70 art 2 s 5*

208.41 DEFINITIONS.

(a) The definitions in this section apply to sections 208.40 to 208.48.

(b) "Cast" means accepted by the secretary of state in accordance with section 208.46, paragraph (b).

(c) "Elector" means an individual selected as a presidential elector under this chapter.

(d) "President" means the president of the United States.

(e) "Unaffiliated presidential candidate" means a candidate for president who qualifies for the general election ballot in this state by means other than nomination by a political party.

(f) "Vice president" means the vice president of the United States.

History: *2015 c 70 art 2 s 6*

208.42 DESIGNATION OF STATE'S ELECTORS.

For each elector position in this state, a political party contesting the position, or an unaffiliated presidential candidate, shall submit to the secretary of state the names of two qualified individuals. One of the individuals must be designated "elector nominee" and the other "alternate elector nominee."

Except as otherwise provided in sections 208.44 to 208.47, this state's electors are the winning elector nominees under the laws of this state.

History: *2015 c 70 art 2 s 7*

208.43 PLEDGE.

Each elector nominee and alternate elector nominee of a political party shall execute the following pledge: "If selected for the position of elector, I agree to serve and to mark my ballots for the president and vice president for the nominees for those offices of the party that nominated me." Each elector nominee and alternate elector nominee of an unaffiliated presidential candidate shall execute the following pledge: "If selected for the position of elector as a nominee of an unaffiliated presidential candidate, I agree to serve and to mark my ballots for that candidate and for that candidate's vice-presidential running mate." The executed pledges must accompany the submission of the corresponding names to the secretary of state.

History: *2015 c 70 art 2 s 8*

208.44 CERTIFICATION OF ELECTORS.

In submitting this state's certificate of ascertainment as required by United States Code, title 3, section 6, the governor shall certify this state's electors and state in the certificate that:

(1) the electors will serve as electors unless a vacancy occurs in the office of elector before the end of the meeting at which elector votes are cast, in which case a substitute elector will fill the vacancy; and

(2) if a substitute elector is appointed to fill a vacancy, the governor will submit an amended certificate of ascertainment stating the names on the final list of this state's electors.

History: *2015 c 70 art 2 s 9*

208.45 PRESIDING OFFICER; ELECTOR VACANCY.

(a) The secretary of state shall preside at the meeting of electors described in section 208.06.

(b) The position of an elector not present to vote is vacant. The secretary of state shall appoint an individual as a substitute elector to fill a vacancy as follows:

(1) if the alternate elector is present to vote, by appointing the alternate elector for the vacant position;

(2) If the alternate elector for the vacant position is not present to vote, by appointing an elector chosen by lot from among the alternate electors present to vote who were nominated by the same political party or unaffiliated presidential candidate;

(3) If the number of alternate electors present to vote is insufficient to fill any vacant position pursuant to clauses (1) and (2), by appointing any immediately available individual who is qualified to serve as an elector and chosen through nomination by a plurality vote of the remaining electors, including nomination and vote by a single elector if only one remains;

(4) if there is a tie between at least two nominees for substitute elector in a vote conducted under clause (3), by appointing an elector chosen by lot from among those nominees; or

(5) if all elector positions are vacant and cannot be filled pursuant to clauses (1) to (4), by appointing a single presidential elector, with remaining vacant positions to be filled under clause (3) and, if necessary, clause (4).

(c) To qualify as a substitute elector under paragraph (b), an individual who has not executed the pledge required under section 208.43 shall execute the following pledge: "I agree to serve and to mark my ballots for president and vice president consistent with the pledge of the individual to whose elector position I have succeeded."

History: *2015 c 70 art 2 s 10*

208.46 ELECTOR VOTING.

(a) At the time designated for elector voting in section 208.06, and after all vacant positions have been filled under section 208.45, the secretary of state shall provide each elector with a presidential and a vice-presidential ballot. The elector shall mark the elector's presidential and vice-presidential ballots with the elector's votes for the offices of president and vice president, respectively, along with the elector's signature and the elector's legibly printed name.

(b) Except as otherwise provided by law of this state other than this chapter, each elector shall present both completed ballots to the secretary of state, who shall examine the ballots and accept as cast all ballots of electors whose votes are consistent with their pledges executed under section 208.43 or 208.45, paragraph (c). Except as otherwise provided by law of this state other than this chapter, the secretary of state may not accept and may not count either an elector's presidential or vice-presidential ballot if the elector has not marked both ballots or has marked a ballot in violation of the elector's pledge.

(c) An elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot marked in violation of the elector's pledge executed under section 208.43 or 208.45, paragraph (c), vacates the office of elector, creating a vacant position to be filled under section 208.45.

(d) The secretary of state shall distribute ballots to and collect ballots from a substitute elector and repeat the process under this section of examining ballots, declaring and filling vacant positions as required, and recording appropriately completed ballots from the substituted electors, until all of this state's electoral votes have been cast and recorded.

History: *2015 c 70 art 2 s 11*

208.47 ELECTOR REPLACEMENT; ASSOCIATED CERTIFICATES.

(a) After the vote of this state's electors is completed, if the final list of electors differs from any list that the governor previously included on a certificate of ascertainment prepared and transmitted under United States Code, title 3, section 6, the secretary of state immediately shall prepare an amended certificate of ascertainment and transmit it to the governor for the governor's signature.

(b) The governor immediately shall deliver the signed amended certificate of ascertainment to the secretary of state and a signed duplicate original of the amended certificate of ascertainment to all individuals entitled to receive this state's certificate of ascertainment, indicating that the amended certificate of ascertainment is to be substituted for the certificate of ascertainment previously submitted.

(c) The secretary of state shall prepare a certificate of vote. The electors on the final list shall sign the certificate. The secretary of state shall process and transmit the signed certificate with the amended certificate of ascertainment under United States Code, title 3, section 9, 10, and 11.

History: *2015 c 70 art 2 s 12*

208.48 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing sections 208.40 to 208.48, consideration must be given to the need to promote uniformity of the law with respect to their subject matter among states that enact the Uniform Faithful Presidential Electors Act or similar law.

History: *2015 c 70 art 2 s 13*

CHAPTER 209 - ELECTION CONTESTS

209.01 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.01 DEFINITIONS.

Subdivision 1. **In general.** The definitions in chapter 200 apply to this chapter.

Subd. 2. **Statewide office.** For purposes of this chapter "statewide office" means the office of governor, lieutenant governor, attorney general, state auditor, secretary of state, chief justice or associate justice of the Supreme Court, judge of the Court of Appeals, United States senator, or presidential elector or alternate.

History: *1959 c 675 art 10 s 1; 1986 c 408 s 1; 2003 c 112 art 2 s 50; 2015 c 70 art 2 s 14*

NOTES AND DECISIONS

209.01

Procedures to be followed when a candidate claims that certain write-in votes were erroneously disregarded is set for in this chapter. Op. Atty. Gen. 64B, November 10, 1961.

209.02 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.02 CONTESTANT; GROUNDS.

Subdivision 1. **General.** Any eligible voter, including a candidate, may contest in the manner provided in this chapter: (1) the nomination or election of any person for whom the voter had the right to vote if that person is declared nominated or elected to the senate or the house of representatives of the United States, or to a statewide, county, legislative, municipal, school, or district court office; or (2) the declared result of a constitutional amendment or other question voted upon at an election. The contest may be brought over an irregularity in the conduct of an election or canvass of votes, over the question of who received the largest number of votes legally cast, over the number of votes legally cast in favor of or against a question, or on the grounds of deliberate, serious, and material violations of the Minnesota election law.

Subd. 2. [Repealed, 1986 c 408 s 13]

Subd. 3. [Repealed, 1986 c 408 s 13]

Subd. 4. [Repealed, 1986 c 408 s 13]

Subd. 4a. [Repealed, 1986 c 408 s 13]

Subd. 5. [Repealed, 1986 c 408 s 13]

Subd. 6. [Repealed, 1986 c 408 s 13]

Subd. 7. [Repealed, 1986 c 408 s 13]

Subd. 8. [Repealed, 1986 c 408 s 13]

History: *1959 c 675 art 10 s 2; 1961 c 607 s 1; 1963 c 682 s 1; 1965 c 81 s 4-6; 1971 c 733 s 3,4; 1974 c 312 s 1; 1978 c 674 s 60; 1981 c 29 art 7 s 38; 1983 c 303 s 23; 1986 c 408 s 2; 1987 c 266 art 1 s 64; 1990 c 453 s 18*

NOTES AND DECISIONS

209.02

Notice of election contest alleging violation by newspaper of Fair Campaign Practices Act is not justiciable. *Derus v. Higgins*, 555 N.W.2d 515 (Minn. 1996).

Supreme Court lacked jurisdiction to issue binding decision on eligibility to seat in House of Representatives. *Scheibel v. Pavlak*, 282 N.W.2d 843 (Minn. 1979).

Strict compliance with procedural requirements necessary under this chapter. *O'Loughlin v. Otis*, 276 N.W.2d 38 (Minn. 1979).

Absent compliance with procedural requirements, court lacks power to entertain contest. *Schmitt v. McLaughlin*, 275 N.W. 2d 587 (Minn. 1979). *See also Petrafeso v. McFarlin*, 296 Minn. 120, 207 N.W. 2d 343 (1973); *Holmen v. Miller*, 296 Minn. 99, 206 N.W. 2d 916 (1973).

Right to contest election is purely statutory. *Schmitt v. McLaughlin*, 275 N.W. 2d 587 (Minn. 1979); *Mittelstadt v. Breider*, 286 Minn. 211, 175 N.W.2d 191 (1970).

Because the right to contest an election is purely statutory, the provisions of the statute relating to filing and serving notice of contest must be strictly followed. *Lebens v. Harbeck*, 308 Minn. 433, 243 N.W. 2d 128 (1976).

When contestant made no effort to perform his obligation to cause service of notice of contest and when contestee had no actual notice, there were no facts from which to infer a substantial attempt to conform to statutory requirements for commencement of an election contest even though it was the obligation of the auditor under this section to mail the notice to the contestee. In re *Johnson*, 231 N.W. 2d 926 (Minn. 1975).

Where contestant did not validly serve notice of contest upon contestee within seven days after completion of canvass, as required by state, trial court properly dismissed the proceeding for want of jurisdiction. Id.

Violation of statute regulating the conduct of an election is not fatal to the election in absence of proof that the irregularity affected the outcome or was produce of fraud or bad faith. *Hahn v. Graham*, 302 Minn. 407, 225 N.W. 2d 385 (1975).

Must be a clear abuse of discretion to void election. *Moulton v. Newton*, Supra; *Munell v. Rollette*, 275 Minn. 93, 145 N.W. 2d 531 (1966).

To sustain charge that contestee of election failed to make timely filing of financial statement, contestant must show that such omissions were deliberate, serious, and material violations of the provision of the election law. *Moulton v. Newton*, 274 Minn. 547, 144 N.W. 2d 706 (1966).

In absence of affidavits district court did not acquire jurisdiction of election contest. *Franson v. Carlson*, 272 Minn. 376, 137 N.W. 2d 835 (1965).

Notice of contest must state jurisdictional grounds, and a deficiency thereof cannot be supplied by amendment. *Hancock v. Lewis*, 265 Minn. 519, 122 N.W. 2d 592 (1963).

The bare allegation that possible errors could have occurred in counting of ballots does not establish jurisdiction in election contest. *Christenson v. Allen*, 264 Minn. 295, 119 N.W. 2d 35 (1963).

For discussion of this section *see Youngdale v. Eastvoid*, 232 Minn. 134, 44 N.W. 2d 459 (1950); *Phillips v. Erickson*, 248 Minn. 452, 80 N.W. 2d 513 (1957).

When members of an election board do not qualify as de jure officers but come into office under color of authority and are so held out to the public that the persons having occasion to deal with the board will recognize them as the official body assigned to handle the affairs of the election, the election board will be held to be de facto board. In Re *Contest of Election of Vetsch*, 245 Minn. 229, 72 N.W. 2d 652 (1955).

Since the purpose of the election laws is to assure an honest and fair election, an election will not necessarily be held to be valid in the absence of a showing of actual fraud if under certain circumstances the election is conducted in such manner as to provide an opportunity for fraud. Held, where in a given election precinct the violations of the election laws, even though they be only directory in nature, were so substantial and so numerous that doubt and suspicion were cast upon the election and the integrity of the voter therefrom was impeached, that the vote of the precinct was void, and the votes cast were properly rejected. Id.

It is the general rule that, before an election is held, statutory provisions regulating the conduct of the election will usually be treated as mandatory and their observance may be insisted upon and enforced. In Re *Order of Sammons*, 242 Minn. 345, 65 N.W. 2d 198 (1954).

After an election has been held, the statutory regulations are generally construed as directory and such rule of construction is in accord with the policy of this state, which from its beginning has been that, in the absence of fraud or bad faith or constitutional violation, an election which has resulted in a fair and free expression of the will of the legal voters upon the merits will not be invalidated because of a departure from the statutory regulations governing the conduct of the election except in those cases where the legislature has clearly and unequivocally expressed an intent that a specific statutory provision is an essential jurisdictional prerequisite and that a departure therefrom shall have the drastic consequences or invalidity. Id.

Absent fraud, bad faith or constitutional violation, expression of voters will not be invalidated on basis of deviation from non-jurisdictional statutory provisions. *Erickson v. Sammons*, 242 Minn. 345, 65 N.W.2d 198 (1954).

Where elections are fairly and honestly conducted without fraud or illegal voting, they will not be set aside for mere irregularities. *State ex rel. Burnquist v. Independent Consolidated Sch. District No. 46*, 242 Minn. 320, 65 N.W. 2d 117 (1954).

Proceedings brought to avoid an election for violation of Corrupt Practices statute is a special proceeding but is tried as a civil action and the usual rules governing the trial of civil action prevail. *Bank v. Egan*, 240 Minn. 192, 60 N.W. 2d 257 (1953). *But see O'Loughlin v. Otis*, 276 N.W. 2d 38 (Minn. 1979).

Election contest petitioner must prove allegations by a preponderance of evidence. *Bank v. Egan*, 240 Minn. 192, 60 N.W.2d 257 (1953).

State courts lack jurisdiction over congressional elections. In re *Youngdale*, 232 Minn. 134, 33 N.W.2d 459 (1950).

Court was without jurisdiction to entertain contest involving nomination or election to office of representative in Congress on grounds of near error. Id.

Failure to pursue election contest precludes collateral attack on election results. *Repsold v. Ind. Sch. Dist. No. 8*, 205 Minn. 316, 285 N.W. 827 (1939).

In election contest, burden is upon contestant to prove that ballots produced at trial are in same condition as when canvassed by precinct election board, and it is for trial court to determine that fact, before accepting results of a recount of such ballots. *Sullivan v. Ebner*, 195 Minn. 232, 262 N.W. 574 (1935).

Legislature has power to prohibit corrupt practices in elections. *Saari v. Gleason*, 126 Minn. 378, 148 N.W. 293 (1914).

Judicial election could not be set aside solely on basis of judicial code violations. *Burns v. Valen*, 400 N.W. 2d 123 (Minn. Ct. App. 1987).

Public utilities commission is not authorized to contest election or have recount, nor to pay for recount out of commission funds. Op. Atty. Gen. 28A-3, December 17, 1962.

Statements made in good faith, after investigation, and essentially true were proper and did not invalidate election. Id.

Where defects in election documents or procedure go to jurisdiction to hold election, or where defects and irregularities therein are so material that qualified voters are deprived of fair opportunity to vote, election proceedings will be held invalid and election results nullified. Id.

It is the duty of the city to defend declared result of local option election when contest is under this section. Op. Atty. Gen. 218C-1, March 21, 1947.

It is no part of the duty of the county attorney to begin proceedings to annul a nomination or an election. His duty is to prosecute for violation of the Fair Campaign Practices Act. Op. Atty. Gen. 121B-9, April 5, 1940.

Costs for board members' election contest not payable by school district. Op. Atty. Gen. 1934, No. 313, p. 506.

209.021 NOTICE OF CONTEST.

Changes effective August 1, 2016

Subdivision 1. **Manner; time; contents.** Service of a notice of contest must be made in the same manner as the service of summons in civil actions. The notice of contest must specify the grounds on which the contest will be made. The contestant shall serve notice of the contest on the parties enumerated in this section. Except as provided in section 204D.27, notice must be served and filed within five days after the canvass is completed in the case of a primary or special primary or within seven days after the canvass is completed in the case of a special or general election~~; except that~~. If a contest is based on a deliberate, serious, and material violation of the election laws ~~which~~ that was discovered from the statements of receipts and disbursements required to be filed by candidates and committees, the action may be commenced and the notice served and filed within ten days after the filing of the statements in the case of a general or special election or within five days after the filing of the statements in the case of a primary or special primary. If a notice of contest questions only which party received the highest number of votes legally cast at the election, a contestee who loses may serve and file a notice of contest on any other ground during the three days following expiration of the time for appealing the decision on the vote count.

Subd. 2. **Notice filed with court.** If the contest relates to a nomination or election for statewide office, the contestant shall file the notice of contest with the court administrator of district court in Ramsey county. For contests relating to any other office, the contestant shall file the notice of contest with the court administrator of district court in the county where the contestee resides.

If the contest relates to a constitutional amendment, the contestant shall file the notice of contest with the court administrator of district court in Ramsey county. If the contest relates to any other question, the contestant shall file the notice of contest with the court administrator of district court for the county or any one of the counties where the question appeared on the ballot.

Subd. 3. **Notice served on parties.** In all contests relating to the nomination or election of a candidate, the notice of contest must be served on the candidate who is the contestee, a copy of the notice must be sent to the contestee's last known address by certified mail, and a copy must be furnished to the official authorized to issue the certificate of election. If personal or substituted service on the contestee cannot be made, an affidavit of the attempt by the person attempting to make service and the affidavit of the person who sent a copy of the notice to the contestee by certified mail is sufficient to confer jurisdiction upon the court to decide the contest.

If the contest relates to a constitutional amendment, notice of contest must be served on the secretary of state, who is the contestee. If a contest relates to a question voted on within only one county, school district, or municipality, a copy of the notice of contest must be served on the county auditor, clerk of the school district, or municipal clerk, respectively, who is the contestee. If the contest is upon the question of consolidation or reorganization of a school district, a copy of the notice of contest must be served on the county auditor authorized by law to issue the order.

History: *1986 c 408 s 3; 1Sp1986 c 3 art 1 s 82; 1987 c 175 s 16; 1987 c 266 art 1 s 65; 1989 c 291 art 1 s 29; 1990 c 453 s 19; 2015 c 70 art 1 s 52, 53; 2016 c 161 art 1 s 19*

NOTES AND DECISIONS

209.021

Invalid notice of contest cannot be validated after time for contest has passed. *Schmitt v. McLaughlin*, 275 N.W.2d 587 (Minn. 1979).
Once acquired, jurisdiction over election contest is not lost due to failure to comply strictly with statutory requirements. *Petrafeso v. McFarlin*, 296 Minn. 120, 207 N.W. 2d 343 (1973).
Notice of contest prior to completion of canvass was premature. *Franson v. Carlson*, 272 Minn. 376, 137 N.W.2d 835 (1965).
Notice of election contest is sufficient if it states facts to apprise adversary of grounds of the contest. *Christenson v. Allen*, 264 Minn. 395, 119 N.W.2d 35 (1963).
Party to election contest may not serve notice of election contest. *Stransky v. Independent Sch. Dist. 761*, 439 N.W. 2d 408 (Minn. Ct. App. 1989).
"Substantial compliance" with strict procedural requirements insufficient to confer jurisdiction to hear merits of contest. *Rachner v. Growe*, 400 N.W. 2d 749 (Minn. Ct. App. 1987).

209.03 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.03 CONTESTEE'S ANSWER.

Subdivision 1. **Contest of vote count.** If a notice of contest questions only which of the parties to the contest received the highest number of votes legally cast at the election or the number of votes legally cast in favor of or against a question, the contestee need not file an answer, unless the contestee desires to raise issues not specified in the notice of contest.

Subd. 2. **Other contests.** For all other election contests the contestee's answer to the notice of contest must be filed and served on the contestant. The answer must so far as practicable conform to the rules for pleading in civil actions. If the contest relates to a primary or special primary, service of the answer must be made within the time fixed by the court, but no more than five days after service of the notice of contest. If the contest relates to a general or special election, service of the answer must be made within seven days after service of the notice of contest. The contestee's answer must be served in the same manner as the answer in a civil action or in the manner the court may order. Any other notices must be served in the manner and within the times the court may order.

History: *1961 c 607 s 2; 1965 c 81 s 7; 1971 c 733 s 5; 1981 c 29 art 7 s 38; 1986 c 408 s 4; 1990 c 453 s 20*

209.04 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.04 MS 1984 [Repealed, 1986 c 408 s 13]

209.045 VENUE FOR STATEWIDE CONTESTS.

If a notice of contest is filed in the district court of Ramsey county regarding a statewide office or constitutional amendment or other question voted on statewide, the court administrator of district court, within three days of receipt of the notice of contest, shall submit one copy of it and of the answer, if any, to the chief justice of the supreme court by certified mail. The case must be heard and determined in Ramsey county by three judges assigned by the chief justice of the supreme court. If there is a division of opinion, the majority opinion prevails.

History: *1986 c 408 s 5; 1Sp1986 c 3 art 1 s 82*

209.05 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.05 GUARDING THE BALLOTS.

In any election, upon demand made of the custodian of the ballots and upon notice to the candidate's opponent, a candidate may keep a continuous visual guard over the ballots until the expiration of the time for instituting contests. In case of a contest, the contestant or contestee may keep a visual guard over the ballots. The guard may be maintained either by the candidate, contestant, or contestee, or by their duly authorized agents, not exceeding two at a time for each party to the contest. If a candidate, contestant, or contestee seeks to guard the ballots, the custodian of the ballots shall appoint some suitable person to guard the ballots so they are not in the sole custody of the candidate, contestant, contestee, or their agents.

History: *1959 c 675 art 10 s 3; 1961 c 607 s 4; 1986 c 408 s 6*

209.06 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.06 INSPECTION OF BALLOTS.

Subdivision 1. **Appointment of inspectors.** After a contest has been instituted, either party may have the ballots inspected before preparing for trial. The party requesting an inspection shall file with the district court where the contest is brought a verified petition, stating that the case cannot properly be prepared for trial without an inspection of the ballots and designating the precincts in which an inspection is desired. A judge of the court in which the contest is pending shall then appoint as many sets of three inspectors for a contest of any office or question as are needed to count and inspect the ballots expeditiously. One inspector must be selected by each of the parties to the contest and a third must be chosen by those two inspectors. If either party neglects or refuses to name an inspector, the judge shall appoint the inspector. The compensation of inspectors is the same as for referees, unless otherwise stipulated.

Subd. 2. **Bond, taxing of costs.** The party applying for the inspection shall file with the court administrator of district court a bond in the sum of $250 if the contest is in a single county. In other cases the bond shall be in a sum set by the court with sureties approved by the court, and conditioned that the party seeking inspection will pay the administrative costs and expenses of the inspection if that party loses the contest.

Subd. 3. **Report of inspectors.** An inspection must be made in the office and in the presence of the legal custodian of the ballots. The inspectors shall recanvass the votes cast for the parties to the contest or the question in issue in accordance with the rules for counting ballots in the Minnesota election law. They shall make a written report of the inspection indicating the number of votes cast for each candidate or each side of the question in each precinct where the ballots were inspected and indicating any disputed ballots upon which the inspectors cannot agree.

History: *1959 c 675 art 10 s 9; 1961 c 607 s 5; 1986 c 408 s 7; 1Sp1986 c 3 art 1 s 82*

209.065 PLEADINGS; PROCEDURE.

The notice of contest and any answer are the pleadings in the case and may be amended in the discretion of the court. The contest proceedings must be brought on for trial by either the contestant or contestee as soon as practicable within 20 days after the filing of the notice of contest. The court shall proceed in the manner provided for the trial of civil actions so far as practicable.

History: *1986 c 408 s 8*

NOTES AND DECISIONS

209.065

For application of rules of civil procedure to contest, *see O'Loughlin v. Otis*, 276 N.W. 2d 38 (Minn. 1979).

Findings of fact, conclusions of law, and order for a judgment entered in an action contesting election of contestee to office of register of deeds of a county were not appealable orders. *Slowinski v. Ilse*, 278 Minn. 425, 154 N.W. 2d 819 (1967).

An election contest is an exclusive statutory proceeding, special and summary in nature, requiring strict observance of statute with respect to steps necessary to provide court with jurisdiction of the contest, and it is necessary that jurisdictional facts appear on the face of the contest notice. *Hancock v. Lewis*, 265 Minn. 519, 122 N.W. 2d 592 (1963).

Jurisdictional deficiencies in notice of election contest could not be supplied by amendment after time for filing the original notice of contest expired. *Christenson v. Allen*, 264 Minn. 395, 119 N.W. 2d 35 (1963).

209.07 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.07 RESULTS OF CONTEST.

Subdivision 1. **Generally.** If a nomination is contested, the court shall decide which candidate, if any, was nominated and is entitled to be named in print on the official ballots. When the court decides an election contest for any office other than state senator or state representative, and the time for appeal has expired or, in case of an appeal, if the contestant succeeds in the contest, the court may invalidate and revoke any election certificate which has been issued to the contestee. If the contest involved an error in the counting of ballots, the official authorized to issue the certificate of election shall issue the certificate to the person entitled to it, but if a contestant succeeds in a contest where there is no question as to which of the candidates received the highest number of votes cast at the election, the contestant is not, by reason of the disqualification of the contestee, entitled to the certificate of election.

Subd. 2. **Defective ballots.** In a contested election, if the court decides that a serious and material defect in the ballots used changed the outcome of the election for the contested office, the election must be declared invalid for that office.

Subd. 3. **Costs of contest.** If the contestee succeeds, costs of the contest must be paid by the contestant. If the contestant succeeds, costs of the contest must be paid by the contestee; except that if the contestee loses because of an error in the counting of ballots or canvass of the returns or because of any other irregularity in the election procedure, costs must be paid, in the discretion of the judge, by the election jurisdictions responsible for errors which resulted in the reversal of the prior results of the election.

Subd. 4. **School district board election; surety bond requirements.** If an election approving the issuance of bonds by a school district is contested, the contestant shall file in the district court a surety bond of at least

$5,000 or a greater amount determined necessary by the court to provide security for costs of the contest to the school district, including any additional costs that may be incurred by the school district if the bond issue is delayed. The court may waive the requirements of this subdivision to the extent it finds that there is a reasonable likelihood that the contestant will prevail and that filing the bond would impose an undue hardship. If the surety bond is not filed within the time allowed by the court, the contest shall be dismissed with prejudice.

History: *1961 c 607 s 6; 1971 c 733 s 6; 1986 c 408 s 9; 1986 c 444; 1999 c 241 a 9 s 45*

NOTES AND DECISIONS

209.07

Authorized official shall issue certificate of election only after final judicial determination of contest when time for appeals has expired. *Fitzgerald v. Morlock*, 264 Minn. 417, 120 N.W. 2d 336 (1963). *Accord Matter of Ryan*, 303 N.W. 2d 462 (Minn. 1981). *But see* M.S. 209.10 and note thereunder.

Irregularity not apparently affecting result will not void results of a fair election. In re *Spec. Elec. in Sch. Dist. No. 68, Faribault Co.*, 183 Minn. 542, 237 N.W. 412 (1931).

209.08 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.085 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.09 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.09 APPEALS.

Subdivision 1. **Most contests.** If the decision of the district court in any contest under this chapter is appealed, the appellant shall file in the district court a bond of $500 for the payment of all costs incurred by the respondent if appellant fails on the appeal. Except for a statewide contest or a state legislative contest, the notice of appeal must be served and filed in the court of appeals in the case of a general or special election no later than ten days and, in the case of a primary or special primary, no later than five days after the entry of the district court's decision in the contest. The record on appeal must be made, certified, and filed in the court of appeals within 15 days after service of notice of appeal. The appeal may be brought on for hearing in the court at any time, upon notice from either party, as the court determines; and may be heard and determined summarily by the court.

Subd. 2. **Statewide offices and questions.** Section 209.10, subdivision 4, applies to a contest regarding a statewide office or a constitutional amendment. A copy of the supreme court's decision must be forwarded to the contestant and the contestee.

History: *1959 c 675 art 10 s 10; 1961 c 607 s 7; 1971 c 733 s 7; 1981 c 29 art 7 s 38; 1983 c 247 s 91; 1986 c 408 s 10; 1986 c 444; 1987 c 200 s 1; 1990 c 453 s 21; 2015 c 70 art 1 s 54*

NOTES AND DECISIONS

209.09

For the scope of review on appeal, *see Matter of Ryan*, 303 N.W. 2d 462 (Minn. 1981).

See Schiebel v. Pavlak, 282 N.W. 2d 843 (Minn. 1979).

Appeal from order for judgment in election contest*, see Matter of Contest of General Election on November 8, 1977*, 263 N.W. 2d 401 (Minn. 1978).

Appeal in which cost bond is filed does not suspend operation of district court's decision while appeal pending. Op. Atty. Gen. 218-C-18, May 1, 1947.

209.10 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.10 STATE LEGISLATIVE OFFICE.

Subdivision 1. **Notice in legislative contest.** In a legislative contest, the court administrator of district court, within three days of receipt of the notice of contest, shall submit one copy of it to the chief justice of the supreme court by certified mail. The court administrator shall also submit one copy of the answer, if any, to the chief justice by certified mail within three days of receipt.

Subd. 2. **Judge selection.** In cases where an unfair campaign practice is alleged, within five days of receipt of a notice of contest, the chief justice shall submit to the parties a list of all the district judges in the state, except those involved in a trial that would interfere with serving as a judge in the election contest and those whose health precludes serving as judge in the election contest. Within two days after receiving the list of judges the parties shall meet together and, by alternating strikes they shall remove the names of all judges until only one remains. If no unfair campaign practice is alleged, the parties shall follow the same procedure using only the names of judges of the judicial district or districts covering the area served by the contested office. If the contestant does not proceed within the time provided for in this section, the action must be dismissed and the judge shall transmit a copy of the order for dismissal to the chief clerk of the house of representatives or the secretary of the senate, as appropriate.

Subd. 3. **Duties of court.** Within 15 days after notice of contest has been filed, the judge shall convene the proceeding at an appropriate place within the county, or, if the district includes all or portions of more than one county, a county within the legislative district, and hear testimony of the parties under the ordinary rules of evidence for civil actions. The judge shall decide the contest, issue appropriate orders, and make written findings of fact and conclusions of law. Unless the matter is appealed to the supreme court, the judge, by the first day of the legislative session, shall transmit the findings, conclusions, orders, and records of the proceeding to the chief clerk of the house of representatives or the secretary of the senate, as appropriate.

Subd. 4. **Appeal.** The judge's decision may be appealed to the supreme court no later than ten days after its entry in the case of a general election contest or five days after its entry in the case of a primary contest. The record on appeal must be made, certified, and filed in the supreme court within 15 days after service of notice of appeal. The appellant shall file in the district court a bond of $500 for the payment of respondent's costs if appellant fails on appeal. The appeal from an election contest relating to the office of state senator or representative takes precedence over all other matters before the supreme court. A copy of the decision must be forwarded to the chief clerk of the house of representatives or the secretary of the senate, as appropriate.

Subd. 5. **Legislative hearing, procedure.** In hearing a contest, the house or senate shall proceed as follows:

(a) At the time appointed, the parties shall be called, and, if they appear, their appearance shall be recorded.

(b) If the presiding officer is a party, a speaker pro tem must be elected to preside.

(c) The contestant shall submit evidence first, followed by the contestee, and the contestant shall open the argument and close the argument after the contestee has been heard.

(d) The vote upon the contest must be viva voce, any member may offer reasons for an intended vote, and a majority of the votes given decides the issue. No party to the contest may vote upon any question relating thereto.

(e) The clerk or secretary shall enter the proceedings in the journal.

Subd. 6. **Not a limitation.** This chapter does not limit the constitutional power of the house of representatives and the senate to judge the election returns and eligibility of their own members.

History: *1959 c 675 art 10 s 7; 1961 c 564 s 6; 1961 c 607 s 8; 1971 c 733 s 8; 1986 c 408 s 11; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

NOTES AND DECISIONS

209.10

Except in cases of legislative elections, certificate of election may not issue until election contest is finally determined. *Matter of Ryan*, 303 N.W. 2d 462 (Minn. 1981).

Minnesota Supreme Court was without jurisdiction to issue final binding decision on legislative election contest. Its opinion on the matter was advisory to House of Representatives. *Schiebel v. Pavlak*, 282 N.W.2d 843 (Minn. 1979).

Status of incumbents whose elections were contested: 67 CJS "officers" 271, p 808; 63A AmJur 2nd sec 166, p 790; McQuillin, Vol 12, sec 12.105.

209.11 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

209.11 MS 1984 [Repealed, 1986 c 408 s 13]

209.12 CONGRESSIONAL OFFICE.

When a contest relates to the office of senator or a member of the house of representatives of the United States, the only question to be decided by the court is which party to the contest received the highest number of votes legally cast at the election and is therefore entitled to receive the certificate of election. The judge trying the proceedings shall make findings of fact and conclusions of law upon that question. Evidence on any other points specified in the notice of contest, including but not limited to the question of the right of any person to nomination or office on the ground of deliberate, serious, and material violation of the provisions of the Minnesota election law, must be taken and preserved by the judge trying the contest, or by some person appointed by the judge for that purpose; but the judge shall make no findings or conclusion on those points.

After the time for appeal has expired, or in case of an appeal, after the final judicial determination of the contest, upon application of either party to the contest, the court administrator of the district court shall promptly certify and forward the files and records of the proceedings, with all the evidence taken, to the presiding officer of the senate or the house of representatives of the United States. The court administrator shall endorse on the transmittal envelope or container the name of the case and the name of the party in whose behalf the proceedings were held, and shall sign the endorsement.

History: *1963 c 682 s 2; 1986 c 408 s 12; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

NOTES AND DECISIONS

209.12

Trial court order in contest of election for United States Senator, rejecting certain absentee ballots on basis that ballots did not strictly comply with one or more of the statutory requirements for voting by absentee ballot, did not violate contestant's substantive due process rights, because order did not represent a post-election change in standards by which the validity of absentee ballots were to be determined; strict compliance with the statutory requirements for absentee voting had always been required, because voting by absentee ballot was a privilege granted by the legislature. Order also did not violate contestant's equal protection rights, absent showing that trial court acted to intentionally or purposefully discriminate against an individual or class. In re *Contest of General Election Held on November 4, 2008, for Purpose of Electing a U.S. Senator from State of Minnesota*, 767 N.W.2d 453 (Minn. 2009)

Evidence of differing practices for accepting absentee ballots used by local election officials in different parts of state was not admissible, in candidate's contest to election for United States Senator, even though some of the ballots for the precinct had been lost at some time after election day, because no evidence existed that ballots were lost due to foul play or misconduct. In re *Contest of General Election Held on November 4, 2008, for Purpose of Electing a U.S. Senator from State of Minnesota,* 767 N.W.2d 453 (Minn. 2009).

Evidence of differing practices for accepting absentee ballots used by local election officials in different parts of state was not admissible, in candidate's contest to election for United States Senator, to show that candidate's equal protection rights were violated by officials' use of differing practices, because none of proffered evidence would have proven intentional or purposeful discrimination by officials. Election day returns from a particular precinct were properly included in the tally of legally cast votes in contest of election for United States Senator, even though some of the ballots for the precinct had been lost at some time after election day, because no evidence existed that ballots were lost due to foul play or misconduct. In re *Contest of General Election Held on November 4, 2008, for Purpose of electing a U.S. Senator from State of Minnesota,* 767 N.W.2d 453 (Minn. 2009)

Candidate for United States Senator could not challenge legality of absentee ballots after ballots had been deposited in ballot box, and thus absentee ballot return envelopes, which had been opened and the enclosed ballots removed and counted in election, were inadmissible, in candidate's contest of election, to show that local election officials had erroneously accepted and counted the ballots. In re *Contest of General Election Held on November 4, 2008, for Purpose of Electing a U.S. Senator from State of Minnesota,* 767 N.W.2d 453 (Minn. 2009).

In order to sustain a substantive due process violation based on alleged change in election procedures, an election contestant must prove as a threshold matter that the post-election change about which he complains changed the procedures on which the voters relied on election day. In re *Contest of General Election Held on November 4, 2008, for Purpose of Electing a U.S. Senator from State of Minnesota,* 767 N.W.2d 453 (Minn. 2009).

To prevail on a claim that a change in election standards violated substantive due process, the election contestant must show a change that is patently and fundamentally unfair; in other words, the contestant must show likely reliance by the voters on an existing election procedure and a change in that procedure that results in significant disenfranchisement of the voters. In re *Contest of General Election Held on November 4, 2008, for Purpose of Electing a U.S. Senator from State of Minnesota,* 767 N.W. 2d 453 (Minn. 2009).

In an election contest challenging State Canvassing Board's certification of an election winner, contestant bears the burden of proof in the trial to show that the Board's certification was in error. In re *Contest of General Election Held on November 4, 2008, for Purpose of Electing a U.S. Senator from the State of Minnesota*, 767 N.W.2d 453 (Minn. 2009).

Whether election contestant's right to substantive due process was violated during trial ws a question of law, which the Supreme Court would review de novo on appeal. In re *Contest of General Election Held on November 4, 2008, for Purpose of Electing a U.S. Senator from the State of Minnesota*, 767 N.W.2d 453 (Minn. 2009).

On appeal from an election contest challenging State Canvassing Board's certification of an election winner, the Supreme Court reviews a trial court's conclusions of law de novo. In re *Contest of General Election Held on November 4, 2008, for Purpose of Electing a U.S. Senator from State of Minnesota,*767 N.W.2d 453 (Minn. 2009).

On appeal from an election contest challenging State Canvassing Board's certification of an election winner, the Supreme Court gives the trial court's findings of fact the same weight as a trial court's findings of fact in any civil action and will not set aside those findings unless the appellant demonstrates that they are clearly erroneous. In re *Contest of General Election Held on November 4, 2008, for Purpose of Electing a U.S. Senator from State of Minnesota*, 767 N.W.2d 453 (Minn. 2009).

State statute that precluded issuance of certificate of election until state courts had finally decided a pending election contest applied to elections for United States Senate; applicability of Statute's contest tolling provision, under which governor refused to issue certificate, was dependent upon existence of a court of proper jurisdiction which could finally determine the contest, and despite exclusive authority of Senate to decide contests initiated pursuant to general election laws of the state, in state courts. *Franken v. Pawlenty*, 762 N.W. 2d 558 (Minn. 2009).

209.13-209.22 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

NOTES AND DECISIONS UNDER

209.01

Procedures to be followed when a candidate claims that certain write-in votes were erroneously disregarded is set for in this chapter. Op. Atty. Gen. 64B, November 10, 1961.

209.02

Absent compliance with procedural requirements, court lacks power to entertain contest. *Schmitt v. McLaughlin*, 275 N.W. 2d 587 (Minn. 1979). *See also Petrafeso v. McFarlin*, 296 Minn. 120, 207 N.W. 2d 343 (1973); *Holmen v. Miller*, 296 Minn. 99, 206 N.W. 2d 916 (1973).

Strict compliance with procedural requirements necessary under this chapter. *O'Loughlin v. Otis*, 276 N.W.2d 38 (Minn. 1979).

Statements made in good faith, after investigation, and essentially true were proper and did not invalidate election. Id.

Because the right to contest an election is purely statutory, the provisions of the statute relating to filing and serving notice of contest must be strictly followed. *Lebens v. Harbeck*, 308 Minn. 433, 243 N.W. 2d 128 (1976).

Where contestant did not validly serve notice of contest upon contestee within seven days after completion of canvass, as required by state, trial court properly dismissed the proceeding for want of jurisdiction. Id.

When contestant made no effort to perform his obligation to cause service of notice of contest and when contestee had no actual notice, there were no facts from which to infer a substantial attempt to conform to statutory requirements for commencement of an election contest even though it was the obligation of the auditor under this section to mail the notice to the contestee. In re *Johnson*, 231 N.W. 2d 926 (1975).

After an election has been held, the statutory regulations are generally construed as directory and such rule of construction is in accord with the policy of this state, which from its beginning has been that, in the absence of fraud or bad faith or constitutional violation, an election which has resulted in a fair and free expression of the will of the legal voters upon the merits will not be invalidated because of a departure from the statutory regulations governing the conduct of the election except in those cases where the legislature has clearly and unequivocally expressed an intent that a specific statutory provision is an essential jurisdictional prerequisite and that a departure therefrom shall have the drastic consequences or invalidity. Id. violation of statute regulating the conduct of an election is not fatal to the election in absence of proof that the irregularity affected the outcome or was produce of fraud or bad faith. *Hahn v. Graham*, 302 Minn. 407, 225 N.W. 2d 385 (1975).

To sustain charge that contestee of election failed to make timely filing of financial statement, contestant must show that such omissions were deliberate, serious, and material violations of the provision of the election law. *Moulton v. Newton*, 274 Minn. 547, 144 N.W. 2d 706 (1966).

Must be a clear abuse of discretion to void election. *Moulton v. Newton*, Supra; *Munell v. Rollette*, 275 Minn. 93, 145 N.W. 2d 531 (1966).

Notice of contest must state jurisdictional grounds, and a deficiency thereof cannot be supplied by amendment. *Hancock v. Lewis,* 265 Minn. 519, 122 N.W. 2d 592 (1963).

The bare allegation that possible errors could have occurred in counting of ballots does not establish jurisdiction in election contest. *Christenson v. Allen*, 264 Minn. 295, 119 N.W. 2d 35 (1963).

In absence of affidavits district court did not acquire jurisdiction of election contest. *Franson v. Carlson*, 272 Minn. 376, 137 N.W. 2d 835 (1965).

When members of an election board do not qualify as de jure officers but come into office under color of authority and are so held out to the public that the persons having occasion to deal with the board will recognize them as the official body assigned to handle the affairs of the election, the election board will be held to be defacto board. In Re *Contest of Election of Vetsch*, 245 Minn. 229, 72 N.W. 2d 652 (1955).

Since the purpose of the election laws is to assure an honest and fair election, an election will not necessarily be held to be valid in the absence of a showing of actual fraud if under certain circumstances the election is conducted in such manner as to provide an opportunity for fraud. Held, where in a given election precinct the violations of the election laws, even though they be only directory in nature, were so substantial and so numerous that doubt and suspicion were cast upon the election and the integrity of the voter therefrom was impeached, that the vote of the precinct was void, and the votes cast therat were properly rejected. Id.

It is the general rule that, before an election is held, statutory provisions regulating the conduct of the election will usually be treated as mandatory and their observance may be insisted upon and enforced. In Re *Order of Sammons*, 242 Minn. 345, 65 N.W. 2d 198 (1954).

Where elections are fairly and honestly conducted without fraud or illegal voting, they will not be set aside for mere irregularities. *State ex rel. Burnquist v. Independent Consolidated Sch. District No. 46*, 242 Minn. 320, 65 N.W. 2d 117 (1954).

Where defects in election documents or procedure go to jurisdiction to hold election, or where defects and irregularities therein are so material that qualified voters are deprived of fair opportunity to vote therat, election proceedings will be held invalid and election results nullified. Id.

Proceedings brought to avoid an election for violation of Corrupt Practices statute is a special proceeding but is tried as a civil action and the usual rules governing the trial of civil action prevail. *Bank v. Egan*, 240 Minn. 192, 60 N.W. 2d 257 (1953). *But see O'Loughlin v. Otis*, 276 N.W. 2d 38 (Minn. 1979).

For discussion of this section *see Youngdale v. Eastvold*, 232 Minn. 134, 44 N.W. 2d 459 (1950); *Phillips v. Erickson*, 248 Minn. 452, 80 N.W. 2d 513 (1957).

Court was without jurisdiction to entertain contest involving nomination or election to office of representative in Congress on grounds of near error. *Youngdale v. Eastvold*, 232 Minn. 134, 44 N.W. 2d, 459 (1950).

In election contest, burden is upon contestant to prove that ballots produced at trial are in same condition as when canvassed by precinct election board, and it is for trial court to determine that fact, before accepting results of a recount of such ballots. *Sullivan v. Ebner*, 195 Minn. 232, 262 N.W. 574 (1935).

Public utilities commission is not authorized to contest election or have recount, nor to pay for recount out of commission funds. Op. Atty. Gen. 28A-3, December 17, 1962.

It is the duty of the city to defend declared result of local option election when contest is under this section. Op. Atty. Gen. 218C-1, March 21, 1947.

It is no part of the duty of the county attorney to begin proceedings to annul a nomination or an election. His duty is to prosecute for violation of the Fair Campaign Practices Act. Op. Atty. Gen. 121B-9, April 5, 1940.

209.04

For application of rules of civil procedure to contest, *see O'Loughlin v. Otis*, 276 N.W. 2d 38 (Minn. 1979).

Findings of fact, conclusions of law, and order for a judgement entered in an action contesting election of contestee to office of register of deeds of a county were not appealable orders. *Slowinski v. Ilse*, 278 Minn. 425, 154 N.W. 2d 819 (1967).

An election contest is an exclusive statutory proceeding, special and summary in nature, requiring strict observance of statute with respect to steps necessary to provide court with jurisdiction of the contest, and it is necessary that jurisdictional facts appear on the face of the contest notice. *Hancock v. Lewis*, 265 Minn. 519, 122 N.W. 2d 592 (1963).

Jurisdictional deficiencies in notice of election contest could not be supplied by amendment after time for filing the original notice of contest expired. *Christenson v. Allen*, 264 Minn. 395, 119 N.W. 2d 35 (1963).

209.07

Accord *Matter of Ryan*, 303 N.W. 2d 462 (Minn. 1981). But see M.S. 209.10 and note thereunder.

Authorized official shall issue certificate of election only after final judicial determination of contest when time for appeals has expired. *Fitzgerald v. Morlock*, 264 Minn. 417, 120 N.W. 2d 336 (1963).

209.09

Scope of review on appeal, *see Matter of Ryan*, 303 N.W. 2d 462 (Minn. 1981).

See *Schiebel v. Pavlak*, 282 N.W. 2d 843 (Minn. 1979).

Appeal from order for judgement in election contest, *see Matter of Contest of General Election on November 8, 1977*, 263 N.W. 2d 401 (Minn. 1978).

Appeal in which cost bond is filed does not suspend operation of district court's decision while appeal pending. Op. Atty. Gen. 218-C-18, May 1, 1947.

209.10

Except in cases of legislative elections, certificate of election may not issue until election contest is finally determined. *Matter of Ryan*, 303 N.W. 2d 462 (Minn. 1981).

Status of incumbents whose elections were contested: 67 CJS "officers" 271, p 808; 63A AmJur 2nd sec 166, p 790; McQuillin, Vol 12, sec 12.105.

CHAPTER 211A - CAMPAIGN FINANCIAL REPORTS

211A.01 DEFINITIONS.

Subdivision 1. **Application.** The definitions in chapter 200 and this section apply to this chapter.

Subd. 2. **Ballot question.** "Ballot question" means a proposition placed on the ballot to be voted on by the voters of one or more political subdivisions but not by all the voters of the state.

Subd. 3. **Candidate.** "Candidate" means an individual who seeks nomination or election to a county, municipal, school district, or other political subdivision office. This definition does not include an individual seeking a judicial office. For purposes of sections 211A.01 to 211A.05 and 211A.07, "candidate" also includes a candidate for the United States Senate or House of Representatives.

Subd. 4. **Committee.** "Committee" means a corporation or association or persons acting together to influence the nomination, election, or defeat of a candidate or to promote or defeat a ballot question. Promoting or defeating a ballot question includes efforts to qualify or prevent a proposition from qualifying for placement on the ballot.

Subd. 5. **Contribution.** "Contribution" means anything of monetary value that is given or loaned to a candidate or committee for a political purpose. "Contribution" does not include a service provided without compensation by an individual.

Subd. 6. **Disbursement.** "Disbursement" means money, property, office, position, or any other thing of value that passes or is directly or indirectly conveyed, given, promised, paid, expended, pledged, contributed, or lent. "Disbursement" does not include payment by a county, municipality, school district, or other political subdivision for election-related expenditures required or authorized by law.

Subd. 7. **Filing officer.** "Filing officer" means the officer authorized by law to accept affidavits of candidacy or nominating petitions for an office or the officer authorized by law to place a ballot question on the ballot.

Subd. 8. **Political purposes.** An act is done for "political purposes" if it is of a nature, done with the intent, or done in a way to influence or tend to influence, directly or indirectly, voting at a primary or an election or if it is done because a person is about to vote, has voted, or has refrained from voting at a primary or an election.

History: *1988 c 578 art 2 s 1; 1990 c 453 s 22*

NOTES AND DECISIONS

211A.01

A school district fairly informs voters about a levy question, and thus does not engage in promotion of levy questions for purposes of campaign-finance-reporting requirements, when it addresses the positive and negative consequences of the levy, not only the anticipated improvement in educational opportunities, but also the increased tax rate and such other less desirable consequences as may be foreseen. *Minnesota Voters Alliance v. Anoka-Hennepin Sch. Dist.,* 868 N.W.2d 703 (Minn. App. 2015).

School district was a corporation within the meaning of the Campaign Financial Reports Act and Fair Campaign Practices Act, and therefore could qualify as a committee subject to the campaign-finance reporting requirements of that chapter if the district acted "to promote or defeat a ballot question;" legislature had specifically designated school districts as public corporations, and the fact that the legislature used a broad term without limiting its scope in the Act was indicative of an intent to encompass all forms of corporate bodies, including public corporations such as school districts. *Abrahamson v. Saint Louis Cnty. Sch. Dist.,* 819 N.W.2d 129 (Minn. 2012).

211A.02 FINANCIAL REPORT.

Subdivision 1. **When and where filed by committees.** (a) A committee or a candidate who receives contributions or makes disbursements of more than $750 in a calendar year shall submit an initial report to the filing officer within 14 days after the candidate or committee receives or makes disbursements of more than $750 and shall continue to make the reports listed in paragraph (b) until a final report is filed.

(b) the committee or candidate must file a report by January 31 of each year following the year when the initial report was filed and in a year when the candidate's name or a ballot question appears on the ballot, the candidate or committee shall file a report:

(1) ten days before the primary or special primary;

(2) ten days before the general election or special election; and

(3) 30 days after a general or special election.

Subd. 2. **Information required.** The report to be filed by a candidate or committee must include:

(1) the name of the candidate or ballot question;

(2) the printed name, address, telephone number, signature, and e-mail address, if available, of the person responsible for filing the report;

(3) the total cash on hand designated to be used for political purposes;

(4) the total amount of contributions and disbursements for the period from the last previous report to five days before the current report is due;

(5) the amount, date, and purpose for each disbursement; and

(6) the name, address, and employer, or occupation if self-employed, of any individual or committee that during the year has made one or more contributions that in the aggregate exceed $100, and the amount and date of each contribution. The filing officer must restrict public access to the address of any individual who has made a contribution that exceeds $100 and who has filed with the filing officer a written statement signed by the individual that withholding the individual's address from the financial report is required for the safety of the individual or the individual's family.

Subd. 3. **Municipal charter provisions and special laws saved.** The provisions of this section requiring the filing of reports are in addition to the provisions of any municipal charter requiring the filing of reports in connection with a municipal primary, general election, special primary, or special election, but they do not replace special laws providing filing requirements for a municipality.

Subd. 4. **Congressional candidates.** Candidates for election to the United States House of Representatives or Senate and any political committees raising money and making disbursements exclusively on behalf of any one of those candidates may file copies of their financial disclosures required by federal law in lieu of the financial statement required by this section. A candidate or committee whose report is published on the Federal Election Commission web site has complied with the filing requirements of this section.

Subd. 5. **Electronic reporting.** The reports required by this section may be filed electronically, subject to the approval of the filing officer.

Subd. 6. **Online accessibility; reports.** (a) The filing officer of a local government shall make all reports required to be filed with the local government under this section available on the local government's Web site, if the local government maintains a Web site. The filing officer must post the reports on the local government's Web site as soon as possible, but no later than 30 days after receipt of the report. The local government must make the reports available on the local government's Web site for four years from the date the report was posted to the Web site.

(b) The filing officer shall provide the Campaign Finance and Public Disclosure Board with the link to the section of the Web site where reports are made available pursuant to paragraph (a). The Campaign Finance and Public Disclosure Board shall publish on its Web site each link that a filing officer provides pursuant to this paragraph.

(c) This subdivision does not apply to a statutory or home rule charter city or town if the statutory or home rule charter city or town has fewer than 400 registered voters as of January 1 of the year in which the election is to be held.

History: *1988 c 578 art 2 s 2; 1989 c 291 art 1 s 30; 1Sp201 c 10 art 18 s 39; 2004 c 293 art 2 s 43; 2006 c 242 art 1 s 22; 2008 c 244 art 1 s 22; 2010 c 327 s 25; 2014 c 309 s 24; 2014 c 265 s 1*

NOTES AND DECISIONS

211A.02

Because a school district is a public corporation, it is subject to campaign-finance-reporting requirements if it acts to promote or defeat a ballot question. *Minnesota Voters Alliance v. Anoka-Hennepin Sch. Dist.,* 868 N.W.2d 703 (Minn. App. 2015).

Complaint alleging that school district and school board violated Campaign Financial Reports Act and Fair Campaign Practices Act by using public funds to promote the passage of bond issue ballot questions in referendum election was insufficient to set forth a prima facie violation, as required to entitle complainants to hearing; although complaint identified several expenditures for printing and video work that district had made during campaign period preceding election, and alleged that district superintendent and school principal had promoted passage of ballot questions, complaint failed to describe the content of any message communicated by district employees or board. *Barry v. St. Anthony-New Brighton Independent Sch. Dist. 282,* 781 N.W.2d 898 (Minn. App. 2010)

Administrative hearing process established to hear complaints alleging violations of statutes establishing financial-reporting requirements for political candidates and committees acting to influence elections and statutes regulating campaign practices did not violate the separation-of-powers doctrine and amount to an unconstitutional delegation of district court's original jurisdiction. *Riley v. Jankowski,* 713 N.W.2d 379 (Minn. App. 2006).

In bond referendum context, school district and its board members are neither a candidate nor a committee as defined by chapter 211A, and district is not required to report contributions or disbursements through the reporting requirements of chapter. "Disbursement," as used in statute, does not include payment by a county, municipality, school district, or other political subdivision for election related expenditures required or authorized by law. *Barry v. St. Anthony-New Brighton Independent School District 282,* OAH 3-6326-20564-CV (May 21, 2009).

Statute applied to candidate for mayor of municipality; candidate's failure to file complete and accurate campaign finance reports justified fine. *Osmek v. McKinley,* OAH 8-6326-20255-CV (April 8, 2009)

211A.03 FINAL REPORT.

A candidate or committee may file a final report when all debts have been settled and all assets in excess of $100 in the aggregate are disposed of. The final report may be filed at any time and must include the kinds of information contained in the financial statements required by section 211A.02 for the period from the last previous report to the date of the final report.

History: *1988 c 578 art 2 s 3*

NOTES AND DECISION

211A.03

In bond referendum context, school district and its board members are neither a candidate nor a committee as defined by chapter 211A, and district is not required to report contributions or disbursements through the reporting requirements of chapter. *Barry v. St. Anthony-New Brighton Independent School District 282*, OAH 3-6326-20564-CV (May 21, 2009).

211A.04 SECRETARY OF STATE'S DUTIES.

Subdivision 1. **Report forms.** The secretary of state shall prepare blanks for reports required by section 211A.02. Copies must be furnished through the county auditor or otherwise, as the secretary of state finds expedient, to a committee upon request or to a candidate upon filing for office.

Subd. 2. [Repealed, 1992 c 513 art 3 s 79]

History: *1988 c 578 art 2 s 4*

211A.05 FAILURE TO FILE STATEMENT.

Subdivision 1. **Penalty.** A candidate who intentionally fails to file a report required by section 211A.02 or a certification required by this section is guilty of a misdemeanor. The treasurer of a committee formed to promote or defeat a ballot question who intentionally fails to file a report required by section 211A.02 or a certification required by this section is guilty of a misdemeanor. Each candidate or treasurer of a committee formed to promote or defeat a ballot question shall certify to the filing officer that all reports required by section 211A.02 have been submitted to the filing officer or that the candidate or committee has not received contributions or made disbursements exceeding $750 in the calendar year. The certification shall be submitted to the filing officer no later than seven days after the general or special election. The secretary of state shall prepare blanks for this certification. An officer who issues a certificate of election to a candidate who has not certified that all reports required by section 211A.02 have been filed is guilty of a misdemeanor.

Subd. 2. **Notice of failure to file.** If a candidate or committee has filed an initial report, but fails to file a subsequent report on the date it is due, the filing officer shall immediately notify the candidate or committee of the failure to file. If a report is not filed within ten days after the notification is mailed, the filing officer shall file a complaint under section 211B.32.

History: *1988 c 578 art 2 s 5; 1989 c 291 art 1 s 31; 2004 c 277 s 3; 2008 c 244 art 1 s 23; 2010 c 327 s 26*

NOTES AND DECISIONS

211A.05

In bond referendum context, school district and its board members are neither a candidate nor a committee as defined by chapter 211A, and district not required to report contributions or disbursements through the reporting requirements of chapter. *Barry v. St. Anthony-New Brighton Independent School District 282,* OAH 3-6326-20564-CV (May 21, 2009).

County auditor does not have authority to omit name of a nominee from general election ballot because affidavit of disbursements discloses disbursements in excess of amount allowed by law. Op. Atty. Gen. 627C-12, September 29, 1948

211A.06 FAILURE TO KEEP ACCOUNT; PENALTY.

A treasurer or other individual who receives money for a committee is guilty of a misdemeanor if the individual:

(1) fails to keep a correct account as required by law;

(2) mutilates, defaces, or destroys an account record; or

(3) in the case of a committee, refuses upon request to provide financial information to a candidate; and

(4) does any of these things with the intent to conceal receipts or disbursements, the purpose of receipts or disbursements, or the existence or amount of an unpaid debt or the identity of the person to whom it is owed.

History: *1988 c 578 art 2 s 6*

NOTES AND DECISION

211A.06

In bond referendum context, school district and its members are neither a candidate nor committee as defined by chapter 211A, and district is not required to report contributions or disbursements through the reporting requirements of chapter. Time expended by school district employees who attended public or private meetings in support of referendum during business hours is not a reportable "contribution" because it is not a thing of value given or loaned to either a "candidate" or a "committee." *Barry v. St. Anthony-New Brighton Independent School District 282,* OAH 3-6326-20564-CV (May 21, 2009).

211A.07 BILLS WHEN RENDERED AND PAID.

A person who has a bill, charge, or claim against a candidate's committee shall render it in writing to the committee within 60 days after the material or service is provided. A bill, charge, or claim that is not presented within 60 days after the material or service is provided must not be paid.

History: *1988 c 578 art 2 s 7*

211A.08 PROSECUTION.

Subd. 1. [Repealed, 2004 c 277 s 13]

Subd. 2. [Repealed, 2004 c 277 s 13]

Subd. 3. **County attorney authority.** A county attorney may prosecute any violation of this chapter.

History: *1986 c 444; 1988 c 578 art 2 s 8; 2004 c 277 s 4*

NOTES AND DECISIONS

211A.08

County attorney may proceed by complaint and information rather than impaneling grand jury. Op. Atty. Gen. 627B-1, August 18, 1966.

Attorney employed to assist county attorney is not required to conduct a private and independent investigation but may conduct same so as to enable attorney to present the county attorney relevant facts and names of witnesses capable giving competent testimony in proceeding. Op. Atty. Gen. 121A-1, September 26, 1952.

Duty of county attorney is to prosecute violations of Act, not to bring proceedings to annul election. Op. Atty. Gen. 121-B-9, April 5, 1940.

211A.09 FORFEITURE OF NOMINATION OR OFFICE.

Subdivision 1. **Forfeiture required.** Except as provided in subdivision 2, if a candidate is convicted of violating a provision of this chapter or if an offense was committed by another individual with the knowledge, consent, or connivance of the candidate, the court, after entering the adjudication of guilty, shall enter a supplemental judgment declaring that the candidate has forfeited the nomination or office. If the court enters the supplemental judgment, it shall transmit to the filing officer a transcript of the supplemental judgment, the nomination or office becomes vacant, and the vacancy must be filled as provided by law.

Subd. 2. **Circumstances where nomination or office not forfeited.** In a trial for a violation of this chapter, the candidate's nomination or election is not void if the court finds that:

(1) an offense, though committed by the candidate or with the candidate's knowledge, consent, or connivance, was trivial; or

(2) an act or omission of a candidate arose from accidental miscalculation or other reasonable cause, but in any case not from a want of good faith, and that it would be unjust for the candidate to forfeit the nomination or election.

Neither of these findings is a defense to a conviction under this chapter.

History: *1988 c 578 art 2 s 9*

NOTES AND DECISIONS

211A.09

To sustain charge under this section must show omissions were deliberate, serious, and material violations of election law. *Moulton v. Newton*, 274 Minn. 545, 144 N.W. 2d 706 (1966).

As to whether acts complained of are trivial or unimportant, *see Bank v. Egan*, 240 Minn. 192, 60 N.W. 2d 257 (1953).

211A.10 DISQUALIFIED INDIVIDUALS NOT TO HOLD VARIOUS POSITIONS.

A candidate whose election to office has been set aside for a violation of this chapter may not be appointed, during the period fixed by law as the term of the office, to fill a vacancy that may occur in the office. A candidate or other individual who is convicted of a violation of this chapter may not be appointed, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy in the office. An appointment to an office made contrary to this section is void.

A candidate or other individual who is convicted of a violation of this chapter is not qualified, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy in an office for which the legislature may establish qualifications under article XII, section 3, of the Minnesota Constitution.

History: *1988 c 578 art 2 s 10*

NOTES AND DECISIONS

211A.10

Legislature may regulate the exercise of the right to vote. This section held not to add to the constitutional qualifications for holding office. *Saari v. Gleason*, 126 Minn. 378, 148 N.W. 293 (1914).

211A.11 PENALTIES FOR VIOLATIONS.

A violation of this chapter for which no other penalty is provided is a misdemeanor.

History: *1988 c 578 art 2 s 11*

211A.12 CONTRIBUTION LIMITS.

A candidate or a candidate's committee may not accept aggregate contributions made or delivered by an individual or committee in excess of $600 in an election year for the office sought and $250 in other years; except that a candidate or a candidate's committee for an office whose territory has a population over 100,000 may not accept aggregate contributions made or delivered by an individual or committee in excess of $1,000 in an election year for the office sought and $250 in other years.

The following deliveries are not subject to the bundling limitation in this section:

(1) delivery of contributions collected by a member of the candidate's committee, such as a block worker or a volunteer who hosts a fundraising event, to the committee's treasurer; and

(2) a delivery made by an individual on behalf of the individual's spouse.

Notwithstanding sections 211A.02, subdivision 3, and 410.21, this section supersedes any home rule charter.

History: *1993 c 318 art 2 s 46; 1997 c 224 s 1; 2014 c 265 s 2*

211A.13 PROHIBITED TRANSFERS.

A candidate for political subdivision office must not accept contributions from the principal campaign committee of a candidate as defined in section 10A.01, subdivision 34. A candidate for political subdivision office must not make contributions to a principal campaign committee, unless the contribution is made from the personal funds of the candidate for political subdivision office.

History: *1993 c 318 art 2 s 47; 2003 c 2 art 1 s 21*

NOTES AND DECISIONS

211A.13

Section prohibits transfers of funds between candidates and committees subject to Chapter 10A, but not transfers between candidates for local offices. Op. Atty. Gen. 627e, August 1, 1994.

211A.14 CONTRIBUTIONS AND SOLICITATIONS DURING LEGISLATIVE SESSION.

A legislator or state constitutional officer who is a candidate for a county, city, or town office, the candidate's principal campaign committee, and any other political committee with the candidate's name or title may not solicit or accept a contribution from a political fund or registered lobbyist during a regular session of the legislature.

History: *1997 c 224 s 2*

CHAPTER 211B - FAIR CAMPAIGN PRACTICES

211B.01 DEFINITIONS.

Subdivision 1. **Application.** The definitions in chapter 200 and this section apply to this chapter.

Subd. 2. **Campaign material.** "Campaign material" means any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media.

Subd. 3. **Candidate.** "Candidate" means an individual who seeks nomination or election to a federal, statewide, legislative, judicial, or local office including special districts, school districts, towns, home rule charter and statutory cities, and counties, except candidates for president and vice-president of the United States.

Subd. 4. **Committee.** "Committee" means two or more persons acting together or a corporation or association acting to influence the nomination, election, or defeat of a candidate or to promote or defeat a ballot question. Promoting or defeating a ballot question includes efforts to qualify or prevent a proposition from qualifying for placement on the ballot.

Subd. 5. **Disbursement.** "Disbursement" means an act through which money, property, office, or position or other thing of value is directly or indirectly promised, paid, spent, contributed, or lent, and any money, property, office, or position or other thing of value so promised or transferred.

Subd. 6. **Political purposes.** An act is done for "political purposes" when the act is intended or done to influence, directly or indirectly, voting at a primary or other election. This does not include news items or editorial comments published or broadcast by the news media.

History: *1988 c 578 art 3 s 1; 2004 c 293 art 3 s 1*

NOTES AND DECISIONS

211B.01

Because of potential chilling effect on free speech rights of chambers of commerce that operated as nonprofit corporations, chambers satisfied injury-in-fact requirement for Article III standing in action challenging constitutionality of statutes; case was ripe for review; and chambers had reasonable fear of prosecution under statute. *St. Paul Area Chamber of Commerce v. Gaertner,* 439 F.3rd 481 (8th Cir. 2006).

Previous provision of statute defining "campaign material" as any material that "tend(s) to influence voting at a primary or other election" was unconstitutionally vague under the First Amendment. *Minnesota Citizens Concerned for Life, Inc. v. Kelley,* 291 F.Supp.2d 1052 (D. Minn. 2003), affirmed in part and reversed in part on other grounds, 427 F.3d 1106 (8th Cir. 2005).

Fair Campaign Practices Act is directed to actions of candidate and persons for whom he is responsible; and where there is nothing to show that candidate sanctioned improper activities, that are not chargeable to him. Munnell v. Rowlette, 275 Minn. 94, 145 N.W. 2d 531 (1966).

Complaint alleging that school district and school board violated Campaign Financial Reports Act and Fair Campaign Practices Act, by using public funds to promote the passage of bond issue ballot questions in referendum election, was insufficient to set forth a prima facie violation, as required to entitle complainants to hearing; although complaint identified several expenditures for printing and video work that district had made during campaign period preceding election, and alleged that district superintendent and school Principal had promoted passage of ballot questions, complaint failed to describe the content of any message communicated by district employees or board. *Barry v. St. Anthony-New Brighton Independent Sch. Dist. 282,* 781 N.W.2d 898 (Minn. App. 2010).

Respondent's "legislative review," distributed as paid insert to local paper, constituted campaign material within the meaning of statute. *Gadsden v. Kiffmeyer*, OAH 3-0320-21609-CV (November 1, 2010).

Act applies to city charter election. Op. Atty. Gen. 627B-1, August 18, 1966.

Committee formed to support constitutional amendment must file statement of receipts and disbursements. Op. Atty. Gen. 627B-2, August 26, 1952.

The term "voluntary committee" is but another name for a political committee under this section. Such a committee may not be organized as a mere subterfuge to evade the Fair Campaign Practices Act. Op. Atty. Gen. 627C-7, August 30, 1946.

The Fair Campaign Practices Act applies to activities of which the purpose is to secure the adoption or defeat of a constitutional amendment. The act also applies to the activities of a committee formed for purpose of bringing about or preventing the adoption of an ordinance. Op. Atty. Gen. 627B-1, October 14, 1942.

211B.02 FALSE CLAIM OF SUPPORT.

A person or candidate may not knowingly make, directly or indirectly, a false claim stating or implying that a candidate or ballot question has the support or endorsement of a major political party or party unit or of an organization. A person or candidate may not state in written campaign material that the candidate or ballot question has the support or endorsement of an individual without first getting written permission from the individual to do so.

History: *1988 c 578 art 3 s 2*

NOTES AND DECISIONS

211B.02

Use of sample ballot falsely implied party endorsement. *Matter of Contest of Election in DFL Primary*, 344 N.W.2d 826 (Minn. 1983).

Prominent political leaders are not "units of political party." *Graves v. Meland*, 264 N.W.2d 401 (Minn. 1978).

Complainant demonstrated by a preponderance of the evidence that Respondent violated statute by falsely stating in written campaign material that Respondent had the endorsement of particular state legislators. *Forney v. Bourn,* OAH 11-0325-20954-CV (March 19, 2010).

Complainant failed to demonstrate by a preponderance of the evidence that Respondent violated statute by stating that Respondent had endorsement of union before endorsement was officially made; statute requires candidates to obtain written permission before claiming to have been endorsed by individuals, not organizations. *Bourn v. Forney,* OAH 11-0325-20954-CV (March 19, 2010).

Complainant failed to demonstrate by a preponderance of the evidence that Respondent violated statute where Respondent's website from a previous campaign, accessible only due to web-browser glitch, accurately described endorsements made in that campaign, and Respondent corrected error when she learned of it. Bourn v. Forney, OAH 11-0325-20954-CV (March 19, 2010)

Statute requires actual written permission of purported endorser in order to allow claim of endorsement; there is no exception for national political leaders, or for inferences drawn from leaders' public statements. *Repke v. Better Ballot Campaign*, OAH 3-0325-20939-CV (November 30, 2009)

Candidate's claim of endorsement from a person, published without the person's written permission, justified levying fine on candidate, even though person did in fact support candidate. *Bicking v. Rybak,* OAH 4-6326-20522-CV (July 28, 2009).

211B.03 USE OF THE TERM REELECT.

A person or candidate may not, in the event of redistricting, use the term "reelect" in a campaign for elective office unless the candidate is the incumbent of that office and the office represents any part of the new district.

History: *1988 c 578 art 3 s 3*

211B.04 CAMPAIGN LITERATURE MUST INCLUDE DISCLAIMER

(a) A person who participates in the preparation or dissemination of campaign material other than as provided in section 211B.05, subdivision 1, that does not prominently include the name and address of the person or committee causing the material to be prepared or disseminated in a disclaimer substantially in the form provided in paragraph (b) or (c) is guilty of a misdemeanor.

(b) Except in cases covered by paragraph (c), the required form of disclaimer is: "Prepared and paid for by the ..... committee, ...(address)" for material prepared and paid for by a principal campaign committee, or "Prepared and paid for by the ..... committee, ...(address)" for material prepared and paid for by a person or committee other than a principal campaign committee. If the material is produced and disseminated without cost, the words "paid for" may be omitted from the disclaimer.

(c) In the case of broadcast media, the required form of disclaimer is: "Paid for by the ..... committee." If the material is produced and broadcast without cost, the required form of the disclaimer is: "The …….. committee is responsible for the content of this message."

(d) This section does not apply to fund-raising tickets, business cards, personal letters, or similar items that are clearly being distributed by the candidate.

(e) This section does not apply to an individual or association that is not required to register or report under chapter 10A or 211A.

(f) This section does not apply to the following:

(1) bumper stickers, pins, buttons, pens, or similar small items on which the disclaimer cannot be conveniently printed;

(2) skywriting, wearing apparel, or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable; and

(3) online banner ads and similar electronic communications that link directly to an online page that includes the disclaimer.

(g) This section does not modify or repeal section 211B.06.

History: *1988 c 578 art 3 s 4; 1991 c 227 s 24; 1998 c 376 s 2; 2004 c 293 art 3 s 2; 2010 c 397 s 15; 2015 c 73 s 22*

NOTES AND DECISIONS

211B.04

Respondent's "legislative review," distributed as paid insert to local paper, substantially complied with disclaimer requirement contained in statute. Gadsden v. Kiffmeyer, OAH 3-0320-221609-CV (November 1, 2010)

Former sections (a) and (b) of this section were unconstitutional pursuant to McIntyre v. Ohio Elections Comm'n, 514 U.S. 334, 115 S. Ct. 1511 (1994). Op. Atty. Gen. 82t, August 27, 1997.

Because disclaimer requirement in statute directly attacks core political speech unsupported by an interest in avoiding the appearance of corruption, statute violates the First Amendment. *Minnesota Citizens Concerned for Life, Inc. v. Kelley*, 291 F.Supp.2d 1052 (D. Minn. 2003), affirmed in part and reversed in part on other grounds, 427 F.3rd 1106 (8th cir. 2005).

Absence of authorship clause on cards held trivial. Miske v. Fisher, 193 Minn. 514, 259 N.W. 18 (1935).

Because disclaimer requirement in statute could be violated by completely truthful anonymous statements made by individuals acting independently from any candidate and using their own resources, and there were no overriding state interests that permitted statute to limit such political expression under the exacting scrutiny standard, disclaimer requirement was overbroad and unconstitutionally restricted pure speech in violation of the First Amendment. *Riley v. Jankowski,* 713 N.W.2d 379 (Minn. App. 2006).

If open letter is circulated in interest of better government and not for particular candidate, then section does not require, in addition to author's name and address, name of any candidate. Op. Atty. Gen. 627J-3, October 6, 1948. *See also* Op. Atty. Gen. 627J-3, February 10, 1947 on the same issue.

Emery boards must bear name and address of author. Op. Atty. Gen. 627F-1, September 24, 1948.

Sticker with nothing more on it than the name of a person for whom votes are desired is not in effect a campaign card. Op. Atty. Gen. 627J-1, August 18, 1942.

Use of a patriotic poster with candidate's solicitation of votes thereon must bear the name and address of the author. Op. Atty. Gen. 627F-1, August 18, 1942.

Name of person or persons on committee who authorize insertion of advertisement must be stated. Op. Atty. Gen. 627C-5, October 1, 1938.

Candidate for office may include word "lawyer" on campaign card but such a card must contain address of author, while card containing a mere statement that a person is a candidate for office without anything in the way of an appeal or argument does not need to state its authorship. Op. Atty. Gen. 627J-1, March 16, 1936.

211B.045 NONCOMMERCIAL SIGNS EXEMPTION.

All noncommercial signs of any size may be posted in any number beginning 46 days before the state primary in a state general election year until ten days following the state general election. Municipal ordinances may regulate the size and number of noncommercial signs at other times.

History: *1990 c 585 s 30; 2004 c 142 s 1; 2010 c 184 s 42; 2013 c 131 art 2 s 74*

211B.05 PAID ADVERTISEMENTS IN NEWS.

Subdivision 1. **Acceptance of paid advertisements**. A newspaper, periodical, or magazine may not intentionally accept for insertion in the newspaper, magazine, or periodical a political advertisement unless the words "PAID ADVERTISEMENT," and the disclaimer required under section 211B.04 are included at the beginning or end of the advertisement. The disclaimer must be in a legible text size and font. A radio station, television station, or cable system may not accept for broadcast a political advertisement unless the words "PAID ADVERTISEMENT" are included at the beginning or end of the advertisement.

Subd. 2. **Advertising rates.** Rates charged for advertising to support or oppose a candidate or ballot question must be the same as the charges made for any other political candidate and may be no greater than charges made for any other comparable purpose or use according to the seller's rate schedule.

Subd. 3. **Compensation prohibited, except for paid advertisement.** An owner, publisher, editor, reporter, agent, broadcaster, or employee of a newspaper, periodical, magazine, radio or television broadcast station, or cable system may not directly or indirectly solicit, receive, or accept a payment, promise, or compensation, nor may a person pay or promise to pay or in any manner compensate an owner, publisher, editor, reporter, agent, broadcaster, or employee directly or indirectly for influencing or attempting to influence voting at an election or primary through printed material in the newspaper or periodical, or radio, television, or cable broadcast, except as a "PAID ADVERTISEMENT" as provided in this section.

Subd. 4. **Unpaid material identification.** Unpaid material published in a newspaper, magazine, or other publication that is: (1) in unique typeset or otherwise differentiated from other unpaid material, (2) designed to influence or attempt to influence the voting at any election or the passage or defeat of legislation, and (3) not placed on the editorial page must be clearly identified as an editorial opinion.

History: *1988 c 578 art 3 s 5; 2001 c 143 s 1*

NOTES AND DECISION

211B.05

Newspaper's decision to reprint candidates' campaign ads due to errors in initial printing did not violate statute, even though reprinting, unlike initial printing, was in ad space usually costing more than candidates paid for initial printing. *Clausen v. Star Tribune,* OAH 3-0325-20975-CV (November 23, 2009).

211B.06 FALSE POLITICAL AND CAMPAIGN MATERIAL.

Subdivision 1. **Gross misdemeanor.** A person is guilty of a gross misdemeanor who intentionally participates in the preparation, dissemination, or broadcast of paid political advertising or campaign material with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat a candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

A person is guilty of a misdemeanor who intentionally participates in the drafting of a letter to the editor with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat any candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

Subd. 2. **Exception.** Subdivision 1 does not apply to any person or organization whose sole act is, in the normal course of their business, the printing, manufacturing, or dissemination of the false information.

History: *1988 c 578 art 3 s 6; 1998 c 376 s 3*

NOTES AND DECISIONS

211B.06

Statute making it a crime to make false statement about proposed ballot initiative was not narrowly tailored to meet any compelling government interest; statute was not actually necessary in that it tended to perpetuate the very fraud it was allegedly designed to prohibit, statute was simultaneously overbroad and underinclusive, and statute was not the least restrictive means of achieving the stated goals it allegedly advanced. *281 Care Comm. v. Arneson*, 766 F.3d 744 (8th Cir. 2014).

Claim that district court improperly refused to accept candidate's election contest filing because district court's decision was not a "duty concerning an election"; statute is not a broad vehicle through which any conduct with any relationship to an election, however tangential, can be challenged. *Carlson v. Ritchie,* 830 N.W.2d 887 (Minn. 2013).

Budget projection based on "worst case" scenario was not sufficient to establish actual malice, and therefore publication of projection in support of ballot question did not constitute publication of a false statement in connection with a ballot question; using "worst case" assumptions was more akin to producing a "slanted" statement than it was to producing a statement that was demonstrably false. *Abrahamson v. Saint Louis Cnty. Sch. Dist.,* 819 N.W.2d 129 (Minn. 2012).

Claim alleging a violation of statute that made it a criminal offense to publish a false statement to defeat a ballot question was required to be filed within one year of the publication of the statement. *Abrahamson v. Saint Louis Cnty. Sch. Dist.,* 819 N.W.2d 129 (Minn. 2012).

Suit was not void for failure to state a claim for which relief could be granted because statute presents a credible threat of prosecution for non-defamatory speech about ballot initiatives and plaintiffs presented sufficient allegations that their non-defamatory speech about ballot initiatives had been chilled to survive a motion to dismiss. *281 Care Comm. v. Arneson, No. 10-1558 (8th Cir. Apr. 28, 2011).*

As-applied constitutional challenge to election statute prohibiting false statements that hinged on party-endorsed candidate's being prosecuted for allegedly falsely claiming to be only party member who was candidate in county commissioner race was mooted when charges against candidate were dismissed with prejudice. *Republican Party of Minn., Third Congressional Dist. v. Klobuchar,* 381 F.3d 785 (8th Cir. 2004).

Violation of the statutory prohibition on false campaign material requires a finding of both a false statement and actual malice or reckless disregard. Statements criticizing official conduct do no lose constitutional protection merely because they are criticisms and effectively diminish an official's reputation. Statements in candidate's campaign flyer held to be false contentions of fact, rather than statements of opinion protected under the First Amendment. Penalty of $800 for candidate's violation of statutory prohibition on false campaign material, based on candidate's willfulness and on gravity of violations, held valid. *Fine v. Bernstein*, 726 N.W.2d 137 (Minn. App. 2007)

Rights to jury trial of successful candidates in city council election were not violated by administrative hearing process that heard allegations by their opponents that they violated statutes establishing financial-reporting requirements for political candidates and committees acting to influence elections and statutes regulating campaign practices. *Riley v. Jankowski,* 713 N.W.2d 379 (Minn. App. 2006).

This section is not preempted by the Federal Election Campaign Act. However, it is unconstitutionally overbroad because it extends to statements not made with "actual malice." *State v. Jude*, 554 N.W.2d 750 (Minn. Ct. App. 1996).

Complainant failed to provide sufficient evidence to demonstrate that Respondent violated statute because evidence was insufficient to prove that the Respondent knew that his challenged statement in newspaper advertisement was false or that he communicated it with reckless disregard as to whether it was false. *Carpenter v. Walker*, OAH 8-0325-21583-CV (October 25, 2010).

Complainant failed to provide sufficient evidence to demonstrate that Respondent violated statute because evidence is insufficient to prove that Respondent knew that challenged statement in campaign materials was false or that he communicated it with reckless disregard as to whether it was false. *Fatland v. Smith,* OAH 8-0325-21219-CV (June 9, 2010).

Respondent's challenged statement in advertisement, while incomplete and somewhat misleading, was not false within meaning of statute. *Erickson v. Education Minnesota Local 1406,* OAH 15-0325-21158-CV (May 18, 2010).

Respondent's challenged statement in advertisement was not false within meaning of statute. *House Republican Campaign Comm. v. Alliance for a Better Minnesota*, OAH 3-0320-21132-CV (April 27, 2010).

Summary disposition for Respondent was appropriate because Complainant produced no evidence that Respondent's challenged statements were factually false or that Respondent disseminated them with reckless disregard as to whether they were false. *Thul v. Minnesota DFL Party,* OAH 11-0320-21159-CV (April 20, 2010).

Statute is directed against false statements of specific facts, and does not prohibit inferences or implications, even if misleading; moreover, statement that must e proved false is not necessarily the literal phrase published but rather what a reasonable reader would have understood the author to have said. *Hauer v. Katch,* OAH 8-0325-20710-CV (August 3, 2009).

Statute mandated fine be levied upon person who wrote letter to residents of city criticizing City council and containing factual allegation writer knew to be false; letter constituted "campaign material" under meaning of statute. *Pahl v.Mucciacciaro,* OAH 8-6381-20067-CV (February 11, 2009).

211B.07 UNDUE INFLUENCE ON VOTERS PROHIBITED.

A person may not directly or indirectly use or threaten force, coercion, violence, restraint, damage, harm, loss, including loss of employment or economic reprisal, undue influence, or temporal or spiritual injury against an individual to compel the individual to vote for or against a candidate or ballot question. Abduction, duress, or fraud may not be used to obstruct or prevent the free exercise of the right to vote of a voter at a primary or election, or compel a voter to vote at a primary or election. Violation of this section is a gross misdemeanor.

History: *1988 c 578 art 3 s 7*

NOTES AND DECISIONS

211B.07

Campaign flyers distributed by city council candidate, stating that if recipients of the flyers did not remove lawn sighs supporting opponent, that would "not go unnoticed in the future," did not threaten voters in violation of section of Fair Campaign Practices Act prohibiting exerting undue influence on voters; vaguely ominous-sounding language did not make any specific threat. *Menne v. Phillips,* 2008 WL 2102721 (Minn. App. May 20, 2008) (Unpublished Op.).

In absence of showing that incumbent municipal judge by his presence in courtroom on court business for some 1-1/2 hours during morning of election had interfered with conduct of election in adjacent polling place or had sought to influence voters or that he was aware that sticker campaign was being conducted for another candidate for his office, election of incumbent was not invalid on ground that he had violated election statutes. *Munnell v. Rowlette*, 275 Minn. 92, 145 N.W. 2d 531 (1966).

While action of police officer in interfering with campaign worker for sticker candidate for municipal judge was unwarranted where action was not that of opposing candidate and there was nothing to show that opponent had sanctioned such action, any violation of Corrupt Practices Act would be chargeable to opponent. Id.

Where it is customary for incumbent judge to release prisoners convicted of misdemeanors before Christmas each year so as to permit them to earn money for Christmas shopping, and there was no showing that prisoners released pursuant to that practice shortly before election in which incumbent was candidate where voters in village where election was to be held or had been directed or solicited to vote for incumbent in exchange for their freedom, there was nothing in such conduct to justify any invalidation of incumbent's reelection. Id.

Corrupt Practices Act is directed to actions of candidates for office and to persons for who he is responsible. Id.

Judgment that contestee's attempted coercion of voters on public relief by threats that he, as chairman of emergency relief board, would have them removed from relief if they did not support him in his campaign for county commissioner, was limited in character and that his election was free from

offensive and illegal acts is reversed and judgment directed that contestee's election be annulled and set aside. *Fritz v. Hanfler*, 195 Minn. 640 263 N.W. 10 (1935).

Complainant failed to demonstrate by a preponderance of the evidence that Respondent sheriff threatened coercion, harm, or loss in order to compel him to cast a ballot for Respondent in the fall election. *Turcotte v. Dahl,* OAH 4-0325-21569-CV (October 25, 2010)

Statute requires showing that accused party used or threatened force, coercion, violence, harm, undue influence, or other similar tactics to compel a person to vote for him or another candidate; showing that accused told a person not to vote for him or another candidate; showing that accused told a person not to vote for another candidate is insufficient. *Smith v. Ewanika,* OAH 7-6347-20326-CV (April 1, 2009).

Standing in line by nonvoters and the abuse of the right to challenge voters constitute gross misdemeanors under Minnesota law. Op. Atty. Gen. 182, October 26, 1964.

211B.08 SOLICITATION OF CONTRIBUTIONS PROHIBITED.

A religious, charitable, or educational organization may not request a candidate or committee to contribute to the organization, to subscribe for the support of a club or organization, to buy tickets to entertainment, or to pay for space in a publication. This section does not apply to:

(1) the solicitation of a business advertisement in periodicals in which the candidate was a regular contributor, before candidacy;

(2) ordinary business advertisements;

(3) regular payments to a religious, charitable, or educational organization, of which the candidate was a member, or to which the candidate was a contributor for more than six months before candidacy; or

(4) ordinary contributions at church services.

History: *1988 c 578 art 3 s 8*

NOTES AND DECISIONS

211B.08

Provision prohibiting religious, charitable, or educational organizations from requesting donations from candidates or committees was not narrowly tailored to serve state interest in prohibiting organizations from soliciting money from candidates in exchange for votes, and thus violated those organizations First Amendment right to solicit contributions. *Minnesota Citizens concerned for Life, inc. v. Kelley*, 427 F.3d 1106 (8th Cir. 2005), reversing 291 F.Supp.2d 1052 (D. Minn. 2003).

211B.09 PROHIBITED PUBLIC EMPLOYEE ACTIVITIES.

An employee or official of the state or of a political subdivision may not use official authority or influence to compel a person to apply for membership in or become a member of a political organization, to pay or promise to pay a political contribution, or to take part in political activity. A political subdivision may not impose or enforce additional limitations on the political activities of its employees.

History: *1988 c 578 art 3 s 9*

NOTES AND DECISIONS

211B.09

Display of campaign literature at courthouse not within meaning of "compel". *Burns v. Valen*, 400 N.W. 2d 123 (Minn. Ct. App. 1987).

211B.10 INDUCING OR REFRAINING CANDIDACY; TIME OFF FOR PUBLIC OFFICE MEETINGS.

Subdivision 1. **Inducing or refraining from candidacy.** A person may not reward or promise to reward another in any manner to induce the person to be or refrain from or cease being a candidate. A person may not solicit or receive a payment, promise, or reward from another for this purpose.

Subd. 1a. **Prohibited activities of a political party.** A political party unit may not, through imposition or threatened imposition of any fine, sanction, or other penalty, attempt to coerce an individual who does not have the party unit's official endorsement as a means to prevent the individual from filing as a candidate for office.

Subd. 2. **Time off for public office meetings.** A person elected to a public office must be permitted time off from regular employment to attend meetings required by reason of the public office. The time off may be without pay, with pay, or made up with other hours, as agreed between the employee and employer. When an employee takes time off without pay, the employer shall make an effort to allow the employee to make up the time with other hours when the employee is available. No retaliatory action may be taken by the employer for absences to attend meetings necessitated by reason of the employee's public office.

History: *1988 c 578 art 3 s 10; 2012 c 250 s 3*

211B.11 ELECTION DAY PROHIBITIONS.

Subdivision 1. **Soliciting near polling places.** A person may not display campaign material, post signs, ask, solicit, or in any manner try to induce or persuade a voter within a polling place or within 100 feet of the building in which a polling place is situated, or anywhere on the public property on which a polling place is situated, on primary or election day to vote for or refrain from voting for a candidate or ballot question. A person may not provide political badges, political buttons, or other political insignia to be worn at or about the polling place on the day of a primary or election. A political badge, political button, or other political insignia may not be worn at or about the polling place on primary or election day. This section applies to areas established by the county auditor or municipal clerk for absentee voting as provided in chapter 203B.

The secretary of state, county auditor, municipal clerk, or school district clerk may provide stickers which contain the words "I VOTED" and nothing more. Election judges may offer a sticker of this type to each voter who has signed the polling place roster or voter signature certificate.

Subd. 2. [Repealed, 1997 c 147 s 79]

Subd. 3. **Transportation of voters to polling place; penalty.** A person transporting a voter to or from the polling place may not ask, solicit, or in any manner try to induce or persuade a voter on primary or election day to vote or refrain from voting for a candidate or ballot question.

Subd. 4. **Penalty.** Violation of this section is a petty misdemeanor.

History: *1988 c 578 art 3 s 11; 1989 c 291 art 1 s 32; 1993 c 223 s 25; 2014 c 288 art 2 s 8*

NOTES AND DECISIONS

211B.11

Excluding political organization's "Please I.D. Me" buttons from polling place was rationally related to state's interests in maintaining decorum of the polls, preserving integrity of elections, and protecting voters from confusion and undue influence. Statute and election policy prohibiting display of political materials in the polling place, as applied, did not violate First Amendment right to freedom of speech. *Minnesota Majority v. Mansky*, 62 F.Supp.3d 870 (D. Minn. 2014).

Statute did not facially violate First Amendment right to freedom of speech, because statute was viewpoint neutral as applicable to all political material regardless of viewpoint, was reasonable restriction of speech in nonpublic forum in light of purpose that forum served and state's legitimate interest in maintaining peace, order, and decorum in polling place, and had plainly legitimate sweep. As applied challenge remanded to district court for further proceedings. *Minnesota Majority v. Mansky,* 708 F.3d 1051 (8th Cir. 2013).

Suit against county officials and Secretary of State alleging that enforcement of statutory bar on the wearing of political badges, political buttons, and other political insignia within polling places violated plaintiffs' constitutional rights failed to state a claim for which relief could be granted. *Minnesota Majority v. Mansky,* No. 10-4401 (D. Minn. Apr. 29, 2011).

This section forbids erection of campaign sign before election day for display on election day within 100 feet of polling place. *State v. Zimmer*, Findings of Fact, Conclusions of Law and Order, No. T3-94-3002 (Mille Lacs Co. Dist. Ct., May 5, 1995).

Statute does not apply to private property or against a person who displays campaign material within a private business. Statute does apply to candidate who drove past polling place on election day in truck bearing campaign sign promoting his candidacy. *Schimming v. Riverblood,* OAH 7-6347-20326-CV (June 5, 2009).

Former subdivision 2 prohibiting election day campaigning was unconstitutional. Op. Atty. Gen. 627-h, August 28, 1989.

There is no provision of the Minnesota election law prohibiting the posting of signs within one hundred feet of a polling place except such posting may not be done on election day. Op. Atty. Gen. 627H, May 31, 1966.

Stickers may not be distributed at or within the polling place or within one hundred feet thereof on election day. Op. Atty. Gen. 627B-8, March 9, 1945. *See* M.R. 8230.1450 USE OF STICKERS PROHIBITED (May 26, 2010).

Stickers may not be left in an election polling place on election day. Op. Atty. Gen. 28A-8, August 7, 1942. See M.R. 8230.1450 USE OF STICKERS PROHIBITED (May 26, 2010).

211B.12 LEGAL EXPENDITURES

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in section 10A.01, subdivision 26. The following are permitted expenditures when made for political purposes:

(1) salaries, wages, and fees;

(2) communications, mailing, transportation, and travel;

(3) campaign advertising;

(4) printing;

(5) office and other space and necessary equipment, furnishings, and incidental supplies;

(6) charitable contributions of not more than $100 to any charity organized under section 501(c)(3) of the Internal Revenue Code annually, except that the amount contributed is not limited by this clause if the political committee, political fund, party unit, principal campaign committee, or campaign fund of a candidate for political subdivision office that made the contribution dissolves within one year after the contribution is made; and

(7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.

History: *1988 c 578 art 3 s 12; 1993 c 318 art 2 s 48; 2008 c 295 s 23; 2010 c 327 s 27; 2015 c 73 s 23*

NOTES AND DECISIONS

211B.12

The word "salary" is construed in an election contest as being used in broad sense of compensation embracing both "salary" and "fees". *Spokely v. Haaven*, 183 Minn. 467, 237 N.W. 11 (1931).

Evidence that Respondent city council member spent campaign funds on hairstyling and dry-cleaning services and AAA membership is sufficient to show violation of statute; such expenses were not reasonably related to Respondent's campaign, and personal benefits conferred upon Respondent were disproportionate as to convert disbursements to personal use. *Kaari v. Johnson,* OAH 8-0325-20970-CV (March 2, 2010).

211B.13 BRIBERY, TREATING, AND SOLICITATION.

Subdivision 1. **Bribery, advancing money, and treating prohibited.** A person who willfully, directly or indirectly, advances, pays, gives, promises, or lends any money, food, liquor, clothing, entertainment, or other thing of monetary value, or who offers, promises, or endeavors to obtain any money, position, appointment, employment, or other valuable consideration, to or for a person, in order to induce a voter to refrain from voting, or to vote in a particular way, at an election, is guilty of a felony. This section does not prevent a candidate from stating publicly preference for or support of another candidate to be voted for at the same primary or election. Refreshments of food or nonalcoholic beverages having a value up to $5 consumed on the premises at a private gathering or public meeting are not prohibited under this section.

Subd. 2. **Certain solicitations prohibited.** A person may not knowingly solicit, receive, or accept any money, property, or other thing of monetary value, or a promise or pledge of these that is a disbursement prohibited by this section or section 211B.15.

History: *1988 c 578 art 3 s 13; 2005 c 156 art 6 s 63.*

NOTES AND DECISIONS

211B.13

School district's board and superintendent were not buying or attempting to buy votes for referendum in violation of statute when they informed voters of the property tax consequences of passing the referendum; board and superintendent had First Amendment right and statutory obligation to inform voters of tax consequences. *Yaggie v. Schmidt*, 855 N.W.2d 769 (Minn. App. 2014).

Giving of drink of liquor as act of mere hospitality is not violation of Corrupt Practices Act. *Engelbret v. Tuttle*, 185 Minn. 608, 242 N.W. 425 (1932).

Giving shower gifts to friends similar in value to gifts given by other guests was not a violation. Id.

Giving voter a drink of liquor while actively soliciting vote is a violation. *Miller v. Maier*, 136 Minn. 231, 161 N.W. 513 (1917).

Newspaper's decision to reprint candidates' campaign ads due to errors in initial printing did not violate statute, even though reprinting, unlike initial printing, was in ad space usually costing more than candidates paid for initial printing. *Clausen v. Tribune,* OAH 3-0325-20975-CV (November 23, 2009).

Fact that candidate's campaign billboard is located on property owned by corporation is not sufficient to show that corporation made prohibited corporate contribution to candidate or his campaign committee. *Rego v. Emmer,* OAH 15-0320-20325-CV (March 18, 2009).

The making in good faith by a group of citizens to an entire county of an offer of site and money for a new court house is not a felony under this section. Op. Atty. Gen. 627B-3, May 6, 1954. *Accord* Op. Atty. Gen. 106-e, April 10, 1995.

Whether the distribution of objects such as matchbooks, pencils, emery boards, etc. is a violation of this section is a question of fact upon which the attorney general cannot pass judgment. Op. Atty. Gen. 627F-1, March 7, 1950.

Acceptance of cut in salary pursuant to resolution of county board would not be violation of Corrupt Practices Act. Op. Atty. Gen., July 27, 1933. For other opinions treating this issue *see also* Op. Atty. Gen. 359A-22, March 22, 1933; Op. Atty. Gen. 627B-3, March 20, 1933; Op. Atty. Gen. 359A-22, July 11, 1932 and January 27, 1932.

211B.14 DIGEST OF LAWS.

The secretary of state, with the approval of the attorney general, shall prepare and print an easily understandable digest of this chapter and annotations of it. The digest may include other related laws and annotations at the discretion of the secretary of state.

The secretary of state shall distribute the digest to candidates and committees through the county auditor or otherwise as the secretary of state considers expedient. A copy of the digest and, if appropriate, a financial reporting form and a certification of filing form must be distributed to each candidate by the filing officer at the time that the candidate's affidavit of candidacy is filed.

History: *1988 c 578 art 3 s 14; 1993 c 223 s 26; 1997 c 147 s 73*

211B.15 CORPORATE POLITICAL CONTRIBUTIONS.

Changes effective retroactively from August 1, 2015

Subdivision 1. **Definitions.** For purposes of this section, "corporation" means:

(1) a corporation organized for profit that does business in this state;

(2) a nonprofit corporation that carries out activities in this state; or

(3) a limited liability company formed under chapter 322B or 322C, or under similar laws of another state, that does business in this state.

Subd. 2. **Prohibited contributions.** (a) A corporation may not make a contribution or offer or agree to make a contribution directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office.

(b) A political party, organization, committee, or individual may not accept a contribution or an offer or agreement to make a contribution that a corporation is prohibited from making under paragraph (a).

(c) For the purpose of this subdivision, "contribution" includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate but does not include an independent expenditure authorized by subdivision 3.

Subd. 3. **Independent expenditures.** A corporation may not make an expenditure or offer or agree to make an expenditure to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office, unless the expenditure is an independent expenditure. For the purpose of this subdivision, "independent expenditure" has the meaning given in section 10A.01, subdivision 18.

Subd. 4. **Ballot question.** A corporation may make contributions or expenditures to promote or defeat a ballot question, to qualify a question for placement on the ballot unless otherwise prohibited by law, or to express its views on issues of public concern. A corporation may not make a contribution to a candidate for nomination, election, or appointment to a political office or to a committee organized wholly or partly to promote or defeat a candidate.

Subd. 5. **News media.** This section does not prohibit publication or broadcasting of news items or editorial comments by the news media.

Subd. 6. **Penalty for individuals.** (a) An officer, manager, stockholder, member, agent, employee, attorney, or other representative of a corporation acting on behalf of the corporation who violates this section is subject to a civil penalty of up to ten times the amount of the violation, but in no case more than $10,000, imposed by the Campaign Finance and Public Disclosure Board under chapter 10A or imposed by the Office of Administrative Hearings under this chapter.

(b) Knowingly violating this section is a crime. An officer, manager, stockholder, member, agent, employee, attorney, or other representative of a corporation acting in behalf of the corporation who is convicted of knowingly violating this section may be fined not more than $20,000 or be imprisoned for not more than five years, or both.

Subd. 7. **Penalty for corporations.** (a) A corporation that violates this section is subject to a civil penalty of up to ten times the amount of the violation, but in no case more than $10,000, imposed by the Campaign Finance and Public Disclosure Board under chapter 10A or imposed by the Office of Administrative Hearings under this chapter.

(b) Knowingly violating this section is a crime. A corporation convicted of knowingly violating this section is subject to a fine not greater than $40,000. A convicted domestic corporation may be dissolved as well as fined. If a foreign or nonresident corporation is convicted, in addition to being fined, its right to do business in this state may be declared forfeited.

Subd. 7a. **Application of penalties.** No penalty may be imposed for a violation of this section that is subject to a civil penalty under section 10A.121.

Subd. 7b. **Knowing violations.** An individual or a corporation knowingly violates this section if, at the time of a transaction, the individual or the corporation knew:

(1) that the transaction causing the violation constituted a contribution under chapter 10A, chapter 211A, or chapter 383B; and

(2) that the contributor was a corporation subject to the prohibitions of subdivision 2.

Subd. 8. **Permitted activity; political party.** It is not a violation of this section for a political party, as defined in section 200.02, subdivision 7, to form a nonprofit corporation for the sole purpose of holding real property to be used exclusively as the party's headquarters.

Subd. 9. **Media projects.** It is not a violation of this section for a corporation to contribute to or conduct public media projects to encourage individuals to attend precinct caucuses, register, or vote if the projects are not controlled by or operated for the advantage of a candidate, political party, or committee.

Subd. 10. **Meeting facilities.** It is not a violation of this section for a corporation to provide meeting facilities to a committee, political party, or candidate on a nondiscriminatory and nonpreferential basis.

Subd. 11. **Messages on premises.** It is not a violation of this section for a corporation selling products or services to the public to post on its public premises messages that promote participation in precinct caucuses, voter registration, or elections if the messages are not controlled by or operated for the advantage of a candidate, political party, or committee.

Subd. 12. [Repealed, 2010 c 397 s 20]

Subd. 13. **Aiding violation; penalty.** An individual who aids, abets, or advises a violation of this section is guilty of a gross misdemeanor.

Subd. 14. **Prosecutions; venue.** Violations of this section may be prosecuted in the county where the payment or contribution was made, where services were rendered, or where money was paid or distributed.

Subd. 15. **Nonprofit corporation exemption.** The prohibitions in this section do not apply to a nonprofit corporation that:

(1) is not organized or operating for the principal purpose of conducting a business;

(2) has no shareholders or other persons affiliated so as to have a claim on its assets or earnings; and

(3) was not established by a business corporation or a labor union and has a policy not to accept significant contributions from those entities.

Subd. 16. **Employee political fund solicitation.** Any solicitation of political contributions by an employee must be in writing, informational and nonpartisan in nature, and not promotional for any particular candidate or group of candidates. The solicitation must consist only of a general request on behalf of an independent political committee (conduit fund) and must state that there is no minimum contribution, that a contribution or lack thereof will in no way impact the employee's employment, that the employee must direct the contribution to candidates of the employee's choice, and that any response by the employee shall remain confidential and shall not be directed to the employee's supervisors or managers. Questions from an employee regarding a solicitation may be answered orally or in writing consistent with the above requirements. Nothing in this subdivision authorizes a corporate donation of an employee's time prohibited under subdivision 2.

Subd. 17. **Nonprofit corporation political activity.** It is not a violation of this section for a nonprofit corporation to provide administrative assistance to one political committee or political fund that is associated with the nonprofit corporation and registered with the campaign finance and public disclosure board under section 10A.14. Such assistance must be limited to accounting, clerical or legal services, bank charges, utilities, office space, and supplies. The records of the political committee or political fund may be kept on the premises of the nonprofit corporation.

The administrative assistance provided by the nonprofit corporation to the political committee or political fund is limited annually to the lesser of $5,000 or 7-1/2 percent of the expenditures of the political committee or political fund.

History: *1988 c 578 art 3 s 15; 1989 c 209 art 2 s 26; 1992 c 517 art 1 s 1-9; 1993 c 318 art 2 s 49; 1996 c 459 s 3,4; 1997 c 202 art 2 s 63; 2010 c 397 s 16, 17, 18, 20; 2013 c 138 art 1 s 51-53; 2015 c 73 s 24; 2016 c 135 art 4 s 8*

NOTES AND DECISIONS

211B.15

District court did not abuse its discretion in denying preliminary injunction sought by Minnesota corporations to prevent enforcement of provision of Minnesota's Fair Campaign Practices law prohibiting corporate political contributions as in violation of their First Amendment speech rights. *Minnesota Citizens Concerned for Life, Inc. v. Swanson,* 692 F.3d 864 (8th Cir. 2012).

Corporations seeking preliminary injunction enjoining enforcement of Minnesota law precluding corporations from making direct contributions to candidates and political parties did not have likelihood of success on the merits of their claims that the law violated plaintiff's constitutional rights. *Minnesota Citizens Concerned for Life, Inc. v. Swanson,* 741 F.Supp.2d 1115 (D. Minn. 2010).

Minnesota statute providing that a corporation may not make an independent expenditure or offer or agree to make an independent expenditure to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office prohibited independent and indirect corporate expenditures on political speech, in violation of the First Amendment. *Minnesota Chamber of Commerce v. Gaertner,* 710 F.Supp.2d 868

Because of potential chilling effect on free speech rights of chambers of commerce that operated as nonprofit corporations, chambers satisfied injury-in-fact requirement for Article III standing in action challenging constitutionality of statutes; case was ripe for review; and chambers had reasonable fear of prosecution under statute. *St. Paul Area Chamber of Commerce v. Gaertner*, 439 F.3d 481 (8th Cir. 2006).

See M.S. 72A.12, subd. 5 (1988), pertaining to insurance companies.

Statute prohibiting corporate independent expenditures was unconstitutional as applied to certain nonprofit organizations. *Day v. Holohan*, 34 F.3d 1356 (8th Cir. 1994).

This section does not prohibit sponsorship of "conduit" or "nonpartisan" political action committees by a corporation. *Minnesota Association of Commerce and Industry v. Foley*, 316 N.W. 2d 524 (Minn. 1982).

Newspaper's decision to reprint candidates' campaign ads due to errors in initial printing did not violate statute, even though reprinting, unlike initial printing, was in ad space usually costing more than candidates paid for initial printing. *Clausen v. Star Tribune,*, OAH 3-0325-20975-CV (November 23, 2009).

"Corporation" as used in statute does not include school district or its board members. *Barry v. St. Anthony-New Brighton Independent School District 282,*OAH 3-6326-20564-CV (May 21, 2009).

211B.16 PROSECUTION.

Subd. 1. [Repealed, 2004 c 277 s 13]

Subd. 2. [Repealed, 2004 c 277 s 13]

Subd. 3. **County attorney authority.** A county attorney may prosecute any violation of this chapter.

History: *1988 c 578 art 3 s 16; 2004 c 277 s 5*

NOTES AND DECISIONS

211B.16

County attorney may proceed by complaint and information rather than impaneling grand jury. Op. Atty. Gen. 627B-1, August 18, 1966.

Attorney employed to assist county attorney is not required to conduct a private and independent investigation but may conduct same so as to enable attorney to present the county attorney relevant facts and names of witnesses capable of giving competent testimony in proceeding. Op. Atty. Gen. 121A-1, September 29, 1952.

211B.17 FORFEITURE OF NOMINATION OR OFFICE; CIRCUMSTANCES WHERE NOT FORFEITED.

Subdivision 1. **Forfeiture of nomination or office.** Except as provided in subdivision 2, if a candidate is found guilty of violating this chapter or an offense was committed by another individual with the knowledge, consent, or connivance of the candidate, the court, after entering the adjudication of guilty, shall enter a supplemental judgment declaring that the candidate has forfeited the nomination or office. If the court enters the supplemental judgment, it shall transmit to the filing officer a transcript of the supplemental judgment, the nomination or office becomes vacant, and the vacancy must be filled as provided by law.

Subd. 2. **Circumstances where nomination or office not forfeited.** In a trial for a violation of this chapter, the candidate's nomination or election is not void if the court finds that:

(1) an offense, though committed by the candidate or with the candidate's knowledge, consent, or connivance, was trivial; or

(2) an act or omission of a candidate arose from accidental miscalculation or other reasonable cause, but in any case not from a want of good faith; and the court also finds that it would be unjust for a candidate to forfeit the nomination or election. None of these findings is a defense to a conviction under this chapter.

History: *1988 c 578 art 3 s 17*

NOTES AND DECISIONS

211B.17

Alleged violations of Fair Campaign Practices Act by newspaper stated no justiciable issue for election contest. *Derus v. Higgins*, 555 N.W.2d 515 (Minn. 1996).

211B.18 DISQUALIFIED CANDIDATE NOT TO HOLD VARIOUS POSITIONS.

A candidate whose election to office has been set aside for a violation of this chapter may not be appointed, during the period fixed by law as the term of the office, to fill a vacancy in that office. A candidate or other individual who is convicted of a violation of this chapter may not be appointed, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy that may occur in the office. An appointment to an office made contrary to the provisions of this section is void.

A candidate or other individual who is convicted of a violation of this chapter is not qualified, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy in an office for which the legislature may establish qualifications under article XII, section 3, of the Minnesota Constitution.

History: *1988 c 578 art 3 s 18*

NOTES AND DECISIONS

211B.18

Legislator excluded from office due to violation of Fair Campaign Practices Act could not be precluded from running in special election solely on account of that prior violation. *Pavlak v. Growe*, 284 N.W.2d 174 (Minn. 1979).

211B.19 PENALTIES FOR VIOLATION.

A violation of this chapter for which no other penalty is provided is a misdemeanor.

History: *1988 c 578 art 3 s 19*

211B.20 DENIAL OF ACCESS BY POLITICAL CANDIDATES TO MULTIPLE UNIT DWELLINGS.

Subdivision 1. **Prohibition.** (a) It is unlawful for a person, either directly or indirectly, to deny access to an apartment house, dormitory, nursing home, manufactured home park, other multiple unit facility used as a residence, or an area in which two or more single-family dwellings are located on private roadways to a candidate who has:

(1) organized a campaign committee under applicable federal or state law;

(2) filed a financial report as required by section 211A.02; or

(3) filed an affidavit of candidacy for elected office.

A candidate granted access under this section must be allowed to be accompanied by campaign volunteers.

(b) Access to a facility or area is only required if it is located within the district or territory that will be represented by the office to which the candidate seeks election, and the candidate and any accompanying campaign volunteers seek access exclusively for the purpose of campaigning for a candidate or registering voters. The candidate must be seeking election to office at the next general or special election to be held for that office.

(c) A candidate and any accompanying campaign volunteers granted access under this section must be permitted to leave campaign materials for residents at their doors, except that the manager of a nursing home may direct that the campaign materials be left at a central location within the facility. The campaign materials must be left in an orderly manner.

(d) If a facility or area contains multiple buildings, a candidate and accompanying volunteers must be permitted to access more than one building on a single visit, but access is limited to only one building at a time. If multiple candidates are traveling together, each candidate and that candidate's accompanying volunteers is limited to one building at a time, but all of the candidates and accompanying volunteers traveling together must not be restricted to accessing the same building at the same time.

(e) A violation of this section is a petty misdemeanor.

Subd. 2. **Exceptions.** Subdivision 1 does not prohibit:

(1) denial of admittance into a particular apartment, room, manufactured home, or personal residential unit;

(2) requiring reasonable and proper identification as a necessary prerequisite to admission to a multiple unit dwelling;

(3) in the case of a nursing home or a registered housing with services establishment providing assisted living services meeting the requirements of section 144G.03, subdivision 2, denial of permission to visit certain persons for valid health reasons;

(4) limiting visits by candidates or volunteers accompanied by the candidate to a reasonable number of persons or reasonable hours;

(5) requiring a prior appointment to gain access to the facility; or

(6) denial of admittance to or expulsion from a multiple unit dwelling for good cause.

History: *1988 c 578 art 3 s 20; 2010 c 314 s 3*

211B.205 PARTICIPATION IN PUBLIC PARADES.

If a public parade allows candidates, a candidate must be allowed to participate for a fee that is not greater than the amount that is charged to other units participating in the parade.

History: *1Sp2001 c 10 art 18 s 40*

211B.21 APPLICABILITY.

Nothing in section 211B.17 or 211B.18 may be construed to limit the ability of each house of the legislature to act as judge of the election returns and eligibility of its own members.

History: *1988 c 578 art 3 s 21*

211B.31 DEFINITION.

As used in sections 211B.32 to 211B.36, "office" means the Office of Administrative Hearings.

History: *2004 c 277 s 6*

211B.32 COMPLAINTS OF UNFAIR CAMPAIGN PRACTICES.

Subdivision 1. **Administrative remedy; exhaustion**. (a) Except as provided in paragraph (b), a complaint alleging a violation of chapter 211A or 211B must be filed with the office. The complaint must be finally disposed of by the office before the alleged violation may be prosecuted by a county attorney.

(b) Complaints arising under those sections and related to those individuals and associations specified in section 10A.02, subdivision 11, paragraph (a), must be filed with the Campaign Finance and Public Disclosure Board.

Subd. 2. **Limitation on filing**. The complaint must be filed with the office within one year after the occurrence of the act or failure to act that is the subject of the complaint, except that if the act or failure to act involves fraud, concealment, or misrepresentation that could not be discovered during that one-year period, the complaint may be filed with the office within one year after the fraud, concealment, or misrepresentation was discovered.

Subd. 3**. Form of complaint.** The complaint must be in writing, submitted under oath, and detail the factual basis for the claim that a violation of law has occurred. The office may prescribe the form of a complaint.

Subd. 4. **Proof of claim.** The burden of proving the allegations in the complaint is on the complainant. The standard of proof of a violation of section 211B.06, relating to false statements in paid political advertising or campaign material, is clear and convincing evidence. The standard of proof of any other violation of chapter 211A or 211B is a preponderance of the evidence.

Subd. 5. **Filing fee; waiver; refund**. (a) The complaint must be accompanied by a filing fee of $50, unless filed by a filing officer under section 211A.05, subdivision 2.

(b) The office may waive the payment of the filing fee, if the individual seeking a waiver of the fee files with the office an affidavit stating that the individual is financially unable to pay the fee.

(c) The office may refund the filing fee of a complainant who prevails on the merits.

Subd. 6. **Service on respondent**. Upon receipt of the filed complaint, the office must immediately notify the respondent and provide the respondent with a copy of the complaint by the most expeditious means available.

History: *2004 c 277 s 7; 2013 c 138 art 1 s 54*

NOTES AND DECISIONS

211B.32

Claim alleging a violation of statute that made it a criminal offense to publish a false statement to defeat a ballot question was required to be filed within one year of the publication of the statement. *Abrahamson v. Saint Louis Cnty. Sch. Dist.,* 819 N.W.2d 129 (Minn. 2012).

Statutes that established administrative hearing process, which heard allegations filed by opponents of successful candidates in city council election that candidates violated statutes establishing financial-reporting requirements and statutes regulating campaign practices, did not unconstitutionally intrude on First Amendment rights of successful candidates, as statutes merely established a process to consider violations of election statutes and did not establish substantive law. *Riley v. Jankowski*, 713 N.W.2d 379 (Minn. App. 2006).

211B.33 PRIMA FACIE REVIEW.

Subdivision 1. **Time for review**. The chief administrative law judge must randomly assign an administrative law judge to review the complaint. Within one business day after the complaint was filed with the office, when practicable, but never longer than three business days, the administrative law judge must make a preliminary determination for its disposition.

Subd. 2. **Recommendation.** (a) If the administrative law judge determines that the complaint does not set forth a prima facie violation of chapter 211A or 211B, the administrative law judge must dismiss the complaint.

(b) If the administrative law judge determines that the complaint sets forth a prima facie violation of section 211B.06 and was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates, the administrative law judge must conduct an expedited probable cause hearing under section 211B.34.

(c) If the administrative law judge determines that the complaint sets forth a prima facie violation of a provision of chapter 211A or 211B, other than section 211B.06, and that the complaint was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates, the administrative law judge, on request of any party, must conduct an expedited probable cause hearing under section 211B.34.

(d) If the administrative law judge determines that the complaint sets forth a prima facie violation of chapter 211A or 211B, and was filed more than 60 days before the primary or special election or more than 90 days before the general election to which the complaint relates, the administrative law judge must schedule an evidentiary hearing under section 211B.35.

Subd. 3. **Notice to parties**. The office must notify all parties of the determination made under subdivision 2. If the complaint is scheduled for hearing, the notice must identify the time and place of the hearing and inform all parties that they may submit evidence, affidavits, documentation, and argument for consideration by the administrative law judge.

Subd. 4. **Joinder and separation of complaints**. The chief administrative law judge may direct that two or more complaints be joined for disposition if the chief administrative law judge determines that the allegations in each complaint are of the same or similar character, are based on the same act or failure to act, or are based on two or more acts or failures to act constituting parts of a common scheme or plan. If one complaint contains two or more allegations, the chief administrative law judge may separate the allegations, if they are not of the same or similar character, if they are not based on the same act or failure to act, or if they are not based on two or more acts or failures to act constituting parts of a common scheme or plan. If the chief administrative law judge separates the allegations in a complaint, the assigned administrative law judge or judges may make separate recommendations under subdivision 2 for each allegation.

History: *2004 c 277 s 8*

211B.34 PROBABLE CAUSE HEARING.

Subdivision 1**. Time for review**. The assigned administrative law judge must hold a probable cause hearing on the complaint no later than three business days after receiving the assignment if an expedited hearing is required by section 211B.33, except that for good cause the administrative law judge may hold the hearing no later than seven days after receiving the assignment. If an expedited hearing is not required by section 211B.33, the administrative law judge must hold the hearing not later than 30 days after receiving the assignment.

Subd. 2. **Disposition.** At the probable cause hearing, the administrative law judge must make one of the following determinations:

(a) The complaint is frivolous, or there is no probable cause to believe that the violation of law alleged in the complaint has occurred. If the administrative law judge makes either determination, the administrative law judge must dismiss the complaint.

(b) There is probable cause to believe that the violation of law alleged in the complaint has occurred. If the administrative law judge so determines, the chief administrative law judge must schedule the complaint for an evidentiary hearing under section 211B.35.

Subd. 3**. Reconsideration by chief administrative law judge.** (a) If the administrative law judge dismisses the complaint, the administrative law judge shall provide to the complainant written notice of the right to seek reconsideration of the decision on the record by the chief administrative law judge.

(b) A petition for reconsideration must be filed within two business days after the dismissal. The chief administrative law judge must make a decision on the petition within three business days after receiving the petition. If the chief administrative law judge determines that the assigned administrative law judge made a clear error of law and grants the petition, within five business days after granting the petition, the chief administrative law judge shall schedule the complaint for an evidentiary hearing under section 211B.35.

History: *2004 c 277 s 9*

211B.35 EVIDENTIARY HEARING BY PANEL.

Subdivision 1. **Deadline for hearing.** When required by section 211B.34, subdivision 2 or 3, the chief administrative law judge must assign the complaint to a panel of three administrative law judges for an evidentiary hearing. The hearing must be held within the following times:

(1) ten days after the complaint was assigned, if an expedited probable cause hearing was requested or required under section 211B.33;

(2) 30 days after the complaint was filed, if it was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates; or

(3) 90 days after the complaint was filed, if it was filed at any other time.

For good cause shown, the panel may extend the deadline set forth in clause (2) or (3) by 60 days.

Subd. 2. **Disposition of complaint.** The panel must determine whether the violation alleged in the complaint occurred and must make at least one of the following dispositions:

(a) The panel may dismiss the complaint.

(b) The panel may issue a reprimand.

(c) The panel may find that a statement made in a paid advertisement or campaign material violated section 211B.06.

(d) The panel may impose a civil penalty of up to $5,000 for any violation of chapter 211A or 211B.

(e) The panel may refer the complaint to the appropriate county attorney.

Subd. 3**. Time for disposition.** The panel must dispose of the complaint:

(1) within three days after the hearing record closes, if an expedited probable cause hearing was required by section 211B.33; and

(2) within 14 days after the hearing record closes, if an expedited probable cause hearing was not required by section 211B.33.

History: *2004 c 277 s 10*

NOTES AND DECISIONS

211B.35

Statutes that established administrative hearing process, which heard allegations filed by opponents of successful candidates in city council election that candidates violated statutes establishing financial-reporting requirements and statutes regulating campaign practices, did not unconstitutionally intrude on First Amendment rights of successful candidates, as statutes merely established a process to consider violations of election statutes and did not establish substantive law. *Riley v. Jankowski,* 713 N.W.2d 379 (Minn. App. 2006).

211B.36 PROCEDURES.

Subdivision 1**. Evidence and argument.** The administrative law judge or panel may consider any evidence and argument submitted until a hearing record is closed, including affidavits and documentation, or may continue a hearing to enable the parties to submit additional testimony.

Subd. 2. **Withdrawal of complaint**. At any time before an evidentiary hearing under section 211B.35 begins, a complainant may withdraw a complaint filed under section 211B.32. After the evidentiary hearing begins, a complaint filed under section 211B.32 may only be withdrawn with the permission of the panel.

Subd. 3. **Costs.** If the assigned administrative law judge or panel determines the complaint is frivolous, they may order the complainant to pay the respondent's reasonable attorney fees and to pay the costs of the office in the proceeding in which the complaint was dismissed.

Subd. 4. **Hearings public.** A hearing under section 211B.34 or 211B.35 may be conducted by conference telephone call or by interactive television. All hearings must be open to the public.

Subd. 5. **Judicial review**. A party aggrieved by a final decision on a complaint filed under section 211B.32 is entitled to judicial review of the decision as provided in sections 14.63 to 14.69; however, proceedings on a complaint filed under section 211B.32 are not a contested case within the meaning of chapter 14 and are not otherwise governed by chapter 14.

History: *2004 c 277 s 11*

NOTES AND DECISIONS

211B.36

Statutes regulating campaign practices did not violate the separation-of-powers doctrine or amount to an unconstitutional delegation of district court's original jurisdiction. *Riley v. Jankowski,* 713 N.W.2d 379 (Minn. App. 2006).

211B.37 COSTS ASSESSED

Except as otherwise provided in section 211B.36, subdivision 3, the chief administrative law judge shall assess the cost of considering complaints filed under section 211B.32 as provided in this section. Costs of complaints relating to a statewide ballot question or an election for a statewide or legislative office must be paid from appropriations to the Office of Administrative Hearings for this purpose. Costs of complaints relating to any other ballot question or elective office must be paid from appropriations to the office for this purpose.

History: *2004 c 277 s 12; 2013 c 131 art 2 s 75; 2013 c 138 art 4 s 7; 2015 c 73 s 25; 2015 c 77 art 2 s 52*

CHAPTER 211C - RECALL OF ELECTED STATE OFFICIALS

211C.01 DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section and in chapter 200 apply to this chapter.

Subd. 2. **Malfeasance.** "Malfeasance" means the intentional commission of an unlawful or wrongful act by a state officer other than a judge in the performance of the officer's duties that is substantially outside the scope of the authority of the officer and that substantially infringes on the rights of any person or entity.

Subd. 3. **Nonfeasance.** "Nonfeasance" means the intentional, repeated failure of a state officer other than a judge to perform specific acts that are required duties of the officer.

Subd. 4. **Serious crime.** (a) "Serious crime" means a crime that is punished as a gross misdemeanor, as defined in section 609.02, and that involves assault, intentional injury or threat of injury to person or public safety, dishonesty, stalking, aggravated driving while intoxicated, coercion, obstruction of justice, or the sale or possession of controlled substances.

(b) "Serious crime" also means a crime that is punished as a misdemeanor, as defined in section 609.02, and that involves assault, intentional injury or threat of injury to person or public safety, dishonesty, coercion, obstruction of justice, or the sale or possession of controlled substances.

Subd. 5. **State officer.** "State officer" means an individual occupying an office subject to recall under the Minnesota Constitution, article VIII, section 6.

History: *1996 c 469 art 2 s 2*

NOTES AND DECISIONS

211C.01

Allegation of nonfeasance in performance of official duties by Secretary of State in relation to filing of oaths of office of members of legislature by filing them with chief clerk of House of Representatives and the Secretary of the Senate instead of with Secretary of State, and by refusing request to inspect oaths, failed to allege specific facts constituting grounds for recall. *In re Proposed Petition to Recall Kiffmeyer,* 673 N.W.2d 827 (Minn. 2004)

Proposed petition to recall Attorney General for allegedly failing to defend constitutionality of state sodomy statute presented claim of nonfeasance, even though language of petition indicated claim of both nonfeasance and malfeasance. *In re Proposed Petition to Recall Hatch,* 628 N.W.2d 125 (Minn. 2001).

211C.02 GROUNDS.

The grounds for recall of a judge shall be established by the supreme court. A state officer other than a judge may be subject to recall for serious malfeasance or nonfeasance during the term of office in the performance of the duties of the office or conviction during the term of office for a serious crime.

History: *1996 c 469 art 2 s 3*

NOTES AND DECISIONS

211C.02

Allegation that Governor committed nonfeasance in filing an oath of office while a member of the legislature prior to his election as governor failed to allege specific facts constituting grounds for recall of Governor. *In re Proposed Petition to Recall Pawlenty,* 673 N.W.2d 829 (Minn. 2004).

Allegation that there were legal defects in wording of oath of office signed by Secretary of State failed to allege specific facts constituting grounds for recall. *In re Proposed Petition to Recall Kiffmeyer*, 673 N.W.2d 827 (Minn. 2004).

Allegations of failure in an elected state officer's duties "as a lawyer" are not valid grounds for the officer's recall. *In re Proposed Petition to Recall Hatch,* 628 N.W.2d 125 (Minn. 2001).

211C.03 PETITION FOR RECALL; FORM AND CONTENT.

The secretary of state shall prescribe by rule the form required for a recall petition. Each page of the petition must contain the following information:

(1) the name and office held by the state officer who is the subject of the recall petition and, in the case of a representative, senator, or district judge, the district number in which the state officer serves;

(2) the specific grounds upon which the state officer is sought to be recalled and a concise, accurate, and complete synopsis of the specific facts that are alleged to warrant recall on those grounds;

(3) a statement that a recall election, if conducted, will be conducted at public expense;

(4) a statement that persons signing the petition:

(i) must be eligible voters residing within the district where the state officer serves or, in the case of a statewide officer, within the state;

(ii) must know the purpose and content of the petition; and

(iii) must sign of their own free will and may sign only once; and

(5) a space for the signature and signature date; printed first, middle, and last name; residence address, including municipality and county; and date of birth of each signer.

The secretary of state shall make available sample recall petition forms upon request.

History: *1996 c 469 art 2 s 4*

211C.04 PROPOSED PETITION; SUBMITTAL.

A petition to recall a state officer may be proposed by 25 or more persons, who must be eligible to sign and shall sign the proposed petition for the recall of the officer. The persons submitting the petition must designate in writing no more than three individuals among them to represent all petitioners in matters relating to the recall. The proposed petition must be submitted to the secretary of state in the manner and form required by the secretary of state and be accompanied by a fee of $100. After the secretary of state issues a petition to recall a state officer under section 211C.06, the secretary of state may not accept a proposed petition to recall the same officer until either the earlier petition is dismissed by the secretary of state for a deficiency of signatures under section 211C.06, or the recall election brought about by the earlier petition results in the officer retaining the office. Upon receiving a proposed petition that satisfies the requirements of this section, the secretary of state shall immediately notify in writing the state officer named and forward the proposed petition to the clerk of the appellate courts for action under section 211C.05.

History: *1996 c 469 art 2 s 5*

211C.05 SUPREME COURT REVIEW OF PROPOSED PETITION.

Subdivision 1. **Assignment for hearing.** Upon receiving a proposed petition from the secretary of state, the clerk of the appellate courts shall submit it immediately to the chief justice of the supreme court, or, if the chief justice is the subject of the proposed petition, to the most senior associate justice of the supreme court. The persons proposing the petition shall provide to the reviewing judge any materials supporting the petition. The officer who is named in the proposed petition may submit materials in opposition. The justice, or a designee if the justice has a conflict of interest or is unable to conduct the review in a timely manner, shall review the proposed petition to determine whether it alleges specific facts that, if proven, would constitute grounds for recall of the officer under the Minnesota Constitution, article VIII, section 6, and section 211C.02. If it does not, the justice shall immediately issue an order dismissing the petition and indicating the reason for dismissal. If the proposed petition does allege specific facts that, if proven, would constitute grounds for recall, the justice shall assign the case to a special master for a public hearing. The special master must be an active or retired judge. The justice shall complete the review under this section and dismiss the proposed petition or assign the case for hearing within ten days.

Subd. 2. **Hearing; report.** A public hearing on the allegations of a proposed petition must be held within 21 days after issuance of the order of the justice assigning the case to a special master. The special master shall report to the court within seven days after the end of the public hearing. In the report, the special master shall determine:

(1) whether the persons proposing the petition have shown by a preponderance of the evidence that the factual allegations supporting the petition are true; and

(2) if so, whether the persons proposing the petition have shown that the facts found to be true are sufficient grounds for issuing a recall petition.

If the special master determines that these standards have been met, the report must include a statement of the specific facts and grounds for the recall petition.

Subd. 3. **Supreme court; decision.** The supreme court shall review the report of the special master and make a decision on the petition within 20 days. If the court decides that the standard expressed in subdivision 2 has not been met, the court shall dismiss the petition. If the court decides that the standard for decision expressed in subdivision 2 has been met, the court shall prescribe, by order to the secretary of state, the statement of the specific facts and grounds that must appear on the petition for recall issued under section 211C.06. If the court dismisses a petition under this section because the persons proposing the petition have acted in bad faith in violation of section 211C.09, the court may assess the persons proposing the petition for reasonable costs of conducting the proceeding.

History: *1996 c 469 art 2 s 6*

211C.06 ISSUING, CIRCULATING, AND VERIFYING PETITION.

Upon receipt of the order from the supreme court, the secretary of state shall issue a recall petition. When the required number of signatures on the petition have been secured, the petition may be filed with the secretary of state. The petition must be filed within 90 days after the date of issuance. Upon the filing of the petition, the secretary of state shall verify the number and eligibility of signers in the manner provided by the secretary of state. If the secretary of state determines that a petition has been signed by a sufficient number of eligible voters, the secretary of state shall certify the petition and immediately notify in writing the governor, the petitioners, and the state officer named in the petition. If the petition is not signed by a sufficient number of eligible voters, the secretary of state shall dismiss the petition.

History: *1996 c 469 art 2 s 7*

211C.07 GOVERNOR; WRIT OF ELECTION; ELECTION.

Within five days of receiving certification of a petition under section 211C.06, the governor shall issue a writ calling for a recall election, unless the election cannot be held before the deadline specified in the Minnesota Constitution, article VIII, section 6. A recall election must be conducted, and the results canvassed and returned, in the manner provided by law for the state general election.

History: *1996 c 469 art 2 s 8*

211C.071 REMOVAL ELECTION FORM OF QUESTION.

The form of the question under this chapter must be:

"Shall ..... (Name) elected (appointed) to the office of ..... (title) be removed from that office?"

History: *2014 c 264 s 25*

211C.08 ELECTION RESULT; REMOVAL FROM OFFICE.

If a majority of the votes cast in a recall election favor the removal of the state officer, upon certification of that result the state officer is removed from office and the office is vacant.

History: *1996 c 469 art 2 s 9*

211C.09 RECALL PETITION; CORRUPT PRACTICES.

A person proposing a petition may not allege any material fact in support of the petition that the person knows is false or has alleged with reckless disregard of whether it is false. A person may not intentionally make any false entry on a petition or aid, abet, counsel, or procure another to do so. A person may not use threat, intimidation, coercion, or other corrupt means to interfere or attempt to interfere with the right of any eligible voter to sign or not to sign a recall petition of their own free will. A person may not, for any consideration, compensation, gift, reward, or thing of value or promise thereof, sign or not sign a recall petition.

The supreme court may dismiss a proposed petition for violation of this section. Notwithstanding section 645.241, the sole remedy for a violation of this section is dismissal of the petition by the supreme court.

History: *1996 c 469 art 2 s 10*

OTHER LAWS RELATED TO ELECTIONS

CHAPTER 2 – TERRITORIAL DIVISIONS

2.91 REDISTRICTING PLANS.

Subdivision 1. **Distribution.** Upon enactment of a redistricting plan for the legislature or for Congress, the legislative coordinating commission shall deposit the plan with the secretary of state. The secretary of state shall provide copies of the relevant portions of the redistricting plan to each county auditor, who shall provide a copy of the relevant portions of the plan to each municipal clerk within the county. The secretary of state, with the cooperation of the commissioner of administration, shall make copies of the plan file, maps, and tables available to the public for the cost of publication. The revisor of statutes shall code a metes and bounds description of the districts in Minnesota Statutes.

Subd. 2. **Corrections.** The legislature intends that a redistricting plan encompass all the territory of this state, that no territory be omitted or duplicated, that all districts consist of convenient contiguous territory substantially equal in population, and that political subdivisions not be divided more than necessary to meet constitutional requirements.

Therefore, in implementing a redistricting plan for the legislature or for Congress, the secretary of state, after notifying the legislative coordinating commission and the revisor of statutes, shall order the following corrections:

(a) If a territory in this state is not named in the redistricting plan but lies within the boundaries of a district, it is a part of the district within which it lies.

(b) If a territory in this state is not named in the redistricting plan but lies between the boundaries of two or more districts, it is a part of the contiguous district having the smallest population.

(c) If a territory in this state is assigned in the redistricting plan to two or more districts, it is part of the district having the smallest population.

(d) If a territory in this state is assigned to a district that consists of other territory containing a majority of the population of the district but with which it is not contiguous, the territory is a part of the contiguous district having the smallest population.

(e) If the description of a district boundary line that divides a political subdivision is ambiguous because a highway, street, railroad track, power transmission line, river, creek, or other physical feature or census block boundary that forms part of the district boundary is omitted or is not properly named or has been changed, or because a compass direction for the boundary line is wrong, the secretary of state shall add or correct the name or compass direction and resolve the ambiguity in favor of creating districts of convenient, contiguous territory of substantially equal population that do not divide political subdivisions more than is necessary to meet constitutional requirements.

Subd. 3. **Notice of corrections.** The secretary of state shall provide a copy of each correction order to each affected county auditor, municipal clerk, and candidate.

Subd. 4. **Recommendations to legislature.** The secretary of state and the revisor of statutes shall recommend to the legislature any additional technical corrections to the redistricting plan they deem necessary or desirable.

History: *1994 c 406 s 9; 1994 c 612 s 67*

NOTES AND DECISIONS

2.91

To utilize politically neutral redistricting principles that advanced the interests of collective public good and preserved public's confidence and perception of fairness in congressional redistricting process, judicially-appointed special redistricting panel would: (1) adhere to the United States Constitution; (2) adhere to the Voting Rights Act of 1965, as amended; (3) adhere to state's statutory requirements for congressional redistricting, such as drawing districts that comprised convenient, contiguous territory; (4) adhere to well-established redistricting principles, such as creating compact districts and preserving

communities of interest; and (5) draw districts without the purpose of either protecting or defeating incumbents. *Hippert v. Ritchie,* 813 N.W.2d 374 (Minn. 2012).

Voter who argued that county redistricting, which gave the city majorities of voters in three of five commissioner districts despite the fact that city residents were not a majority in the county, impaired his fundamental right to vote by diluting the power of the rural voter, did not establish that the redistricting impacted a suspect class or a fundamental right, as required to raise a justiciable constitutional claim. *Krueger v. McLeod County,* 2006 WL 1390417(Minn. App. May 23, 2006) (unpublished op.).

CHAPTER 3 – LEGISLATURE

3.20 FORM OF ACT; SUBMISSION.

Every act for the submission of an amendment to the constitution shall set forth the section as it will read if the amendment is adopted, with only the other matter necessary to show in what section or article the alteration is proposed. It shall be submitted and voted upon at the next general election as provided by the law relating to general elections. If adopted, the governor shall announce the fact by proclamation.

History: *(45) RL s 24; 1988 c 469 art 1 s 1*

NOTES AND DECISIONS

3.20

Secretary of State may place proposed amendments on ballot in order of chapter number. Op. Atty. Gen. 86-a, November 16, 1970.

3.21 NOTICE.

At least four months before the election, the attorney general shall furnish to the secretary of state a statement of the purpose and effect of all amendments proposed, showing clearly the form of the existing sections and how they will read if amended. If a section to which an amendment is proposed exceeds 150 words in length, the statement shall show the part of the section in which a change is proposed, both its existing form and as it will read when amended, together with the portions of the context that the attorney general deems necessary to understand the amendment.

History: *(46) RL s 25; 1907 c 152; 1913 c 299 s 1; 1941 c 136 s 1; 1951 c 699 s 1; 1974 c 38 s 1; 1974 c 184 s 1; 1978 c 725 s 1; 1979 c 252 s 2; 1984 c 543 s 1; 1Sp1985 c 13 s 60; 1986 c 444; 1988 c 469 art 1 s 1; 1992 c 513 art 3 s 17*

3.22 M.S. 2008 [Repealed, 2010 c 201 s 82]

CHAPTER 5B – DATA PROTECTION FOR VICTIMS OF VIOLENCE

5B.03 ADDRESS CONFIDENTIALITY PROGRAM.

Subdivision 1. **Application.** The secretary of state shall certify an eligible person as a program participant when the secretary receives an application that must contain:

(1) the full legal name of the eligible person;

(2) a statement by the applicant that the applicant has good reason to believe (i) that the eligible person listed on the application is a victim of domestic violence, sexual assault, or stalking, or (ii) that the eligible person fears for the person's safety, the safety of another person who resides in the same household, or the safety of persons on whose behalf the application is made, and (iii) that the eligible person is not applying for certification as a program participant in order to avoid prosecution for a crime;

(3) a designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(4) the phone number or numbers where the applicant or eligible person can be called by the secretary of state;

(5) the physical residential address of the eligible person, disclosure of which will increase the risk of domestic violence, sexual assault, or stalking;

(6) if mail cannot be delivered to the residential address of the eligible person, the address to which mail should be sent;

(7) a statement whether the eligible person would like information on becoming an ongoing absentee ballot recipient pursuant to section 5B.06;

(8) a statement from the eligible person that gives the secretary of state consent to confirm the eligible person's participation in Safe at Home to a third party who provides the program participant's first and last name and Safe at Home lot number listed on the program participant's card;

(9) the signature of the applicant, an indicator of the applicant's authority to act on behalf of the eligible person, if appropriate, the name and signature of any individual or representative of any person who assisted in the preparation of the application, and the date on which the application was signed; and

(10) any other information as required by the secretary of state.

Subd. 2. **Filing.** Applications must be filed with the secretary of state and are subject to the provisions of section 5.15.

Subd. 3. **Certification.** Upon filing a completed application, the secretary of state shall certify the eligible person as a program participant. Program participants shall be certified for four years following the date of filing unless the certification is canceled, withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

Subd. 4. **Changes in information.** Program participants or applicants must inform the secretary of state of any changes in the information submitted on the application.

Subd. 5. **Designated address.** The secretary of state must designate a mailing address to which all mail for program participants is to be sent.

Subd. 6. **Attaining age of majority.** An individual who became a program participant as a minor assumes responsibility for changes in information and renewal when the individual reaches age 18.

History: *2006 c 242 s 3; 2008 c 227 s 2; 2013 c 76 s 2*

5B.06 VOTING BY PROGRAM PARTICIPANT; ABSENTEE BALLOT.

A program participant who is otherwise eligible to vote may register with the secretary of state as a permanent absentee voter. Notwithstanding section 203B.04, subdivision 5, the secretary of state is not required to send an absentee ballot application prior to each election to a program participant registered as a permanent absentee voter under this section. As soon as practicable before each election, the secretary of state shall determine the precinct in which the residential address of the program participant is located and shall request from and receive from the county auditor or other election official the ballot for that precinct and shall forward the absentee ballot to the program participant with the other materials for absentee balloting as required by Minnesota law. The program participant shall complete the ballot and return it to the secretary of state, who shall review the ballot in the manner provided by section 203B.121, subdivision 2. If the ballot and ballot materials comply with the requirements of that section, the ballot must be certified by the secretary of state as the ballot of a program participant, and must be forwarded to the appropriate electoral jurisdiction for tabulation along with all other ballots. The name and address of a program participant must not be listed in the statewide voter registration system.

History: *2006 c 242 s 6; 2013 c 131 art 1 s 1*

CHAPTER 10 – PUBLIC WEB SITES AND PUBLICATIONS

10.60 PUBLIC WEB SITES AND PUBLICATIONS.

Subdivision 1. **Definitions.** For purposes of this section:

(1) "political subdivision" means a county, statutory or home rule charter city, town, school district, or other municipal corporation, and the Metropolitan Council and a metropolitan or regional agency;

(2) "publication" means a document printed with public money by an elected or appointed official of a state agency or political subdivision that is intended to be distributed publicly outside of the state agency or political subdivision;

(3) "state agency" means an entity in the executive, judicial, or legislative branch of state government; and

(4) "Web site" means a site maintained on the World Wide Web that is available for unrestricted public access and that is maintained with public money by an elected or appointed official of a state agency or political subdivision.

Subd. 2. **Purpose of Web site and publications.** The purpose of a Web site and a publication must be to provide information about the duties and jurisdiction of a state agency or political subdivision or to facilitate access to public services and information related to the responsibilities or functions of the state agency or political subdivision.

Subd. 3. **Prohibitions.** (a) A Web site or publication must not include pictures or other materials that tend to attribute the Web site or publication to an individual or group of individuals instead of to a public office, state agency, or political subdivision. A publication must not include the words "with the compliments of" or contain letters of personal greeting that promote an elected or appointed official of a state agency or political subdivision.

(b) A Web site, other than a Web site maintained by a public library or the election-related Web site maintained by the office of the secretary of state or the Campaign Finance and Public Disclosure Board, may not contain a link to a Weblog or site maintained by a candidate, a political committee, a political party or party unit, a principal campaign committee, or a state committee. Terms used in this paragraph have the meanings given them in chapter 10A, except that "candidate" also includes a candidate for an elected office of a political subdivision.

Subd. 4. **Permitted material.** (a) Material specified in this subdivision may be included on a Web site or in a publication, but only if the material complies with subdivision 2. This subdivision is not a comprehensive list of material that may be contained on a Web site or in a publication, if the material complies with subdivision 2.

(b) A Web site or publication may include biographical information about an elected or appointed official, a single official photograph of the official, and photographs of the official performing functions related to the office. There is no limitation on photographs, Webcasts, archives of Webcasts, and audio or video files that facilitate access to information or services or inform the public about the duties and obligations of the office or that are intended to promote trade or tourism. A state Web site or publication may include photographs or information involving civic or charitable work done by the governor's spouse, provided that these activities relate to the functions of the governor's office.

(c) A Web site or publication may include press releases, proposals, policy positions, and other information directly related to the legal functions, duties, and jurisdiction of a public official or organization.

(d) The election-related Web site maintained by the office of the secretary of state shall provide links to:

(1) the campaign Web site of any candidate for legislative, constitutional, judicial, or federal office who requests or whose campaign committee requests such a link and provides in writing a valid URL address to the office of the secretary of state; and

(2) the Web site of any individual or group advocating for or against or providing neutral information with respect to any ballot question, where the individual or group requests such a link and provides in writing a valid Web site address and valid e-mail address to the office of the secretary of state.

These links must be provided on the election-related Web site maintained by the office of the secretary of state from the opening of filing for the office in question until the business day following the day on which the State Canvassing Board has declared the results of the state general election, or November 30 of the year in which the election has taken place, whichever date is earlier. The link must be activated on the election related Web site maintained by the office of the secretary of state within two business days of receipt of the request from a qualified candidate or committee.

Subd. 5. **Other standards.** This section does not prohibit a state agency or political subdivision from adopting more restrictive standards for the content of a Web site or publication maintained by the agency or political subdivision.

Subd. 6. **Enforcement.** Violation of this section is not a crime and is not subject to civil penalty.

History: *2005 c 156 art 2 s 6; 2006 c 242 s 9, 10*

CHAPTER 10A – CAMPAIGN FINANCE AND PUBLIC DISCLOSURE

10A.01 DEFINITIONS.

Subdivision 1. **Application.** For the purposes of this chapter, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

Subd. 2. **Administrative action.** "Administrative action" means an action by any official, board, commission or agency of the executive branch to adopt, amend, or repeal a rule under chapter 14. "Administrative action" does not include the application or administration of an adopted rule, except in cases of rate setting, power plant and powerline siting, and granting of certificates of need under section 216B.243.

Subd. 3. **Advance of credit.** "Advance of credit" means any money owed for goods provided or services rendered. "Advance of credit" does not mean a loan as defined in subdivision 21.

Subd. 4. **Approved expenditure.** "Approved expenditure" means an expenditure made on behalf of a candidate by an entity other than the principal campaign committee of the candidate, if the expenditure is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate's principal campaign committee, or the candidate's agent. An approved expenditure is a contribution to that candidate.

Subd. 5. **Associated business.** "Associated business" means an association, corporation, partnership, limited liability company, limited liability partnership, or other organized legal entity from which the individual receives compensation in excess of $50, except for actual and reasonable expenses, in any month as a director, officer, owner, member, partner, employer or employee, or whose securities the individual holds worth more than $2,500 at fair market value.

Subd. 6. **Association.** "Association" means a group of two or more persons, who are not all members of an immediate family, acting in concert.

Subd. 7. **Ballot question.** "Ballot question" means a question or proposition that is placed on the ballot and that may be voted on by all voters of the state. "Promoting or defeating a ballot question" includes activities, other than lobbying activities, related to qualifying the question for placement on the ballot.

Subd. 7a. [Repealed by amendment, 1999 c 220 s 1]

Subd. 7b. Renumbered subd. 13

Subd. 7c. **Ballot question political committee.** “Ballot question political committee” means a political committee that makes only expenditures to promote or defeat a ballot question and disbursements permitted under section 10A.121, subdivision 1.

Subd. 7d. **Ballot question political fund.** “Ballot question political fund” means a political fund that makes only expenditures to promote or defeat a ballot question and disbursements permitted under section 10A.121, subdivision 1.

Subd. 8. **Board.** "Board" means the state campaign finance and Public Disclosure Board.

Subd. 9. **Campaign expenditure.** "Campaign expenditure" or "expenditure" means a purchase or payment of money or anything of value, or an advance of credit, made or incurred for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or defeating a ballot question.

An expenditure is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

An expenditure made for the purpose of defeating a candidate is considered made for the purpose of influencing the nomination or election of that candidate or any opponent of that candidate.

Except as provided in clause (1), "expenditure" includes the dollar value of a donation in kind.

"Expenditure" does not include:

(1) noncampaign disbursements as defined in subdivision 26;

(2) services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit;

(3) the publishing or broadcasting of news items or editorial comments by the news media; or

(4) an individual's unreimbursed personal use of an automobile owned by the individual and used by the individual while volunteering personal time.

Subd. 9a. Renumbered subd. 16

Subd. 10. **Candidate.** "Candidate" means an individual who seeks nomination or election as a state constitutional officer, legislator, or judge. An individual is deemed to seek nomination or election if the individual has taken the action necessary under the law of this state to qualify for nomination or election, has received contributions or made expenditures in excess of $750, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of $750, for the purpose of bringing about the individual's nomination or election. A candidate remains a candidate until the candidate's principal campaign committee is dissolved as provided in section 10A.243.

Subd. 10a. Renumbered subd. 4

Subd. 10b. Renumbered subd. 18

Subd. 10c. Renumbered subd. 26

Subd. 11. **Contribution.** (a) "Contribution" means money, a negotiable instrument, or a donation in kind that is given to a political committee, political fund, principal campaign committee, or party unit. An allocation by an association of general treasury money to be used for activities that must be or are reported through the association's political fund is considered to be a contribution for the purposes of disclosure required by this chapter.

(b) "Contribution" includes a loan or advance of credit to a political committee, political fund, principal campaign committee, or party unit, if the loan or advance of credit is: (1) forgiven; or (2) repaid by an individual or an association other than the political committee, political fund, principal campaign committee, or party unit to which the loan or advance of credit was made. If an advance of credit or a loan is forgiven or repaid as provided in this paragraph, it is a contribution in the year in which the loan or advance of credit was made.

(c) "Contribution" does not include services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, political committee, political fund, principal campaign committee, or party unit; the publishing or broadcasting of news items or editorial comments by the news media.

Subd. 12. **Depository.** "Depository" means a bank, savings association, or credit union organized under federal or state law and transacting business within this state.

Subd. 13. **Donation in kind.** "Donation in kind" means anything of value that is given, other than money or negotiable instruments. An approved expenditure is a donation in kind.

Subd. 14. [Repealed, 1976 c 307 s 35]

Subd. 15. **Election.** "Election" means a primary, special primary, general, or special election.

Subd. 16. **Election cycle.** "Election cycle" means the period from January 1 following a general election for an office to December 31 following the next general election for that office, except that "election cycle" for a special election means the period from the date the special election writ is issued to 60 days after the special election is held. For a regular election, the period from January 1 of the year prior to an election year through

December 31 of the election year is the “election segment” of the election cycle. Each other two-year segment of an election cycle is a “non-election segment” of the election cycle. An election cycle that consists of two calendar years has only an election segment. The election segment of a special election cycle includes the entire special election cycle.

Subd. 16a. **Expressly advocating.** “Expressly advocating” means that a communication clearly identifies a candidate and uses words or phrases of express advocacy.

Subd. 17. **Financial institution.** "Financial institution" means a lending institution chartered by an agency of the federal government or regulated by the commissioner of commerce.

Subd. 17a. Renumbered subd. 30

Subd. 17b. Renumbered subd. 34

Subd. 17c. **General treasury money.** “General treasury money” means money that an association other than a principal campaign committee, party unit, or political committee accumulates through membership dues and fees, donations to the association for its general purposes, and income from the operation of a business. General treasury money does not include money collected to influence the nomination or election of candidates or to promote or defeat a ballot question.

Subd. 18. **Independent expenditure.** "Independent expenditure" means an expenditure expressly advocating the election or defeat of a clearly identified candidate, if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate's principal campaign committee or agent. An independent expenditure is not a contribution to that candidate. An independent expenditure does not include the act of announcing a formal public endorsement of a candidate for public office, unless the act announcing is simultaneously accompanied by an expenditure that would otherwise qualify as an independent expenditure under this subdivision.

Subd. 19. [Repealed by amendment, 1999 c 220 s 1]

Subd. 20. **Loan.** "Loan" means an advance of money or anything of value made to a political committee, political fund, principal campaign committee, or party unit.

Subd. 21. **Lobbyist.** (a) "Lobbyist" means an individual:

(1) engaged for pay or other consideration of more than $3,000 from all sources in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials; or

(2) who spends more than $250, not including the individual's own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit, by communicating or urging others to communicate with public or local officials.

(b) "Lobbyist" does not include:

(1) a public official;

(2) an employee of the state, including an employee of any of the public higher education systems;

(3) an elected local official;

(4) a nonelected local official or an employee of a political subdivision acting in an official capacity, unless the nonelected official or employee of a political subdivision spends more than 50 hours in any month attempting to influence legislative or administrative action, or the official action of a metropolitan governmental unit other than the political subdivision employing the official or employee, by communicating or urging others to communicate with public or local officials, including time spent monitoring legislative or administrative action, or the official action of a metropolitan governmental unit, and related research, analysis, and

compilation and dissemination of information relating to legislative or administrative policy in this state, or to the policies of metropolitan governmental units;

(5) a party or the party's representative appearing in a proceeding before a state board, commission, or agency of the executive branch unless the board, commission, or agency is taking administrative action;

(6) an individual while engaged in selling goods or services to be paid for by public funds;

(7) a news medium or its employees or agents while engaged in the publishing or broadcasting of news items, editorial comments, or paid advertisements which directly or indirectly urge official action;

(8) a paid expert witness whose testimony is requested by the body before which the witness is appearing, but only to the extent of preparing or delivering testimony; or

(9) a party or the party's representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim.

(c) An individual who volunteers personal time to work without pay or other consideration on a lobbying campaign, and who does not spend more than the limit in paragraph (a), clause (2), need not register as a lobbyist.

(d) An individual who provides administrative support to a lobbyist and whose salary and administrative expenses attributable to lobbying activities are reported as lobbying expenses by the lobbyist, but who does not communicate or urge others to communicate with public or local officials, need not register as a lobbyist.

Subd. 22. **Local official.** "Local official" means a person who holds elective office in a political subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

Subd. 23. **Major political party.** "Major political party" means a major political party as defined in section 200.02, subdivision 7.

Subd. 24. **Metropolitan governmental unit.** "Metropolitan governmental unit" means any of the seven counties in the metropolitan area as defined in section 473.121, subdivision 2, a regional railroad authority established by one or more of those counties under section 398A.03, a city with a population of over 50,000 located in the seven-county metropolitan area, the Metropolitan Council, or a metropolitan agency as defined in section 473.121, subdivision 5a.

Subd. 25. **Minor political party.** "Minor political party" means a minor political party as defined in section 200.02, subdivision 23.

Subd. 26. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

(1) payment for accounting and legal services;

(2) return of a contribution to the source;

(3) repayment of a loan made to the principal campaign committee by that committee;

(4) return of a public subsidy;

(5) payment for food, beverages, and necessary utensils and supplies, entertainment, and facility rental for a fund-raising event;

(6) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a

constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;

(7) payment for food and beverages consumed by a candidate or volunteers while they are engaged in campaign activities;

(8) payment for food or a beverage consumed while attending a reception or meeting directly related to legislative duties;

(9) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;

(10) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;

(11) costs of child care for the candidate's children when campaigning;

(12) fees paid to attend a campaign school;

(13) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;

(14) interest on loans paid by a principal campaign committee on outstanding loans;

(15) filing fees;

(16) post-general election holiday or seasonal cards, thank-you notes, or advertisements in the news media mailed or published prior to the end of the election cycle;

(17) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;

(18) contributions to a party unit;

(19) payments for funeral gifts or memorials;

(20) the cost of a magnet less than six inches in diameter containing legislator contact information and distributed to constituents;

(21) costs associated with a candidate attending a political party state or national convention in this state;

(22) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question; and

(23) costs paid to a third party for processing contributions made by a credit card, debit card, or electronic check.

The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

A noncampaign disbursement is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

Subd. 26a. **Person.** “Person” means an individual, an association, a political subdivision, or a public higher education system.

Subd. 27. **Political committee.** "Political committee" means an association whose major purpose is to influence the nomination or election of one or more candidates or to promote or defeat a ballot question, other than a principal campaign committee or a political party unit.

Subd. 28. **Political fund.** "Political fund" means an accumulation of dues or voluntary contributions by an association other than a political committee, principal campaign committee, or party unit, if the accumulation is collected or expended to influence the nomination or election of one or more candidates or to promote or defeat a ballot question. The term “political fund” as used in this chapter may also refer to the association acting through its political fund.

Subd. 29. **Political party.** "Political party" means a major political party or a minor political party. A political party is the aggregate of all its political party units in this state.

Subd. 30. **Political party unit or party unit.** "Political party unit" or "party unit" means the state committee or the party organization within a house of the legislature, congressional district, county, legislative district, municipality, or precinct.

Subd. 31. **Political subdivision.** "Political subdivision" means the Metropolitan Council, a metropolitan agency as defined in section 473.121, subdivision 5a, or a municipality as defined in section 471.345, subdivision 1.

Subd. 32. **Population.** "Population" means the population established by the most recent federal census, by a special census taken by the United States Bureau of the Census, by an estimate made by the Metropolitan Council, or by an estimate made by the state demographer under section 4A.02, whichever has the latest stated date of count or estimate.

Subd. 32a. **Prima facie determination.** A prima facie determination is a determination that a complaint filed under section 10A.02, subdivision 11, is sufficient to allege a violation of this chapter or of those sections of chapter 211B listed in section 10A.02, subdivision 11.

Subd. 33. **Principal.** "Principal" means an individual or association that:

(1) spends more than $500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or

(2) is not included in clause (1) and spends a total of at least $50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units, as described in section 10A.04, subdivision 6.

Subd. 34. **Principal campaign committee.** "Principal campaign committee" means a principal campaign committee formed under section 10A.105.

Subd. 35. **Public official.** "Public official" means any:

(1) member of the legislature;

(2) individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher, legislative analyst, fiscal analyst, or attorney in the Office of Senate Counsel, Research, and Fiscal Analysis, House Research, or the House Fiscal Analysis Department;

(3) constitutional officer in the executive branch and the officer's chief administrative deputy;

(4) solicitor general or deputy, assistant, or special assistant attorney general;

(5) commissioner, deputy commissioner, or assistant commissioner of any state department or agency as listed in section 15.01 or 15.06, or the state chief information officer;

(6) member, chief administrative officer, or deputy chief administrative officer of a state board or commission that has either the power to adopt, amend, or repeal rules under chapter 14, or the power to adjudicate contested cases or appeals under chapter 14;

(7) individual employed in the executive branch who is authorized to adopt, amend, or repeal rules under chapter 14 or adjudicate contested cases under chapter 14;

(8) executive director of the State Board of Investment;

(9) deputy of any official listed in clauses (7) and (8);

(10) judge of the Workers' Compensation Court of Appeals;

(11) administrative law judge or compensation judge in the State Office of Administrative Hearings or referee in the Department of Employment and Economic Development;

(12) member, regional administrator, division director, general counsel, or operations manager of the Metropolitan Council;

(13) member or chief administrator of a metropolitan agency;

(14) director of the Division of Alcohol and Gambling Enforcement in the Department of Public Safety;

(15) member or executive director of the Higher Education Facilities Authority;

(16) member of the board of directors or president of Minnesota Technology, Inc.;

(17) member of the board of directors or executive director of the Minnesota State High School League.

(18) member of the Minnesota Ballpark Authority established in section 473.755;

(19) citizen member of the Legislative-Citizen Commission on Minnesota Resources;

(20) manager of a watershed district, or member of a watershed management organization as defined under section 103B.205, subdivision 13;

(21) supervisor of a soil and water conservation district;

(22) director of Explore Minnesota Tourism.

(23) citizen member of the Lessard Outdoor Heritage Council established in section 97A.056;

(24) citizen member of the Clean Water Council established in section 114D.30

(25) member or chief executive of the Minnesota Sports Facilities Authority established in 473J.07;

(26) district court judge, appeals court judge, or Supreme Court justice;

(27) county commissioner;

(28) member of the Greater Minnesota Regional Parks and Trails Commission; or

(29) member of the Destination Medical Center Corporation established in section 469.41.

Subd. 36. **State committee.** "State committee" means the organization that, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the state level.

Subd. 37. **Independent expenditure political committee.** "Independent expenditure political committee" means a political committee that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.

Subd. 38. **Independent expenditure political fund.** "Independent expenditure political fund" means a political fund that makes only independent expenditures and disbursements permitted under section 10A.121, subdivision 1.

History: *1974 c 470 s 1; 1975 c 271 s 6; 1976 c 307 s 1-4; 1978 c 463 s 1-18; 1979 c 59 s 1-3; 1980 c 509 s 1; 1980 c 587 art 2 s 1-7; 1980 c 607 art 14 s 45 subd 1; art 17 s 1-8; 1980 c 614 s 40; 1980 c 615 s 60; 1981 c 29 art 7 s 1; 1981 c 346 s 1; 1981 c 356 s 248; 1982 c 424 s 130; 1983 c 247 s 5,6; 1983 c 258 s 10; 1983 c 289 s 114 subd 1; 1984 c 619 s 11; 1984 c 640 s 32; 1984 c 654 art 3 s 13; 1984 c 655 art 1 s 92; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1Sp1986 c 3 art 1 s 2; 1987 c 186 s 15; 1988 c 686 art 1 s 40; 1989 c 209 art 1 s 1,2; 1989 c 334 art 6 s 1; 1990 c 562 art 8 s 2; 1990 c 608 art 1 s 1-5; art 3 s 1-3; 1991 c 233 s 109; 1991 c 322 s 19; 1991 c 349 s 1,2; 1993 c 13 art 1 s 1; 1993 c 318 art 2 s 1-4; 1994 c 483 s 1; 1994 c 628 art 3 s 2; 1995 c 189 s 8; 1995 c 202 art 1 s 25; 1996 c 277 s 1; 1997 c 129 art 2 s 15; 1997 c 202 art 2 s 63; 1998 c 254 art 2 s 3; 1999 c 220 s 1,50; 2000 c 260 s 2,3; 2002 c 363 s 1; 1Sp2003 c 1art 2 s 18; 2004 c 206 s 52; 2005 c 156 art 5 s 1; art 6 s 1,2 ; 2008 c 295 s 1, 2; 2008 c 300 s 1; 2008 c 368 s 1; 2010 c 327 s 1, 2, 3, 4; 2010 c 397 s 1, 2, 3; 2012 c 299 art 1 s 4; 2013 c 137 art 3 s 7; 2013 c 138 art 1 s 1-10; 2013 c 138 art 2 s 1; 2013 c 138 art 3 s 1; 2014 c 185 s 1; 2014 c 275 art 1 s 1; 2014 c 309 s 1-3*

NOTES AND DECISIONS

10A.01

Corporations seeking preliminary injunction against enforcement of Minnesota statute, which defined independent expenditures that corporations were allowed to make advocating the election or defeat of a clearly identified candidate, were not likely to succeed on the merits of their claim that the definition was impermissibly vague under the First Amendment; definition did not apply to expenditures for issue advocacy or advocacy that did not use the "magic words," such as "vote for," "elect," "support," "vote against," and "defeat," which the Supreme Court had recognized as constituting express advocacy. *Minnesota Citizens Concerned for Life, Inc. v. Swanson,* 741 F.Supp.2d 1115 (D. Minn. 2010).

In order to avoid invalidation of statute on grounds that it is vague, overbroad, and regulates political speech in violation of the First Amendment, phrase "to influence the nomination or election of a candidate" in subds. 27 and 28 must be construed so as to mean that "political committee" is organization whose major purpose is nomination or election of candidate and that "political fund" is fund used for express advocacy. *Minnesota Citizens Concerned for Life, Inc. v. Kelley*, 291 F.Supp.2d 1052 (D. Minn. 2003).

10A.04 LOBBYIST REPORTS.

Subdivision 1. **Reports required.** A lobbyist must file reports of the lobbyist's activities with the board as long as the lobbyist continues to lobby. The report may be filed electronically. A lobbyist may file a termination statement at any time after ceasing to lobby.

Subd. 2. **Time of reports.** Each report must cover the time from the last day of the period covered by the last report to 15 days before the current filing date. The reports must be filed with the board by the following dates:

(1) January 15; and

(2) June 15.

Subd. 2a. MS 2003 Supp [Expired, 1Sp2003 c 1 art 2 s 24]

Subd. 3. **Information to lobbyist.** An employer or employee about whose activities a lobbyist is required to report must provide the information required by subdivision 4 to the lobbyist no later than five days before the prescribed filing date.

Subd. 4. **Content.** (a) A report under this section must include information the board requires from the registration form and the information required by this subdivision for the reporting period.

(b) A lobbyist must report the lobbyist's total disbursements on lobbying, separately listing lobbying to influence legislative action, lobbying to influence administrative action, and lobbying to influence the official actions of a metropolitan governmental unit, and a breakdown of disbursements for each of those kinds of lobbying into categories specified by the board, including but not limited to the cost of publication and distribution of each publication used in lobbying; other printing; media, including the cost of production; postage; travel; fees, including allowances; entertainment; telephone and telegraph; and other expenses.

(c) A lobbyist must report the amount and nature of each gift, item, or benefit, excluding contributions to a candidate, equal in value to $5 or more, given or paid to any official, as defined in section 10A.071, subdivision 1, by the lobbyist or an employer or employee of the lobbyist. The list must include the name and address of each official to whom the gift, item, or benefit was given or paid and the date it was given or paid.

(d) A lobbyist must report each original source of money in excess of $500 in any year used for the purpose of lobbying to influence legislative action, administrative action, or the official action of a metropolitan governmental unit. The list must include the name, address, and employer, or, if self-employed, the occupation and principal place of business, of each payer of money in excess of $500.

(e) On the report due June 15, the lobbyist must provide a general description of the subjects lobbied in the previous 12 months.

Subd. 4a. [Repealed by amendment, 1999 c 220 s 5]

Subd. 5. **Late filing.** If a lobbyist or principal fails to file a report required by this section by the date the report was due, the board may impose a late filing fee of $25 per day, not to exceed $1,000, commencing the day after the report was due. The board must send notice by certified mail to any lobbyist or principal who fails to file a report within ten business days after the report was due that the lobbyist or principal may be subject to a civil penalty for failure to file the report or pay the fee. A lobbyist or principal who fails to file a report or statement or pay a fee within seven days after the certified mail notice was sent by the board is subject to a civil penalty imposed by the board of up to $1,000.

Subd. 6. **Principal reports.** (a) A principal must report to the board as required in this subdivision by March 15 for the preceding calendar year.

(b) Except as provided in paragraph (d), the principal must report the total amount, rounded to the nearest $20,000, spent by the principal during the preceding calendar year to influence legislative action, administrative action, and the official action of metropolitan governmental units.

(c) Except as provided in paragraph (d), the principal must report under this subdivision a total amount that includes:

(1) all direct payments by the principal to lobbyists in this state;

(2) all expenditures for advertising, mailing, research, analysis, compilation and dissemination of information, and public relations campaigns related to legislative action, administrative action, or the official action of metropolitan governmental units in this state; and

(3) all salaries and administrative expenses attributable to activities of the principal relating to efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units in this state.

(d) A principal that must report spending to influence administrative action in cases of rate setting, power plant and powerline siting, and granting of certificates od need under section 216B.243 must report those amounts as provided in this subdivision, except that they must be reported separately and not included in the totals required under paragraphs (b) and (c).

Subd. 7. **Financial records.** The board may randomly audit the financial records of lobbyists and principals required to report under this section.

Subd. 8. [Repealed by amendment, 1999 c 220 s 5]

History: *1974 c 470 s 4; 1975 c 271 s 6; 1976 c 307 s 9, 10; 1978 c 463 s 30-32; 1984 c 654 art 2 s 37; 1986 c 444; 1Sp1986 c 3 art 1 s 3; 1990 c 608 art 1 s 7-11; 1993 c 318 art 2 s 5; 1994 c 377 s 2; 1999 c 220 s 5, 50; 2002 c 363 s 6-8; 1Sp2003 c 23 s 10; 2005 c 10 art 1 s 2; 2010 c 327 s 6; 2012 c 251 s 1; 2013 c 138 art 3 s 3*

10A.321 ESTIMATES OF MIMIMUM AMOUNTS TO BE RECEIVED.

Subdivision 1. **calculation and certification of estimates.** The commissioner of revenue must calculate and certify to the board one week before the first day for filing for office in each election year an estimate of the total amount in the state general account of the state elections campaign account and the amount of money each candidate who qualifies, as provided in section 10A.31, subdivisions 6 and 7 may receive from the candidate's party account in the state elections campaign account. This estimate must be based upon the allocations and formulas in section 10A.31, subdivisions 5 and 5a, any necessary vote totals provided by the secretary of state to apply the formulas in section 10A.31, subdivisions 5 and 5a, and the amount of money expected to be available after 100 percent of the tax returns have been processed.

Subd. 2. **Publication, certification, and notification procedures.** Before the first day of filing for office, the board must publish and forward to all filing officers the estimates calculated and certified under subdivision 1 along with a copy of section 10A.25, subdivision 10. Within seven days after the last day for filing for office, the secretary of state must certify to the board the name, address, office sought, and party affiliation of each candidate who has filed with that office an affidavit of candidacy or petition to appear on the ballot. The auditor of each county must certify to the board the same information for each candidate who has filed with that county an affidavit of candidacy or petition to appear on the ballot. By August 15, the board must notify all candidates of their estimated minimum amount. The board must include with the notice a form for the agreement provided in section 10A.322 along with a copy of section 10A.25, subdivision 10.

History: *1990 c 608 art 3 s 23; 1999 c 220 s 41, 50; 2010 c 184 s 2; 2013 c 138 art 4 s 5*

10A.38 CAPTIONING OF CAMPAIGN ADVERTISEMENTS.

(a) This section applies to a campaign advertisement by a candidate who is governed by an agreement under section 10A.322.

(b) "Campaign advertisement" means a professionally produced visual or audio recording of two minutes or less produced by the candidate for the purpose of influencing the nomination or election of a candidate.

(c) A campaign advertisement that is disseminated as an advertisement by broadcast or cable television must include closed captioning for deaf and hard-of-hearing viewers, unless the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so. A campaign advertisement that is disseminated as an advertisement to the public on the candidate's Web site must include closed captioning for deaf and hard-of-hearing viewers, unless the candidate has posted on the Web site a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so. A campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's Web site a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so.

History: *2008 c 295 s 8*

CHAPTER 13 – GOVERNMENT DATA PRACTICES

13.045 SAFE AT HOME PROGRAM PARTICIPANT DATA.

Subdivision 1. **Definitions.** As used in this section:

(1) "program participant" has the meaning given in section 5B.02, paragraph (g);

(2) "location data" means any data that may be used to physically locate a program participant, including but not limited to the program participant's residential address, work address, and school address, and that is collected, received, or maintained by a government entity prior to the date a program participant's certification expires, or the date the entity receives notice that the program participant has withdrawn from the program, whichever is earlier;

(3) "identity data" means data that may be used to identify a program participant, including the program participant's name, phone number, e-mail address, address designated under chapter 5B, Social Security number, or driver's license number, and that is collected, received, or maintained by a government entity before the date a program participant's certification expires, or the date the entity receives notice that the program participant has withdrawn from the program, whichever is earlier;

(4) "county recorder" means the county official who performs the functions of the county recorder or registrar of titles to record a document as part of the county real estate document recording system, regardless of title or office; and

(5) "real property records" means any record of data that is maintained by a county as part of the county real estate document recording system for use by the public.

Subd. 2. **Notification of certification.** (a) A program participant may submit a notice, in writing, to the responsible authority of any government entity other than the county recorder that the participant is certified in the Safe at Home address confidentiality program pursuant to chapter 5B. The notice must include the program participant's name, names of other program participants in the household, address designated under chapter 5B, program participant signature, date the program participant's certification in the program expires, and any other information specified by the secretary of state. A program participant may submit a subsequent notice of certification, if the participant's certification is renewed. The contents of the notification of certification are private data on individuals.

(b) To affect real property records, including but not limited to documents maintained in a public recording system, data on assessments and taxation, and other data on real property, a program participant must submit a real property notice in writing to the county recorder in the county where the property identified in the real property notice is located. A real property notice must be on a form prescribed by the secretary of state and must include:

(1) the full legal name of the program participant, including middle name;

(2) the last four digits of the program participant's Social Security number;

(3) the designated address of the program participant as assigned by the secretary of state, including lot number;

(4) the date the program participant's certification in the program expires;

(5) the legal description and street address, if any, of the real property affected by the notice;

(6) the address of the Office of the Secretary of State; and

(7) the signature of the program participant.

Only one parcel of real property may be included in each notice, but more than one notice may be presented to the county recorder. The county recorder may require a program participant to provide additional information necessary to identify the records of the program participant or the real property described in the notice. A program participant must submit a subsequent real property notice for the real property if the participant's certification is renewed. The real property notice is private data on individuals.

Subd. 3. **Classification of identity and location data; sharing and dissemination.**

(a) Identity and location data on a program participant who submits a notice under subdivision 2, paragraph (a), that are not otherwise classified by law are private data on individuals. Notwithstanding any provision of law to the contrary, private or confidential location data on a program participant who submits a notice under subdivision 2, paragraph (a), may not be shared with any other government entity or nongovernmental entity except as provided in paragraph (b).

(b) Private or confidential location data on a program participant must not be shared or disclosed by a government entity unless:

(1) the program participant has expressly consented in writing to sharing or dissemination of the data for the purpose for which the sharing or dissemination will occur;

(2) the data are subject to sharing or dissemination pursuant to court order under section 13.03, subdivision 6; or

(3) the data are subject to sharing pursuant to section 5B.07, subdivision 2;

(4) the location data related to county of residence are needed to provide public assistance or other government services, or to allocate financial responsibility for the assistance or services;

(5) the data are necessary to perform a government entity's health, safety, or welfare functions, including the provision of emergency 911 services, the assessment and investigation of child or vulnerable adult abuse or neglect, or the assessment or inspection of services or locations for compliance with health, safety, or professional standards; or

(6) the data are necessary to aid an active law enforcement investigation of the program participant.

(c) Data disclosed under paragraph (b), clauses (4) to (6), may be used only for the purposes authorized in this subdivision and may not be further disclosed to any other person or government entity. Government entities receiving or sharing private or confidential data under this subdivision shall establish procedures to protect the data from further disclosure.

(d) Real property record data are governed by subdivision 4a.

Subd. 4. **Acceptance of alternate address required.** Regardless of whether a notice of certification has been submitted under subdivision 2, a government entity must accept the address designated by the secretary of state as a program participant's address, and is subject to the requirements contained in section 5B.05, paragraphs (a) to (c).

Subd. 4a. **Real property records.** (a) If a program participant submits a notice to a county recorder under subdivision 2, paragraph (b), the county recorder must not disclose the program participant's identity data in conjunction with the property identified in the written notice, unless:

(1) the program participant has consented to sharing or dissemination of the data for

the purpose identified in a writing acknowledged by the program participant;

(2) the data are subject to sharing or dissemination pursuant to court order under section 13.03, subdivision 6; or

(3) the secretary of state authorizes the sharing or dissemination of the data under subdivision 4b for the purpose identified in the authorization. This subdivision does not prevent the county recorder from returning original documents to the individuals that submitted the documents for recording. This subdivision does not prevent the public disclosure of the participant's name and address designated under chapter 5B in the county reception index if the participant's name and designated address are not disclosed in conjunction with location data. Each county recorder shall establish procedures for recording or filing documents to comply with this subdivision. These procedures may include masking identity or location data and making documents or certificates of title containing the data private and not viewable except as allowed by this paragraph. The procedure must comply with the requirements of chapters 386, 507, 508, and 508A and other laws as appropriate, to the extent these requirements do not conflict with this section. The procedures must provide public notice of the existence of recorded documents and certificates of title that are not publicly viewable and the provisions for viewing them under this subdivision. Notice that a document or certificate is private and viewable only under this subdivision or subdivision 4b is deemed constructive notice of the document or certificate.

(b) A real property notice is notice only to the county recorder. A notice that does not conform to the requirements of a real property notice under subdivision 2, paragraph (b), is not effective as a notice to the county recorder. On receipt of a real property notice, the county recorder shall provide a copy of the notice to the person who maintains the property tax records in that county, and provide a copy to the secretary of state at the address specified by the secretary of state in the notice.

(c) Paragraph (a) applies only to the records recorded or filed concurrently with the real property notice specified in subdivision 2, paragraph (b), and real property records affecting the same real property recorded subsequent to the county's receipt of the real property notice.

(d) The prohibition on disclosure in paragraph (a) continues until:

(1) the program participant has consented to the termination of the real property notice in a writing acknowledged by the program participant;

(2) the real property notice is terminated pursuant to a court order;

(3) the program participant no longer holds a record interest in the real property identified in the real property notice; or

(4) the secretary of state has given written notice to the county recorder who provided the secretary of state with a copy of a participant's real property notice that the program participant's certification has terminated. Notification under this paragraph must be given by the secretary of state within 90 days of the termination. Upon termination of the prohibition of disclosure, the county recorder shall make publicly viewable all documents and certificates of title relative to the participant that were previously partially or wholly private and not viewable.

Subd. 4b. **Access to real property data; title examination.** (a) Upon request, the secretary of state may share data regarding a program participant's real property records for the purpose of confirming or denying that the program participant's real property is the property subject to a bona fide title examination. The request must include:

(1) the name, title, address, and affiliated organization, if applicable, of the person requesting data;

(2) the purpose for requesting data;

(3) the requestor's relationship, if any, to the program participant subject to the data; and

(4) the legal description of the property subject to the title examination and any other information required by the secretary of state to respond to the request. The secretary of state shall approve or deny a request for access to data within two business days.

(b) In responding to a bona fide request, the secretary of state may respond by an affirmation in writing that the property subject to the title examination is or is not the property subject to a program participant's real property notice. Notwithstanding subdivision 4a, or any law to the contrary, a party examining title may rely conclusively on the information contained in a written affirmation from the secretary of state.

(c) Location data disclosed under this subdivision may be used only for the purposes authorized in this subdivision and may not be further disclosed to any other person. A person receiving private data under this subdivision shall establish procedures to protect the data from further disclosure.

Subd. 5. **Duties of the secretary of state and other government entities limited.** Nothing in this section establishes a duty for:

(1) the Office of the Secretary of State to identify other government entities that may hold data on a program participant; or

(2) the responsible authority of any government entity to independently determine whether it maintains data on a program participant, unless a request is received pursuant to section 13.04 or a notice of certification is submitted pursuant to this section.

Subd. 6. **Service of process upon program participants.** Notwithstanding any law to the contrary, after a government entity receives a notice under subdivision 2 or 4a, if the government entity seeks to serve process upon a program participant, the service must be made by personal service or service by mail upon the secretary of state under section 5B.03, subdivision 1, clause (3). In an action in which service by publication is required or necessary, publication is valid if the publication omits the name of the program participant and the secretary of state has been served as provided in this subdivision.

Subd. 7. **Sharing of program participant data with the secretary of state.** Nothing in this section prevents a government entity from sharing program participant data with the secretary of state for the purpose of facilitating compliance with this section.

History: *2013 c 76 s 6; 2014 c 173 s 2*

13.356 PERSONAL CONTACT AND ONLINE ACCOUNT INFORMATION.

(a) The following data on an individual collected, maintained, or received by a government entity for notification purposes or as part of a subscription list for an entity's electronic periodic publications as requested by the individual are private data on individuals:

(1) telephone number;

(2) e-mail address; and

(3) Internet user name, password, Internet protocol address, and any other similar data related to the individual's online account or access procedures.

(b) Section 13.04, subdivision 2, does not apply to data classified under paragraph (a). Paragraph (a) does not apply to data submitted by an individual to the Campaign Finance Board to meet the legal requirements imposed by chapter 10A, to data submitted for purposes of making a public comment, or to data in a state agency's rulemaking e-mail list.

(c) Data provided under paragraph (a) may only be used for the specific purpose for which the individual provided the data.

History: *2013 c 82 s 1*

13.37 GENERAL NONPUBLIC DATA.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given them.

(a) "Security information" means government data the disclosure of which the responsible authority determines would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury. "Security information" includes checking account numbers, crime prevention block maps and lists of volunteers who participate in community crime prevention programs and their home and mailing addresses, telephone numbers, e-mail or other digital addresses. Internet communication services accounts information or similar accounts information, and global positioning system locations.

(b) "Trade secret information" means government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

(c) "Labor relations information" means management positions on economic and noneconomic items that have not been presented during the collective bargaining process or interest arbitration, including information specifically collected or created to prepare the management position.

(d) "Parking space leasing data" means the following government data on an applicant for, or lessee of, a parking space: residence address, home telephone number, beginning and ending work hours, place of employment, work telephone number, and location of the parking space.

Subd. 2. **Classification.** (a). The following government data is classified as nonpublic data with regard to data not on individuals, pursuant to section 13.02, subdivision 9, and as private data with regard to data on individuals, pursuant to section 13.02, subdivision 12: Security information; trade secret information; sealed absentee ballots prior to opening by an election judge; sealed bids, including the number of bids received, prior to the opening of the bids; parking space leasing data; and labor relations information, provided that specific labor relations information which relates to a specific labor organization is classified as protected nonpublic data pursuant to section 13.02, subdivision 13.

(b) If a government entity denies a data request based on a determination that the data are security information, upon request, the government entity must provide a short description explaining the necessity for the classification.

Subd. 3. **Data dissemination.** (a) Crime prevention block maps and names, home addresses, and telephone numbers of volunteers who participate in community crime prevention programs may be disseminated to volunteers participating in crime prevention programs. The location of a National Night Out event is public data.

(b) The responsible authority of a government entity in consultation with the appropriate chief law enforcement officer, emergency manager, or public health official, may make security information accessible to any person, entity, or the public if the government entity determines that the access will aid public health, promote public safety, or assist law enforcement.

History: *1980 c 603 s 15*; *1981 c 311 s 11*,39; *1982 c 545 s 24*; *1984 c 436 s 5*; *1985 c 248 s 4*; *1990 c 573 s 3*,4; *1996 c 440 art 1 s 5,6; 1997 c 111 s 6; 1998 c 371 s 1; 1Sp2003 c 8 art 2 s 7; 2005 c 163 s 33-35; 2012 c 290 s 16, 17; 2013 c 82 s 2; 2014 c 208 s1*

NOTES AND DECISIONS

13.37

Rejected absentee ballots from election for United States Senate that were in possession of county were nonpublic or private data under Minnesota Government Data Practices Act (MGDPA); provision of Act unambiguously provided that sealed absentee ballots were nonpublic or private data until opened by election judge, and absentee ballots remained sealed and had not been opened by election judge. *KSTP-TV v. Ramsey County,*787 N.W.2d 198 (Minn. App. 2010).

13.607 CAMPAIGN FINANCE, PUBLIC DISCLOSURE, AND ELECTION DATA CODED ELSEWHERE.

(Formerly 13.99)

Subdivision 1. **Scope.** The sections referred to in this section are codified outside this chapter. Those sections classify campaign, ethics, and election data as other than public, place restrictions on access to government data, or involve data sharing.

Subd. 2. **Campaign Finance and Public Disclosure Board information.** Disclosure by the Campaign Finance and Public Disclosure Board of information about a complaint or investigation is governed by section 10A.02, subdivision 11.

Subd. 3. **Ethical practices investigation data.** The record of certain investigations conducted under chapter 10A is classified, and disposition of certain information is governed, by section 10A.02, subdivision 11a.

Subd. 3a. **Campaign Finance and Public Disclosure Board audit data.** The record of certain audits conducted under chapter 10A is classified, and disposition of certain information is governed, by section 10A.09, subdivision 10.

Subd. 4 .**Campaign Finance and Public Disclosure Board opinions.** A request for a Campaign Finance and Public Disclosure Board advisory opinion and the opinion itself are classified under section 10A.02, subdivision 12.

Subd. 5. **Statements of economic interest.** Disclosure of statements of economic interest filed by local officials is governed by section 10A.09, subdivision 6a.

Subd. 5a.**Campaign reports and data.** Certain reports filed with the Campaign Finance and Public Disclosure Board are classified under section 10A.20. Certain data stored by the Campaign Finance and Public Disclosure Board is not government data under section 10A.02, subdivision 11b.

Subd. 6. **Registered voter lists.** Access to registered voter lists is governed by section 201.091.

Subd. 7. **Absentee ballots.** Disclosure of names of voters submitting absentee ballots is governed by section 203B.12, subdivision 7.

Subd. 8. **Candidates for office: address of residence.** The address of residence of certain candidates for office is classified as provided in section 204B.06, subdivision 1b.

History: *1991 c 106 s 6; 1992 c 511 art 7 s 1; 1992 c 569 s 4; 1993 c 13 art 1 s 12; 1993 c 65 s 1; 1993 c 177 s 1; 1993 c 240 s 1; 1993 c 326 art 2 s 1; 1993 c 345 art 3 s 18; 1993 c 351 s 20-22; 1994 c 483 s 1; 1994 c 589 s 1; 1994 c 616 s 1; 1994 c 618 art 1 s 17; art 2 s 9-64; 1994 c 632 art 2 s 10; art 3 s 17; 1994 c 636 art 4 s 4; 1995 c 142 s 1; 1995 c 155 s 1,2; 1995 c 186 s 8; 1995 c 212 art 3 s 59; 1995 c 229 art 4 s 3; 1995 c 234 art 5 s 1; 1995 c 259 art 1 s 27; art 4 s 4; art 5 s 1-51; 1996 c 305 art 1 s 3-5; 1996 c 334 s 1; 1996 c 408 art 9 s 1; 1996 c 415 s 1; 1996 c 440 art 1 s 18; art 2 s 1-14; 1996 c 471 art 7 s 1; 1997 c 7 art 1 s 3; 1997 c 22 art 2 s 1,8; 1997 c 66 s 79; 1997 c 129 art 2 s 15; 1997 c 193 s 1; 1997 c 199 s 14; 1997 c 202 art 2 s 63; 1997 c 203 art 6 s 2; 1997 c 215 s 1; 1997 c 218 s 1; 1997 c 239 art 8 s 1; 1Sp1997 c 3 s 8-18; 1998 c 273 s 1; 1998 c 361 s 1; 1998 c 367 art 11 s 2;*

1998 c 371 s 6,7; 1998 c 373 s 1; 1998 c 382 art 2 s 1; 1998 c 397 art 11 s 3; 1998 c 407 art 2 s 1; 1999 c 99 s 23; 1999 c 139 art 4 s 2; 1999 c 205 art 1 s 70; 1999 c 227 s 22; 1999 c 245 art 9 s 1,2; 2010 c 314 s 1; 2010 c 327 s 24; 2011 c 76 art 1 s 6; 2014 c 309 s 22 & 23; 2015 c 73 s 20, 21

13.851 CORRECTIONS AND DETENTION DATA CODED ELSEWHERE.

Subd. 10. **Felony offender data; voter registration.** The use of felony offender data made available to the secretary of state is governed by section 201.157.

History: *1991 c 106 s 6; 1992 c 511 art 7 s 1; 1992 c 569 s 4; 1993 c 13 art 1 s 12; 1993 c 65 s 1; 1993 c 177 s 1; 1993 c 240 s 1; 1993 c 326 art 2 s 1; 1993 c 345 art 3 s 18; 1993 c 351 s 20-22; 1994 c 483 s 1; 1994 c 589 s 1; 1994 c 616 s 1; 1994 c 618 art 1 s 17; art 2 s 9-64; 1994 c 632 art 2 s 10; art 3 s 17; 1994 c 636 art 4 s 4; 1995 c 142 s 1; 1995 c 155 s 1,2; 1995 c 186 s 8; 1995 c 212 art 3 s 59; 1995 c 229 art 4 s 3; 1995 c 234 art 5 s 1; 1995 c 259 art 1 s 27; art 4 s 4; art 5 s 1-51; 1996 c 305 art 1 s 3-5; 1996 c 334 s 1; 1996 c 408 art 9 s 1; 1996 c 415 s 1; 1996 c 440 art 1 s 18; art 2 s 1-14; 1996 c 471 art 7 s 1; 1997 c 7 art 1 s 3; 1997 c 22 art 2 s 1,8; 1997 c 66 s 79; 1997 c 129 art 2 s 15; 1997 c 193 s 1; 1997 c 199 s 14; 1997 c 202 art 2 s 63; 1997 c 203 art 6 s 2; 1997 c 215 s 1; 1997 c 218 s 1; 1997 c 239 art 8 s 1; 1Sp1997 c 3 s 8-18; 1998 c 273 s 1; 1998 c 361 s 1; 1998 c 367 art 11 s 2; 1998 c 371 s 6,7; 1998 c 373 s 1; 1998 c 382 art 2 s 1; 1998 c 397 art 11 s 3; 1998 c 407 art 2 s 1; 1999 c 99 s 23; 1999 c 139 art 4 s 2; 1999 c 205 art 1 s 70; 1999 c 227 s 22; 1999 c 245 art 9 s 1,2; 2000 c 422 s 2; 2005 c 136 art 16 s 13; 2008 c 299 s 1; 2008 c 326 art 2 s 1; 2011 c 76 art 2 s 17,18; 2013 c 131 art 3 s 1*

CHAPTER 43A – STATE PERSONNEL MANAGEMENT

43A.32 POLITICAL ACTIVITIES.

Subdivision 1. **Prohibition.** No employee shall, directly or indirectly, during hours of employment solicit or receive funds for political purposes, or use official authority or influence to compel an employee in the classified service to apply for membership in or become a member of any political organization, to pay or promise to pay any assessment, subscription, or contribution or to take part in any political activity.

Subd. 2. **Leaves of absence for elected public officials, candidates.** Except as herein provided any officer or employee in the classified service shall:

(a) Take leave of absence upon assuming an elected federal office or an elected state office other than state legislative office or, if elected to state legislative office, during times that the legislature is in session;

(b) Take leave of absence upon assuming any elected public office other than enumerated in clause (a), if, in the opinion of the commissioner, the holding of the office conflicts with regular state employment; and

(c) Upon request, be granted leave of absence upon becoming a candidate, or during the course of candidacy, for any elected public office.

All requests for opinions of the commissioner and all opinions from the commissioner under the provisions of clause (b) shall be in writing and shall be delivered by mail or by use of a facsimile machine.

The commissioner shall issue an opinion under the provisions of clause (b) within seven calendar days of receipt of the request.

Subd. 3. **Leave of absence.** No executive branch officer or employee in the unclassified service who is covered by a collective bargaining agreement, and no executive branch officer or employee in the classified service, may be required to take a leave of absence upon becoming a candidate, or during the course of candidacy, for any elected public office. Said officers and employees shall take leave of absence upon assuming an elected federal office or an elected state office other than state legislative office or, if elected to state legislative office, during times that the legislature is in session.

History: *1981 c 210 s 32; 1986 c 444; 1987 c 281 s 1,2; 1994 c 429 s 4*

NOTES AND DECISIONS

43A.32

County personnel policy requiring county employee to take unpaid leave during campaign for elected office was deprivation of property interest, but employee had no due process right to hearing before being placed on leave. *Martin v. Itasca County*, 448 N.W.2d 368 (Minn. 1989).

CHAPTER 103C – SOIL AND WATER CONSERVATION DISTRICTS

103C.305 GENERAL ELECTION OF SUPERVISORS.

Subdivision 1. **Time for election.** Elections must be held at the state general election specified in section 204D.03, subdivision 2. A primary may not be held.

Subd. 2. **Filing for office; affidavit of candidacy.** A candidate for the office of supervisor shall file an affidavit of candidacy with the county auditor of the county in which the district office is located during the period provided for filing affidavits of candidacy for county offices in section 204B.09, subdivision 1. The county auditor accepting affidavits of candidacy shall forward copies of all affidavits filed by candidates for supervisor to the auditor of any other county in which the office is voted on.

Subd. 3. **Ballots.** Ballots shall be prepared by the county auditor. The names of candidates shall be placed on the state general election ballot. The office title printed on the ballot must be either "Soil and Water Conservation District Supervisor" or "Conservation District Supervisor," based upon the district from which the supervisor is to be elected.

Subd. 4. **Election.** Laws relating to elections for county office shall govern to the extent that they are consistent with this section and section 103C.311. The county auditor shall certify the result to the state board. If the district includes land in more than one county, the county auditor shall immediately certify to the state board the vote, as shown by the report of the county canvassing board, for candidates voted for in more than one county. In the latter case, the state board shall certify and publish the result.

Subd. 5. **Election within areas governed by Indian tribes.** In a district where a supervisor nomination district is entirely within lands of an American Indian tribe or band to which county election laws do not apply, a supervisor to represent the district shall be elected or appointed as provided by the governing body of the tribe or band.

Subd. 6. **Vacancy.** (a) If a vacancy occurs in the office of an elected supervisor more than 56 days before the next state primary, the district board shall fill the vacancy by appointment. The supervisor appointed shall hold office until the first Monday in January following the next general election. A successor shall be elected at the general election following the appointment and hold office for the remainder of the term or for the next regular term, whichever is appropriate.

(b) If a vacancy occurs less than 56 days before the next state primary, the district board shall fill the vacancy by appointment. The appointed supervisor shall hold office until the expiration of the term or until the first Monday in January following the second succeeding general election, whichever is shorter. A successor shall be elected at the general election preceding expiration of the appointed term and hold office for the remainder of the term or for the next regular term, whichever is appropriate.

(c) All terms under this subdivision continue until a successor has been elected and has qualified.

History: *1990 c 391 art 3 s 14; 1994 c 646 s 1; 1997 c 173 s 3; 2000 c 467 s 2;2003 c 104 s 18; 2008 c 244 art 1 s 1; 2013 c 131 art 2 s 4*

NOTES AND DECISIONS

103C.305

Person must be legal voter of soil conservation district to be elected supervisor. Op. Atty. Gen. 705A-3, March 31, 1954.

103C.311 FORMATION OF SUPERVISOR DISTRICTS.

Subdivision 1. **Supervisors elected at large**. (a) The district board shall, with the approval of the state board, divide a district into supervisor districts for purposes of nomination for election. At each election after the division, one or more supervisors shall be nominated from each supervisor district. A supervisor must be a resident of the supervisor district to be elected.

(b) If the boundary of a soil and water conservation district has been substantially changed by a division of the district, the district shall be divided into supervisor districts for nomination purposes.

(c) Except for consolidation under section 103C.211, this subdivision does not disqualify a supervisor during the term for which the supervisor was elected or nominated for election. Supervisors nominated from the supervisor districts shall be included on the ballot for election from the entire area included in the soil and water conservation district.

(d) A certified copy of the minutes or the resolution of the supervisors establishing supervisor districts must be promptly filed by the chair of the district board with the county auditor of the counties where the district is located and with the state board.

Subd. 2. **Supervisors elected by districts**. (a) A district board in the seven-county metropolitan area shall by resolution provide that supervisors will be elected by supervisor districts as provided in this subdivision.

(b) A district board outside of the seven-county metropolitan area, with the approval of the state board, may by resolution provide that supervisors will be elected by supervisor districts as provided in this subdivision.

(c) The supervisor districts must be composed of precincts established by county and municipal governing bodies under section 204B.14. The districts must be compact, include only contiguous territory, and be substantially equal in population. The districts must be numbered in a regular series. The districts must be drawn by the county board of the county containing the largest area of the soil and water conservation district, in consultation with the district board and with the approval of the state board. The boundaries of the districts must be redrawn after each decennial federal census as provided in section 204B.135. A certified copy of the resolution establishing supervisor districts must be filed by the chair of the district board with the county auditor of the counties where the soil and water conservation district is located, with the state board, and with the secretary of state, and the filings must occur within 80 days of the time when the legislature has been redistricted or at least 15 weeks before the state primary election in a year ending in two, whichever comes first.

(d) Each supervisor district is entitled to elect one supervisor. A supervisor must be a resident of the district from which elected.

(e) The district board shall provide staggered terms for supervisors elected by district. After each redistricting, there shall be a new election of supervisors in all the districts at the next general election, except that if the change made in the boundaries of a district is less than five percent of the average population of all the districts, the supervisor in office at the time of the redistricting shall serve for the full term for which elected. The district board shall determine by lot the seats to be filled for a two-year term, a four-year term, and a six-year term.

History: *1990 c 391 art 3 s 15; 1997 c 130 s 1; 1997 c 173 s 4; 1Sp2001 c 10 art 18 s 3; 2003 c 104 s 19, 20; 2013 c 131 art 2 s 5; 2014 c 248 s 8; 2014 c 264 s 2*

103C.315 SUPERVISORS.

Subdivision 1. **Members.** (a) Except as provided in paragraph (c), the district board shall consist of five supervisors, elected or appointed as provided in sections 103C.201, subdivision 8, and 103C.305.

(b) Supervisors must be eligible voters residing in the district.

(c) In counties where the county board consists of seven members and districts have been divided into supervisor districts, under section 103C.311, subdivision 2, the county board may establish seven supervisor districts, elected or appointed as provided in sections 103C.201, subdivision 8; 103C.305; and 103C.311, subdivision 2.

Subd. 2. **Terms.** The supervisors appointed by the state board upon the establishment of a district serve terms ending as provided in section 103C.201, subdivision 8. Their successors shall be elected for terms of four years commencing on the first Monday in January and until a successor is elected or appointed and has qualified. Vacancies in the office of supervisor appointed by the state board shall be filled by the state board.

Subd. 3. **Quorum.** A majority of the supervisors is a quorum and the concurrence of a majority in any matter is required for its determination except as otherwise expressly provided.

Subd. 4. **Compensation.** A supervisor shall receive compensation for services up to $75 per day, and may be reimbursed for expenses, including traveling expenses, necessarily incurred in the discharge of duties. A supervisor may be reimbursed for the use of the supervisor's own automobile in the performance of official duties at a rate up to the maximum tax-deductible mileage rate permitted under the federal Internal Revenue Code.

Subd. 5. **Removal of supervisor.** A supervisor may be removed from office in accordance with the procedures under sections 351.14 to 351.23 for malfeasance or nonfeasance in office, but for no other reason.

Subd. 6. **Compatible offices.** The office of soil and water conservation district supervisor and the offices of mayor, clerk, clerk-treasurer, or council member in a statutory or home rule charter city of not more than 2,500 population contained in whole or in part in the soil and water conservation district are compatible offices and one person may hold both offices. The office of soil and water conservation district supervisor and the office of town clerk or town supervisor in a town of not more than 2,500 population contained in whole or in part in the soil and water conservation district are compatible offices and one person may hold both offices. A person holding both offices shall refrain from voting or taking any other formal action on any matter coming before the soil and water conservation district board or the city council or town board that has a substantial effect on both the soil and water conservation district and the city or town. This subdivision does not apply to an office located in whole or in part in Anoka, Hennepin, Ramsey, or Washington county.

History: *1990 c 391 art 3 s 16; 1995 c 222 s 1; 1997 c 173 s 5; 1998 c 401 s 35; 2000 c 467 s 3; 2003 c 104 s 21-24*

CHAPTER 123A – SCHOOL DISTRICTS; FORMS OF ORGANIZING

123A.48 CONSOLIDATION.

Subd. 2. **Resolution.** (a) Upon a resolution of a board in the area proposed for consolidation or upon receipt of a petition therefor executed by 25 percent of the voters resident in the area proposed for consolidation or by 50 such voters, whichever is less, the county auditor of the county which contains the greatest land area of the proposed new district shall prepare a plat. The resolution or petition must show the approximate area proposed for consolidation.

(b) The resolution or petition may propose the following:

(1) that the bonded debt of the component districts will be paid according to the levies previously made for that debt under chapter 475, or that the taxable property in the newly created district will be taxable for the payment of all or a portion of the bonded debt previously incurred by any component district as provided in subdivision 18;

(2) that obligations for a capital loan or an energy loan made according to section 216C.37 or sections 298.292 to 298.298 outstanding in a preexisting district as of the effective date of consolidation remain solely with the preexisting district that obtained the loan, or that all or a portion of the loan obligations will be assumed by the newly created or enlarged district and paid by the newly created or enlarged district on behalf of the preexisting district that obtained the loan;

(3) that referendum levies previously approved by voters of the component districts pursuant to section 126C.17, subdivision 9, or its predecessor provision, be combined as provided in section 123A.73, subdivision 4 or 5, or that the referendum levies be discontinued;

(4) that the board of the newly created district consist of the number of members determined by the component districts, which may be six or seven members elected according to subdivision 20, or any number of existing school board members of the component districts, and a method to gradually reduce the membership to six or seven; or

(5) that separate election districts from which board members will be elected, the boundaries of these election districts, and the initial term of the member elected from each of these election districts be established.

The resolution must provide for election of board members from one of the following options: single-member districts; multimember districts; at large; or a combination of these options. The resolution must include a plan for the orderly transition to the option chosen.

A group of districts that operates a cooperative secondary facility funded under section 123A.443 may also propose a temporary board structure as specified in section 123A.443, subdivision 9.

If a county auditor receives more than one request for a plat and the requests involve parts of identical districts, the auditor shall prepare a plat which in the auditor's opinion best serves the educational interests of the inhabitants of the districts or areas affected.

(c) The plat must show:

(1) Boundaries of the proposed district, as determined by the county auditor, and present district boundaries,

(2) The location of school buildings in the area proposed as a new district and the location of school buildings in adjoining districts,

(3) The boundaries of any proposed separate election districts, and

(4) Other pertinent information as determined by the county auditor.

Subd. 3. **Designated county auditor duties.** The county auditor of the county containing the greatest land area of the area proposed to be consolidated shall perform the duties provided by this section.

Subd. 4. **Orderly reduction plan.** As part of the resolution required by subdivision 2, the board must prepare a plan for the orderly reduction of the membership of the board to six or seven members and a plan for the establishment or dissolution of election districts. The plan may shorten any or all terms of incumbent board members to achieve the orderly reduction. The plan must be submitted to the secretary of state for review and comment.

Subd. 10. **District board adoption of proposed plat.** The board of any independent district maintaining a secondary school, the board of any common district maintaining a secondary school, all or part of whose land is included in the proposed new district, must, within 45 days of the approval of the plat by the commissioner, either adopt or reject the plan as proposed in the approved plat. If the board of any such district entitled to act on the petition rejects the proposal, the proceedings are terminated and dismissed. If any board fails to act on the plat within the time allowed, the proceedings are terminated. If any school board is unable to obtain a majority of its members' votes to accept or reject the plat and plan, a petition of residents of the district unable to obtain a majority of votes equal to 20 percent of the votes cast in the last school district general election in that district may be submitted to the county auditor requesting a public vote to accept or reject the plat and plan. The vote shall be scheduled on the next available election date. The county auditor shall notify the

commissioner of the scheduled vote, conduct the election in that district and certify the results of the election to the commissioner. Other affected school boards that approve the plat and plan may choose to hold an election. If elections are conducted in each affected school district, results shall be separate and a majority vote to approve the plat and plan must be reached in each of the affected districts. If the plat and plan are rejected by the voters, a new plat and plan cannot be submitted, except by school board resolution in a district where the plat and plan were rejected, until January 1 of the year following the next school district general election.

Subd. 19. **Bonds; election**. The board of the newly created district, when constituted as provided in Minnesota Statutes 1990, section 122.23, subdivision 17, may provide for an election of that district on the issuance of bonds. It may issue and sell bonds authorized at the election, or bonds authorized at an election previously held in any preexisting district wholly included within the newly created district, or bonds for a purpose for which an election is not required by law. The actions may be taken at any time after the date of the county auditor's order issued under Minnesota Statutes 1990, section 122.23, subdivision 17, and before or after the date upon which the consolidation becomes effective for other purposes, and taxes for the payment of the bonds shall be levied upon all taxable property in the newly created district. No bonds shall be delivered to purchasers until 30 days after the date of the county auditor's order. If within this period a notice of appeal from the county auditor's order to the district court is filed in accordance with section 123A.49, no bonds shall be delivered by the newly created district to purchasers unless: (1) the county auditor's order is affirmed by final order of the district court in the special proceeding, and a period of 30 days from the service of the final order expires without an appeal being commenced; or (2) if an appeal is taken, the order is affirmed and the time for petitioning for further review has expired. Notwithstanding the pendency of the appeal, if all of the territory of one and only one independent district maintaining a secondary school is included in the newly created district, and if the net tax capacity of taxable property in the territory comprises 90 percent or more of the net tax capacity of all taxable property in the newly created district, then the board may issue, sell, and deliver any bonds voted by the preexisting independent district and any bonds voted or otherwise authorized by the newly created district, and the bonds must be paid by the levy of taxes upon the property within the territory of the preexisting independent district and within the other areas, if any, that are finally determined to be properly included within the newly created district. In any election held in the newly created district as authorized in the preceding sentence, all qualified electors residing within the area of that district as defined in the county auditor's order shall be entitled to vote, but the votes cast by residents of former districts or portions of former districts included in the area, other than the independent district maintaining the secondary school, shall be received and counted separately. The bonds must not be issued and sold unless authorized by a majority of the votes cast thereon by electors of the independent district maintaining the secondary school, and also by a majority of the votes cast thereon by electors residing within the entire area of the newly created district.

History: *Ex1959 c 71 art 3 s 7; 1963 c 549 s 1; 1965 c 525 s 1; 1967 c 495 s 1; 1969 c 364 s 3-6; 1974 c 406 s 13; 1975 c 162 s 11,41; 1976 c 271 s 35; 1978 c 674 s 60; 1978 c 764 s 19-25; 1980 c 609 art 6 s 11,12; 1983 c 247 s 56; 1983 c 314 art 1 s 22; art 7 s 9,10; 1986 c 444; 1987 c 266 art 2 s 4-6; 1988 c 569 s 1; 1988 c 719 art 5 s 84; 1989 c 209 art 2 s 7; 1989 c 329 art 6 s 4; art 13 s 20; 1990 c 562 art 8 s 16-19; 1991 c 130 s 6; 1991 c 265 art 6 s 8,9; 1992 c 409 s 1; 1992 c 499 art 6 s 6,7; art 12 s 2-4; 1993 c 224 art 9 s 18,19; 1994 c 647 art 6 s 3-7; 1995 c 8 s 1; 1996 c 394 s 1,2; 1998 c 397 art 5 s 17-33,104; art 11 s 3; 1998 c 398 art 6 s 14,15; 1999 c 241 art 6 s 2; 2000 c 254 s 7; 2013 c 131 art 2 s 6*

NOTES AND DECISIONS

123A.48

Election results should be upheld unless clearly illegal. *Walters v. Common School Dist. No. 2550,* 265 Minn. 284, 121 N.W.2d 605 (1963).

Before election, statutory requirements are treated as mandatory, but are generally construed as directory after election. Id.

Petitioners for district consolidation could not withdraw names after action by superintendent. *Sullivan v. Joint Ind. Consol. Sch. Dist. No. 102*, 251 Minn. 378, 88 N.W.2d 1 (1958).

CHAPTER 123B – EDUCATION FUNDING

123B.09 BOARDS OF INDEPENDENT SCHOOL DISTRICTS

Changes effective May 23, 2016, and applies to vacancies existing or created on or after that date

Subdivision 1. **School board membership**. The care, management, and control of independent districts is vested in a board of directors, to be known as the school board. The term of office of a member shall be four years commencing on the first Monday in January and until a successor qualifies. The membership of the board shall consist of six elected directors together with such ex officio member as may be provided by law. The board may submit to the electors at any school election the question whether the board shall consist of seven members. If a majority of those voting on the proposition favor a seven-member board, a seventh member shall be elected at the next election of directors for a four-year term and thereafter the board shall consist of seven members.

Those districts with a seven-member board may submit to the electors at any school election at least 150 days before the next election of three members of the board the question whether the board shall consist of six members. If a majority of those voting on the proposition favor a six-member board instead of a seven-member board, three members instead of four members shall be elected at the next election of the board of directors and thereafter the board shall consist of six members.

Subd. 1a. **Sex offender school board ineligibility.** A sex offender who has been convicted of an offense for which registration under section 243.166 is required is ineligible to become a candidate for the office of school board member, as defined in subdivision 1. Ineligibility is determined by the registration requirements in effect at the time the offender files for office, not by the registration requirements, if any, that were in effect at the time the offender was convicted.

Subd. 3. **Causes for school board member vacancy**. A vacancy in any board occurs when a member (a) dies, (b) resigns, (c) ceases to be a resident of the district, or (d) is unable to serve on such board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district.

Subd. 4. **Ill or absent member.** A vacancy caused by a member being unable to serve on such board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district, may, after the board has by resolution declared such vacancy to exist, be filled by the board at any regular or special meeting thereof for the remainder of the unexpired term, or until such ill or absent member is again able to resume duties as a member of such board, whichever date is earliest. When the ill or absent member is able to resume duties as a member of the board, the board must by resolution so determine and declare such person to be again a member of the board, and the member appointed by the board to be no longer a member thereof.

Subd. 5. [Repealed, 2015 c 70 art 1 s 63]

Subd. 5a. **[Repealed, 2016 c 161 art 2 s 2]** ~~**Vacancies.** A vacancy other than a vacancy described in subdivision 4 must be filled pursuant to section 123B.095.~~

Subd. 5b. **Appointments to fill vacancies; special elections.** (a) Any vacancy on the board, other than a vacancy described in subdivision 4, must be filled by board appointment at a regular or special meeting. The appointment shall be evidenced by a resolution entered in the minutes and shall be effective 30 days following adoption of the resolution, subject to paragraph (b). If the appointment becomes effective, it shall continue until an election is held under this subdivision. All elections to fill vacancies shall be for the unexpired term. A special election to fill the vacancy must be held no later than the first Tuesday after the first Monday in November following the vacancy. If the vacancy occurs less than 90 days prior to the first Tuesday after the first Monday in November in the year in which the vacancy occurs, the special election must be held no later than the first Tuesday after the first Monday in November of the following calendar year. If the vacancy occurs less than 90 days prior to the first Tuesday after the first Monday in November in the third year of the term, no special election is required.

(b) An appointment made under paragraph (a) shall not be effective if a petition to reject the appointee is filed with the school district clerk. To be valid, a petition to reject an appointee must be signed by a number of eligible voters residing in the district equal to at least five percent of the total number of voters voting in the district at the most recent state general election, and must be filed within 30 days of the board's adoption of the resolution making the appointment. If a valid petition is filed according to the requirements of this paragraph, the appointment by the school board is ineffective and the board must name a new appointee as provided in paragraph (a).

Subd. 6. **Meetings.** A majority of the voting members of the board shall constitute a quorum. No contract shall be made or authorized, except at a regular meeting of the board or at a special meeting at which all members are present or of which all members have had notice. Special meetings may be called by the chair or clerk or any three members upon notice mailed to each member at least three days prior thereto.

Subd. 9. **Removing board members.** The board may remove, for proper cause, any member or officer of the board and fill the vacancy; but such removal must be by a concurrent vote of at least four members, at a meeting of whose time, place, and object the charged member has been duly notified, with the reasons for such proposed removal and after an opportunity to be heard in defense against the removal.

History: *Ex1959 c 71 art 4 s 15; 1965 c 434 s 1; 1967 c 176 s 2; 1967 c 713 s 1; 1973 c 263 s 1,2; 1973 c 690 s 1; 1974 c 82 s 1,2; 1975 c 162 s 24; 1983 c 314 art 7 s 16,17; 1984 c 543 s 6; 1985 c 122 s 1; 1986 c 444; 1987 c 42 s 1; 1987 c 266 art 2 s 9; 1989 c 329 art 9 s 7; 1990 c 562 art 7 s 3; art 8 s 20; 1992 c 499 art 9 s 2; 1993 c 224 art 7 s 6; 1993 c 374 s 17; 1994 c 646 s 2; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 6 s 45-53,124; art 11 s 3; 1999 c 101 s 1; 2000 c 467 s 4; 2014 c 279 s 3; 2015 c 70 art 1 s 1, 2; 2016 c 161 art 2 s 1, 2*

NOTES AND DECISIONS

123B.09

Because school boards must vary from the four-year election cycle in order to transition elections from odd-numbered to even-numbered years, a successor school board member may qualify later, depending on the transition plan adopted. *Houch v. Eastern Carver County Schools,* 787 U.W.2d 227 227 9 Minn. App. 2010).

123B.095 [Repealed, 2016 c 161 art 2 s 2] ~~VACANCY IN OFFICE OF SCHOOL BOARD MEMBER.~~

~~Subdivision 1. **Option for filing vacancies; special election.** (a) Except as provided in section 123B.09, subdivision 4, a vacancy in the office of school board may be filled as provided in this subdivision and subdivision 2, or as provided in subdivision 3. If the vacancy is to be filled under this subdivision and subdivision 2, it must be filled at a special election. The school board may by resolution call for a special election to be held according to the earliest of the following time schedules:~~

~~(1) not less than 120 days following the date the vacancy is declared, but no later than 12 weeks prior to the date of the next regularly scheduled primary election;~~

~~(2) concurrently with the next regularly scheduled primary election and general election; or~~

~~(3) no sooner than 120 days following the next regularly scheduled general election.~~

~~(b) The person elected at the special election shall take office immediately after receipt of the certificate of election and upon filing the bond and taking the oath of office and shall serve the remainder of the unexpired term.~~

~~Subd. 2. **When victor seated immediately.** If a vacancy for which a special election is required occurs less than 120 days before the general election preceding the end of the term, the vacancy shall be filled by the person elected at that election for the ensuing term who shall take office immediately after receiving the certificate of election, filing the bond and taking the oath of office.~~

~~Subd. 3. **Vacancies of less than one year; appointment option.** Except as provided in section 123B.09, subdivision 4, and as an alternative to the procedure provided in subdivision 1 and 2, any other vacancy in the office of school board member may be filled by board appointment at a regular or special meeting. The appointment shall be evidenced by a resolution entered in the minutes and shall continue until an election is held under this subdivision. All elections to fill vacancies shall be for the unexpired term. If one year or more~~

~~remains in the unexpired term, a special election must be held under subdivision 1. If less than one year remains on the unexpired term, the school board may appoint a person to fill the vacancy for the remainder of the unexpired term, unless the vacancy occurs within 90 days of the next school district general election, in which case an appointment shall not be made and the vacancy must be filled at the general election. The person elected to fill a vacancy at the general election takes office immediately in the same manner as for a special election under subdivision 1, and serves the remainder of the unexpired term and the new term for which the election was otherwise held.~~

~~Subd. 4. **School board vacancy appointment; public hearing.** Before making an appointment to fill a vacancy under subdivision 3, the school board must hold a public hearing not more than 30 days after the vacancy occurs with public notice given in the same manner as for a special meeting of the school board. At the public hearing, the board must invite public testimony from persons residing in the district in which the vacancy occurs relating to the qualifications of prospective appointees to fill the vacancy. Before making an appointment, the board also must notify public officials in the school district on the appointment, including county commissioners, town supervisors, and city council members, and must enter into the record at the board meeting in which the appointment is made the names and addresses of the public officials notified. If, after the public hearing, the board is unable or decides not to make an appointment under subdivision 3, it must hold a special election under subdivision 1, but the time period in which the election must be held begins to run from the date of the public hearing.~~

History: *2015 c 70 art 1 s 3*

CHAPTER 126C – SCHOOL DISTRICTS; FORMS OF ORGANIZING

126C.17 REFERENDUM REVENUE.

Subdivision 1. **Referendum allowance.** (a) A district's initial referendum allowance equals the result of the following calculations:

(1) multiply the referendum allowance the district would have received for fiscal year 2015 under Minnesota Statutes 2012, section 126C.17, subdivision 1, based on elections held before July 1, 2013, by the resident marginal cost pupil units the district would have counted for fiscal year 2015 under Minnesota Statutes 2012, section 126C.05;

(2) add to the result of clause (1) the adjustment the district would have received under Minnesota Statutes 2012, section 127A.47, subdivision 7, paragraphs (a), (b), and (c), based on elections held before July 1, 2013;

(3) divide the result of clause (2) by the district's adjusted pupil units for fiscal year 2015;

(4) add to the result of clause (3) any additional referendum allowance per adjusted pupil unit authorized by elections held between July 1, 2013, and December 31, 2013;

(5) add to the result in clause (4) any additional referendum allowance resulting from inflation adjustments approved by the voters prior to January 1, 2014;

(6) subtract from the result of clause (5), the sum of a district's actual local optional levy and local optional aid under section 126C.10, subdivision 2e, divided by the adjusted pupil units of the district for that school year; and

(7) if the result of clause (6) is less than zero, set the allowance to zero.

(b) A district's referendum allowance equals the sum of the district's initial referendum allowance, plus any new referendum allowance authorized between July 1, 2013, and December 31, 2013, under subdivision 9a, plus any additional referendum allowance per adjusted pupil unit authorized after December 31, 2013, minus any allowances expiring in fiscal year 2016 or later, provided that the allowance may not be less than zero. For a district with more than one referendum allowance for fiscal year 2015 under Minnesota Statutes 2012, section 126C.17, the allowance calculated under paragraph (a) must be divided into components such that the same percentage of the district's allowance expires at the same time as the old allowances would have expired under

Minnesota Statutes 2012, section 126C.17. For a district with more than one allowance for fiscal year 2015 that expires in the same year, the reduction under paragraph (a), clause (6), to offset local optional revenue shall be made first from any allowances that do not have an inflation adjustment approved by the voters.

Subd. 2. **Referendum allowance limit.** (a) Notwithstanding subdivision 1, for fiscal year 2015 and later, a district's referendum allowance must not exceed the annual inflationary increase as calculated under paragraph (b) times the greatest of:

(1) $1,845;

(2) the sum of the referendum revenue the district would have received for fiscal year 2015 under Minnesota Statutes 2012, section 126C.17, subdivision 4, based on elections held before July 1, 2013, and the adjustment the district would have received under Minnesota Statutes 2012, section 127A.47, subdivision 7, paragraphs (a), (b), and (c), based on elections held before July 1, 2013, divided by the district's adjusted pupil units for fiscal year 2015;

(3) the product of the referendum allowance limit the district would have received for fiscal year 2015 under Minnesota Statutes 2012, section 126C.17, subdivision 2, and the resident marginal cost pupil units the district would have received for fiscal year 2015 under Minnesota Statutes 2012, section 126C.05, subdivision 6, plus the adjustment the district would have received under Minnesota Statutes 2012, section 127A.47, subdivision 7, paragraphs (a), (b), and (c), based on elections held before July 1, 2013, divided by the district's adjusted pupil units for fiscal year 2015; minus $424; or

(4) for a newly reorganized district created after July 1, 2013, the referendum revenue authority for each reorganizing district in the year preceding reorganization divided by its adjusted pupil units for the year preceding reorganization.

(b) For purposes of this subdivision, for fiscal year 2016 and later, "inflationary increase" means one plus the percentage change in the Consumer Price Index for urban consumers, as prepared by the United States Bureau of Labor Standards, for the current fiscal year to fiscal year 2015. For fiscal year 2016 and later, for purposes of paragraph (a), clause (3), the inflationary increase equals one-fourth of the percentage increase in the formula allowance for that year compared with the formula allowance for fiscal year 2015.

Subd. 3. **Sparsity exception.** A district that qualifies for sparsity revenue under section 126C.10 is not subject to a referendum allowance limit.

Subd. 4. **Total referendum revenue.** The total referendum revenue for each district equals the district's referendum allowance times the adjusted pupil units for the school year.

Subd. 5. **Referendum equalization revenue.** (a) A district's referendum equalization revenue equals the sum of the first tier referendum equalization revenue and the second tier referendum equalization revenue, and the third tier referendum equalization revenue.

(b) A district's first tier referendum equalization revenue equals the district's first tier referendum equalization allowance times the district's adjusted pupil units for that year.

(c) A district's first tier referendum equalization allowance equals the lesser of the district's referendum allowance under subdivision 1 or $300.

(d) A district's second tier referendum equalization revenue equals the district's second tier referendum equalization allowance times the district's adjusted pupil units for that year.

(e) A district's second tier referendum equalization allowance equals the lesser of the district's referendum allowance under subdivision 1 or $760, minus the district's first tier referendum equalization allowance.

(f) A district's third tier referendum equalization revenue equals the district's third tier referendum equalization allowance times the district's adjusted pupil units for that year.

(g) A district's third tier referendum equalization allowance equals the lesser of the district's referendum allowance under subdivision 1 or 25 percent of the formula allowance, minus the sum of the district's first tier referendum equalization allowance and second tier referendum equalization allowance.

(h) Notwithstanding paragraph (g), the third tier referendum allowance for a district qualifying for secondary sparsity revenue under section 126C.10, subdivision 7, or elementary sparsity revenue under section 126C.10, subdivision 8, equals the district's referendum allowance under subdivision 1 minus the sum of the district's first tier referendum equalization allowance and second tier referendum equalization allowance.

Subd. 6. **Referendum equalization levy.** (a) A district's referendum equalization levy equals the sum of the first tier referendum equalization levy, the second tier referendum equalization levy, and the third tier referendum equalization levy.

(b) A district's first tier referendum equalization levy equals the district's first tier referendum equalization revenue times the lesser of one or the ratio of the district's referendum market value per resident pupil unit to $880,000.

(c) A district's second tier referendum equalization levy equals the district's second tier referendum equalization revenue times the lesser of one or the ratio of the district's referendum market value per resident pupil unit to $510,000.

(d) A district's third tier referendum equalization levy equals the district's third tier referendum equalization revenue times the lesser of one or the ratio of the district's referendum market value per resident pupil unit to $290,000.

Subd. 7. **Referendum equalization aid.** (a) A district's referendum equalization aid equals the difference between its referendum equalization revenue and levy.

(b) If a district's actual levy for first, second, or third tier referendum equalization revenue is less than its maximum levy limit for that tier, aid shall be proportionately reduced.

(c) Notwithstanding paragraph (a), the referendum equalization aid for a district, where the referendum equalization aid under paragraph (a) exceeds 90 percent of the referendum revenue, must not exceed 25 percent of the formula allowance times the district's adjusted pupil units. A district's referendum levy is increased by the amount of any reduction in referendum aid under this paragraph.

Subd. 7a. **Referendum tax base replacement aid.** For each school district that had a referendum allowance for fiscal year 2002 exceeding $415, for each separately authorized referendum levy, the commissioner of revenue, in consultation with the commissioner of education, shall certify the amount of the referendum levy in taxes payable year 2001 attributable to the portion of the referendum allowance exceeding $415 levied against property classified as class 2, noncommercial 4c(1), or 4c(4), under section 273.13, excluding the portion of the tax paid by the portion of class 2a property consisting of the house, garage, and surrounding one acre of land. The resulting amount must be used to reduce the district's referendum levy amount otherwise determined, and must be paid to the district each year that the referendum authority remains in effect, is renewed, or new referendum authority is approved. The aid payable under this subdivision must be subtracted from the district's referendum equalization aid under subdivision 7. The referendum equalization aid after the subtraction must not be less than zero.

Subd. 7b. **Referendum aid guarantee.** (a) Notwithstanding subdivision 7, the sum of a district's referendum equalization aid and location equity aid under section 126C.10, subdivision 2e, for fiscal year 2015 must not be less than the sum of the referendum equalization aid the district would have received for fiscal year 2015 under Minnesota Statutes 2012, section 126C.17, subdivision 7, and the adjustment the district would have received under Minnesota Statutes 2012, section 127A.47, subdivision 7, paragraphs (a), (b), and (c).

(b) Notwithstanding subdivision 7, the sum of referendum equalization aid and location equity aid under section 126C.10, subdivision 2e, for fiscal year 2016 and later, for a district qualifying for additional aid under paragraph (a) for fiscal year 2015, must not be less than the product of (1) the district's referendum equalization aid for fiscal year 2015, times (2) the lesser of one or the ratio of the district's referendum revenue for that school year to the district's referendum revenue for fiscal year 2015, times (3) the lesser of one or the ratio of the district's referendum market value used for fiscal year 2015 referendum equalization calculations to the district's referendum market value used for that year's referendum equalization calculations.

Subd. 8. **Unequalized referendum levy.** Each year, a district may levy an amount equal to the difference between its total referendum revenue according to subdivision 4 and its referendum equalization revenue according to subdivision 5.

Subd. 9. **Referendum revenue.** (a) The revenue authorized by section 126C.10, subdivision 1 , may be increased in the amount approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the board. The referendum must be conducted one or two calendar years before the increased levy authority, if approved, first becomes payable. Only one election to approve an increase may be held in a calendar year. Unless the referendum is conducted by mail under subdivision 11, paragraph (a), the referendum must be held on the first Tuesday after the first Monday in November. The ballot must state the maximum amount of the increased revenue per adjusted pupil unit. The ballot may state a schedule, determined by the board, of increased revenue per adjusted pupil unit that differs from year to year over the number of years for which the increased revenue is authorized or may state that the amount shall increase annually by the rate of inflation. For this purpose, the rate of inflation shall be the annual inflationary increase calculated under subdivision 2, paragraph (b). The ballot may state that existing referendum levy authority is expiring. In this case, the ballot may also compare the proposed levy authority to the existing expiring levy authority, and express the proposed increase as the amount, if any, over the expiring referendum levy authority. The ballot must designate the specific number of years, not to exceed ten, for which the referendum authorization applies. The ballot, including a ballot on the question to revoke or reduce the increased revenue amount under paragraph (c), must abbreviate the term "per adjusted pupil unit" as "per pupil." The notice required under section 275.60 may be modified to read, in cases of renewing existing levies at the same amount per pupil as in the previous year:

"BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING TO EXTEND AN EXISTING PROPERTY TAX REFERENDUM THAT IS SCHEDULED TO EXPIRE."

The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the revenue proposed by (petition to) the board of ....., School District No. .., be approved?"

If approved, an amount equal to the approved revenue per adjusted pupil unit times the adjusted pupil units for the school year beginning in the year after the levy is certified shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(b) The board must prepare and deliver by first class mail at least 15 days but no more than 30 days before the day of the referendum to each taxpayer a notice of the referendum and the proposed revenue increase. The board need not mail more than one notice to any taxpayer. For the purpose of giving mailed notice under this subdivision, owners must be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer is deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. The notice must project the anticipated amount of tax increase in annual dollars for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district.

The notice for a referendum may state that an existing referendum levy is expiring and project the anticipated amount of increase over the existing referendum levy in the first year, if any, in annual dollars for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the district.

The notice must include the following statement: "Passage of this referendum will result in an increase in your property taxes." However, in cases of renewing existing levies, the notice may include the following statement: "Passage of this referendum extends an existing operating referendum at the same amount per pupil as in the previous year."

(c) A referendum on the question of revoking or reducing the increased revenue amount authorized pursuant to paragraph (a) may be called by the board. A referendum to revoke or reduce the revenue amount must state the amount per adjusted pupil unit by which the authority is to be reduced. Revenue authority approved by the voters of the district pursuant to paragraph (a) must be available to the school district at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction referendum may be held to revoke or reduce referendum revenue for any specific year and for years thereafter.

(d) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(e) At least 15 days before the day of the referendum, the district must submit a copy of the notice required under paragraph (b) to the commissioner and to the county auditor of each county in which the district is located. Within 15 days after the results of the referendum have been certified by the board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district must notify the commissioner of the results of the referendum.

Subd. 9a. **Board-approved referendum allowance.** Notwithstanding subdivision 9, a school district may convert up to $300 per adjusted pupil unit of referendum authority from voter approved to board approved by a board vote. A district with less than $300 per adjusted pupil unit of referendum authority after the local optional revenue subtraction under subdivision 1 may authorize new referendum authority up to the difference between $300 per adjusted pupil unit and the district's referendum authority. The board may authorize this levy for up to five years and may subsequently reauthorize that authority in increments of up to five years.

Subd. 10. **School referendum levy; market value.** A school referendum levy must be levied against the referendum market value of all taxable property as defined in section 126C.01, subdivision 3. Any referendum levy amount subject to the requirements of this subdivision must be certified separately to the county auditor under section 275.07.

Subd. 11. **Referendum date.** (a) Except for a referendum held under paragraph (b), any referendum under this section held on a day other than the first Tuesday after the first Monday in November must be conducted by mail in accordance with section 204B.46. Notwithstanding subdivision 9, paragraph (b), to the contrary, in the case of a referendum conducted by mail under this paragraph, the notice required by subdivision 9, paragraph (b), must be prepared and delivered by first-class mail at least 20 days before the referendum.

(b) In addition to the referenda allowed in subdivision 9, clause (a), the commissioner may grant authority to a district to hold a referendum on a different day if the district is in statutory operating debt and has an approved plan or has received an extension from the department to file a plan to eliminate the statutory operating debt.

(c) The commissioner must approve, deny, or modify each district's request for a referendum levy on a different day within 60 days of receiving the request from a district.

Subd. 12. [Repealed, 1Sp2001 c 6 art 1 s 55 subd. 1]

Subd. 13. **Referendum conversion allowance.** A school district that received supplemental or transition revenue in fiscal year 2002 may convert its supplemental revenue conversion allowance and transition revenue conversion allowance to additional referendum allowance under subdivision 1 for fiscal year 2003 and thereafter. A majority of the school board must approve the conversion at a public meeting before November 1, 2001. For a district with other referendum authority, the referendum conversion allowance approved by the board continues until the portion of the district's other referendum authority with the earliest expiration date after June 30, 2006, expires. For a district with no other referendum authority, the referendum conversion allowance approved by the board continues until June 30, 2012.

NOTE: Subdivision 13 is repealed for fiscal year 2015 and later. Laws 2013, chapter 116, article 1, section 59.

NOTE: The amendments to this section by Laws 2013, chapter 116, article 1, section 49, and Laws 2013, chapter 143, article 3, section 5, are effective for revenue for fiscal year 2015 and later. Laws 2013, chapter 116, article 1, section 49, and Laws 2013, chapter 143, article 3, section 5, the effective dates.

History: *Ex1971 c 31 art 20 s 8; 1973 c 683 s 18,19; 1974 c 521 s 29-31; 1975 c 432 s 74-81; 1976 c 2 s 97; 1976 c 134 s 78; 1976 c 271 s 80-90; 1977 c 307 s 29; 1977 c 423 art 3 s 12; 1977 c 447 art 1 s 19,20; art 2 s 8; art 4 s 5; art 5 s 12; art 6 s 8-10; art 7 s 26; 1978 c 764 s 103-111; 1979 c 303 art 2 s 22; 1979 c 334 art 1 s 14-24; art 2 s 13; art 4 s 4; art 6 s 23; 1980 c 509 s 112; 1980 c 607 art 7 s 9; 1980 c 609 art 1 s 9-13; art 2 s 3,4; art 4 s 15-18,22; art 5 s 19; 1981 c 224 s 38; 1981 c 356 s 248; 1981 c 358 art 1 s 31-42,48; art 4 s 10; art 6 s 32,33; 3Sp1981 c 2 art 2 s 10; art 4 s 7; 1982 c 548 art 1 s 12-14; art 2 s 4-6; art 3 s 26; art 6 s 19-22; art 7 s 6; 1983 c 216 art 1 s 45; 1983 c 314 art 1 s 18-21,22; art 2 s 3-6; art 3 s 13-15; art 4 s 6; art 6 s 24-29; art 7 s 34; 1983 c 323 s 2-4; 1984 c 463 art 1 s 11; art 2 s 6,7; art 4 s 5,6; art 5 s 36; art 6 s 6-11; art 7 s 20; 1984 c 502 art 7 s 7-9; 1984 c 583 s 32; 1985 c 248 s 33; 1Sp1985 c 12 art 1 s 14-16; 1Sp1986 c 1 art 9 s 17; 1987 c 398 art 1 s 8; 1988 c 486 s 49; 1988 c 719 art 5 s 84; 1989 c 329 art 1 s 4; 1Sp1989 c 1 art 2 s 11; art 9 s 5; 1990 c 562 art 1 s 3; 1991 c 265 art 1 s 10; 1991 c 291 art 1 s 5,6; 1992 c 499 art 1 s 11-14; 1992 c 603 s 13; 1993 c 44 s 1; 1993 c 224 art 1 s 7-10; 1993 c 374 s 1; 1994 c 647 art 1 s 16-19; 1Sp1995 c 3 art 1 s 20-23; art 16 s 13; 1996 c 412 art 1 s 15-18; 1996 c 471 art 3 s 2; 1Sp1997 c 4 art 1 s 33,34; 1998 c 389 art 2 s 6; 1998 c 397 art 7 s 135-137,164; art 11 s 3; 1998 c 398 art 1 s 24,25; 1999 c 241 art 1 s 40-45; 2000 c 489 art 2 s 23; 1Sp2001 c 5 art 2 s 12-19; 1Sp2001 c 6 art 1 s 31-34; 2008 c 277 art 1 s 11; 2008 c 363 art 2 s 22;2009 c 96 art 1 s 14; 2013 c 116 art 1 s 59; 2013 c 143 art 3 s 5; 2014 150 art 4 s 4; 2014 c 312 art 15 s 16, 17, 18, 19; 1sp2015 c 3 art 1 s 12, 13*

NOTES AND DECISIONS

126C.17

School district's act of placing levy questions on the ballot was not an act to "promote" the levy questions, which would invoke campaign finance reporting requirements, but was instead an independent placement of a proposition on the ballot, as authorized by election law and education-code provisions. In seeking voter approval of a levy ballot question, a school district has the obligation and discretionary authority to explain to voters the purposes and anticipated impact of the proposed levy. *Minnesota Voters Alliance v. Anoka-Hennepin Sch. Dist.,* 868 N.W.2d 703 (Minn. App. 2015).

CHAPTER 135A – PUBLIC POSTSECONDARY EDUCATION

135A.17 PROVISIONS TO FACILITATE VOTING.

Subdivision 1. **Identification cards.** All postsecondary institutions that enroll students accepting state or federal financial aid may provide every full-time student a student identification card that contains the enrolling student's photograph and name.

Subd. 2. **Residential housing list.** All postsecondary institutions that enroll students accepting state or federal financial aid may prepare a current list of students enrolled in the institution and residing in the institution's housing or within ten miles of the institution's campus. The list shall include each student's current address. The list shall be certified and sent to the appropriate county auditor or auditors for use in election day registration as provided under section 201.061, subdivision 3. A residential housing list provided under this subdivision may not be used or disseminated by a county auditor or the secretary of state for any other purpose.

History: *2008 c 244 art 1 s 1*

CHAPTER 160 – ROADS, GENERAL PROVISIONS

160.27 PARTICULAR USES OF RIGHT-OF-WAY; MISDEMEANORS.

Subd. 6. **Removal of unauthorized advertisement, building, or structure.**

The road authorities may take down, remove, or destroy any advertisement, building, or structure in or upon any highway in violation of this section and section 160.2715

History: *1959 c 500 art 1 s 27; 1973 c 123 art 5 s 7; 1977 c 334 s 1; 1979 c 275 s 1; 1980 c 435 s 1; 1980 c 533 s 2; 1986 c 387 s 1; 1986 c 398 art 27 s 2; 1986 c 435 s 1; 1989 c 179 s 2; 1995 c 23 s 1; 1998 c 283 s 1,2; 1998 c 403 s 5,6; 2004 c 295 art 2 s 15; 2014 c 227 art 1 s 23*

160.2715 RIGHT-OF-WAY USE; MISDEMEANORS.

(a) Except for the actions of the road authorities, their agents, employees, contractors, and utilities in carrying out their duties imposed by law or contract, and except as herein provided, it shall be unlawful to:

(1) obstruct any highway or deposit snow or ice thereon;

(2) plow or perform any other detrimental operation within the road right-of-way except in the preparation of the land for planting permanent vegetative cover or as authorized under section 160.232;

(3) erect a fence on the right-of-way of a trunk highway, county state-aid highway, county highway, or town road, except to erect a lane fence to the ends of a livestock pass;

(4) erect or reconstruct driveway headwalls in or on the right-of-way of a highway or road, except as may be allowed by permit from the road authority imposing reasonable regulations as are necessary to prevent interference with the construction, maintenance, and safe use of the highway or road and its appurtenances;

(5) dig any holes in any highway, except to locate markers placed to identify sectional corner positions and private boundary corners;

(6) remove any earth, gravel, or rock from any highway;

(7) obstruct any ditch draining any highway or drain any noisome materials into any ditch;

(8) place or maintain any building or structure within the limits of any highway;

(9) place or maintain any advertisement within the limits of any highway, except as provided in section 160.27, subdivision 7;

(10) paint, print, place, or affix any advertisement or any object within the limits of any highway, except as provided in section 160.27, subdivision 7;

(11) deface, mar, damage, or tamper with any structure, work, material, equipment, tools, signs, markers, signals, paving, guardrails, drains, or any other highway appurtenance on or along any highway;

(12) remove, injure, displace, or destroy right-of-way markers, or reference or witness monuments, or markers placed to preserve section or quarter-section corners;

(13) improperly place or fail to place warning signs and detour signs as provided by law;

(14) drive over, through, or around any barricade, fence, or obstruction erected for the purpose of preventing traffic from passing over a portion of a highway closed to public travel or to remove, deface, or damage any such barricade, fence, or obstruction.

(b) Any violation of this section is a misdemeanor.

History: *1959 c 500 art 1 s 27; 1973 c 123 art 5 s 7; 1977 c 334 s 1; 1979 c 275 s 1; 1980 c 435 s 1; 1980 c 533 s 2; 1986 c 387 s 1; 1986 c 398 art 27 s 2; 1986 c 435 s 1; 1989 c 179 s 2; 1995 c 23 s 1; 1998 c 283 s 1,2; 1998 c 403 s 5,6; 2004 c 295 art 2 s 15*

CHAPTER 171 – DRIVER'S LICENSES AND TRAINING SCHOOLS

171.11 DUPLICATE LICENSE; CHANGE OF DOMICILE OR NAME.

When any person, after applying for or receiving a driver's license, shall change permanent domicile from the address named in such application or in the license issued to the person, or shall change a name by marriage or otherwise, such person shall, within 30 days thereafter, apply for a duplicate driver's license upon a form furnished by the department and pay the required fee. The application or duplicate license shall show both the licensee's old address and new address or the former name and new name as the case may be.

History: *(2720-144h) 1939 c 401 s 11; 1943 c 610 s 2; 1986 c 444; 1993 c 266 s 24*

171.12 DRIVING RECORD; FILING; PRIVATE DATA.

Subd. 7a. **Disclosure of personal information.** The commissioner shall disclose personal information where the use is related to the operation of a motor vehicle or to public safety. The use of personal information is related to public safety if it concerns the physical safety or security of drivers, vehicles, pedestrians, or property. The commissioner may refuse to disclose data under this subdivision when the commissioner concludes that the requestor is likely to use the data for illegal, improper, or noninvestigative purposes. The commissioner shall disclose personal information to the secretary of state for the purposes of increasing voter registration and improving the accuracy of voter registration records in the statewide voter registration system. The secretary of state may not retain data provided by the commissioner under this subdivision for more than 60 days.

History: *(2720-144i) 1939 c 401 s 12; 1943 c 610 s 3; 1967 c 205 s 1; 1969 c 871 s 2; 1975 c 393 s 2; 1986 c 444; 1986 c 454 s 24; 1988 c 670 s 10; 1989 c 307 s 24; 1990 c 461 s 2; 1993 c 266 s 25; 1993 c 326 art 11 s 3,4; 1994 c 501 s 4-6; 1994 c 615 s 19; 1994 c 618 art 1 s 25; 1995 c 257 art 1 s 10; 1995 c 259 art 1 s 37; 1996 c 440 art 1 s 43,44; 1996 c 455 art 1 s 9; 1Sp1997 c 2 s 53; 1998 c 371 s 9; 1998 c 388 s 19; 1999 c 139 art 4 s 2; 2000 c 478 art 2 s 7; 2002 c 368 s 2; 2004 c 283 s 11,15; 2005 c 163 s 78; 2005 c 164 s 29; 1Sp2005 c 6 art 3 s 68,69; 1Sp2005 c 7 s 28; 2007 c 54 art 3 s 3; 2008 c 277 art 1 s 24; 2009 c 94 art 3 s 12; 2010 c 242 s 8,9,11; 2010 c 316 s 14,18; 2012 c 287 art 4 s 35; 2014 c 238 s 1*

CHAPTER 256 – HUMAN SERVICES

256.925 OPTIONAL VOTER REGISTRATION FOR PUBLIC ASSISTANCE APPLICANTS AND RECIPIENTS.

A county agency shall provide voter registration cards to every individual eligible to vote who applies for a public assistance program at the time application is made. The agency shall also make voter registration cards available to a public assistance recipient upon the recipient's request or at the time of the recipient's eligibility redetermination. The county agency shall assist applicants and recipients in completing the voter registration cards, as needed. Applicants must be informed that completion of the cards is optional. Completed forms shall be collected by agency employees and submitted to proper election officials.

History: *1988 c 689 art 2 s 136*

CHAPTER 275 – TAXES, LEVY, EXTENSION

275.60 LEVY OR BOND REFERENDUM; BALLOT NOTICE.

(a) Notwithstanding any general or special law or any charter provisions, but subject to section 126C.17, subdivision 9, any question submitted to the voters by any local governmental subdivision at a general or special election after June 8, 1995, authorizing a property tax levy or tax rate increase, including the issuance of debt obligations payable in whole or in part from property taxes, must include on the ballot the following notice in boldface type.

"BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE."

(b) For purposes of this section and section 275.61, "local governmental subdivision" includes counties, home rule and statutory cities, towns, school districts, and all special taxing districts. This statement is in addition to any general or special laws or any charter provisions that govern the contents of a ballot question.

(c) This section does not apply to a school district bond election if the debt service payments are to be made entirely from transfers of revenue from the capital fund to the debt service fund.

History: *1991 c 291 art 1 s 28; 1Sp1995 c 3 art 1 s 53*

275.61 VOTER APPROVED LEVY; MARKET VALUE.

Subdivision 1. **Market value**. (a) For local governmental subdivisions other than school districts, any levy shall be levied against the referendum market value of all taxable property within the governmental subdivision, as defined in section 126C.01, subdivision 3. Any levy amount subject to the requirements of this section shall be certified separately to the county auditor under section 275.07.

(b) The ballot shall state the maximum amount of the increased levy as a percentage of market value and the amount that will be raised by the new referendum tax rate in the first year it is to be levied.

(c) This subdivision does not apply to tax levies for the payment of debt obligations that are approved by the voters after June 30, 2008.

Subd. 2. **Conversion to net tax capacity**. Any referendum levy approved under subdivision 1 prior to January 1, 2001, may be converted from a referendum market value basis to a net tax capacity basis, provided that the proportion of the jurisdiction's referendum market value exempted under section 126C.01, subdivision 3, is at least ten percent for property taxes payable in 2001. A jurisdiction choosing to exercise the option to convert the referendum tax to a net tax capacity basis must notify the county auditor of its intent prior to October 1, 2001. A decision to convert a referendum levy under this subdivision shall be a permanent change affecting all future years. The option to convert a levy under this subdivision shall cease after October 1, 2001.

History: *1991 c 291 art 1 s 29; 1992 c 511 art 2 s 22; 1996 c 471 art 3 s 21; 1998 c 397 art 11 s 3; 1Sp2001 c 5 art 3 s 53; 2008 c 154 s 3*

CHAPTER 289A – ADMINISTRATION AND COMPLIANCE (VARIOUS STATE TAXES AND PROGRAMS)

289A.08 FILING REQUIREMENTS FOR INDIVIDUAL INCOME, FIDUCIARY INCOME, CORPORATE FRANCHISE, MINING COMPANY, AND ENTERTAINMENT TAXES.

Subdivision 14. **Voter registration form.** The commissioner shall insert securely in the individual income tax return form or instruction booklet distributed for an odd-numbered year a voter registration form, returnable to the secretary of state. The form shall be designed according to rules adopted by the secretary of state. This requirement applies to forms and booklets supplied to post offices, banks, and other outlets, as well as to those mailed directly to taxpayers.

History: *1990 c 480 art 1 s 3,46; art 5 s 4,5; 1990 c 604 art 10 s 23; 1991 c 291 art 6 s 46; art 11 s 3; 1992 c 511 art 6 s 19; 1993 c 375 art 2 s 3-5; art 8 s 14; 1994 c 416 art 2 s 1; 1994 c 587 art 1 s 24; 1997 c 31 art 1 s 3; 1997 c 84 art 2 s 1; 2000 c 490 art 4 s 1; 2014 c 150 art 1 s 8*

NOTES AND DECISIONS

289A.08

Taxpayer cannot state a cause of action in a civil complaint without first perfecting the claim by filing it with the commissioner of Revenue within the allotted time. *Peoples State Bank Truman v. Triplett,* 633 N.W.2d 533 (Minn. App. 2001).

CHAPTER 325L – UNIFORM ELECTRONIC TRANSACTIONS ACT

325L.02 DEFINITIONS.

In this chapter:

(a) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(b) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(c) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(d) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.

(e) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(f) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances, in whole or in part, without review or action by an individual.

(g) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

(h) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(i) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

(j) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(k) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(l) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(m) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(n) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(o) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state.

(p) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

History: *2000 c 371 s 2*

325L.03 SCOPE.

(a) Except as otherwise provided in paragraphs (b) and (e), this chapter applies to electronic records and electronic signatures relating to a transaction.

(b) This chapter does not apply to a transaction to the extent it is governed by:

(1) the Uniform Commercial Code other than section 336.1-306, article 2, and article 2A; and

(2) section 145C.03, subdivision 1, relating to requirements for creation of a health care directive; section 507.24, relating to requirements for recording any conveyance, power of attorney, or other instrument affecting real estate; section 523.23, subdivision 3, relating to requirements for creation of a statutory short form power of attorney; and section 253B.03, subdivision 6b, relating to requirements for creation of a declaration of preferences or instructions regarding intrusive mental health treatment.

(c) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under paragraph (b) to the extent it is governed by a law other than those specified in paragraph (b).

(d) A transaction subject to this chapter is also subject to other applicable substantive law.

(e) This chapter does not apply to the creation and execution of wills, codicils, or trusts other than trusts relating to the conduct of business, commercial, or governmental purposes.

History: *2000 c 371 s 3; 2004 c 162 art 3 s 8*

325L.04 PROSPECTIVE APPLICATION.

This chapter applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after August 1, 2000.

History: *2000 c 371 s 4*

325L.05 USE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES; VARIATION BY AGREEMENT.

(a) This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This chapter applies only to transactions between parties, each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct transactions by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(c) If a party agrees to conduct a transaction by electronic means, this chapter does not prohibit the party from refusing to conduct other transactions by electronic means. This paragraph may not be varied by agreement.

(d) Except as otherwise provided in this chapter, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this chapter of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.

History: *2000 c 371 s 5*

325L.07 LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS.

(a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, an electronic record satisfies the law.

(d) If a law requires a signature, an electronic signature satisfies the law.

History: *2000 c 371 s 7*

325L.15 TIME AND PLACE OF SENDING AND RECEIPT.

(a) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:

(1) is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(2) is in a form capable of being processed by that system; and

(3) enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) Unless otherwise agreed between a sender and the recipient, an electronic record is received when:

(1) it enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(2) it is in a form capable of being processed by that system.

(c) Paragraph (b) applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under paragraph (d).

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this paragraph, the following rules apply:

(1) if the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction;

(2) if the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) An electronic record is received under paragraph (b) even if no individual is aware of its receipt.

(f) Receipt of an electronic acknowledgment from an information processing system described in paragraph (b) establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under paragraph (a), or purportedly received under paragraph (b), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, this paragraph may not be varied by agreement.

History: *2000 c 371 s 15*

325L.17 CREATION AND RETENTION OF ELECTRONIC RECORDS AND CONVERSION OF WRITTEN RECORDS BY GOVERNMENTAL AGENCIES.

Each governmental agency of this state shall determine whether, and the extent to which, it will create and retain electronic records and convert written records to electronic records. Records of a government agency are subject to sections 15.17 and 138.17.

History: *2000 c 371 s 17*

325L.18 ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES.

(a) Except as otherwise provided in section 325L.12, paragraphs (f) and (g), each governmental agency of this state shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(b) To the extent that a governmental agency uses electronic records and electronic signatures under paragraph (a), the governmental agency giving due consideration to security, may specify:

(1) the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

(2) if electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(3) control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(4) any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(c) Except as otherwise provided in section 325L.12, paragraph (f), this chapter does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

History: *2000 c 371 s 18*

CHAPTER 340A – LIQUOR

340A.416 LOCAL OPTION ELECTION

Subdivision 1. **Petition.** Upon receipt of a petition signed by 30 percent of the persons voting at the last city election or 200 registered voters residing in the city, whichever is less, a statutory city or home rule charter city of the fourth class shall place before the voters of the city the question of whether the city will issue intoxicating liquor licenses.

Subd. 2. **Ballot question.** The form of the question of the referendum under this section must be either "Shall the city issue… intoxicating liquor licenses?" or "Shall the city discontinue issuing intoxicating liquor licenses?"

Subd. 3. **Effect of election results.** If a majority of persons voting on the referendum question vote to discontinue issuing licenses, the city may not issue intoxicating liquor licenses until the results of the referendum have been reversed at a subsequent election where the question has been submitted as provided in this section.

Subd. 4. **Certification.** The clerk or recorder must certify results of a referendum held under this section within ten days of the election.

Subd. 5. **Challenge of election.** Where the results of a referendum under this section are challenged by any voter, the county attorney of the county where the election was held must appear in defense of the validity of the election.

History: *1985 c 305 art 6 s 16; 1987 c 152 art 1 s 1; 1994 c 611 s 24; 2004 c 251 s 18; 2013 c 131 art 2 s 76, 77*

340A.504 HOURS AND DAYS OF SALE.

Subdivision 1. **3.2 percent malt liquor.** No sale of 3.2 percent malt liquor may be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 2:00 a.m. and 10:00 a.m. on Sunday.

Subd. 2. **Intoxicating liquor; on-sale.** No sale of intoxicating liquor for consumption on the licensed premises may be made:

(1) between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;

(2) after 2:00 a.m. on Sundays, except as provided by subdivision 3.

Subd. 2a. **Certain dispensing exempt.** Where a hotel possessing an on-sale intoxicating liquor license places containers of intoxicating liquor in cabinets in hotel rooms for the use of guests staying in those hotel rooms, and a charge is made for withdrawals from those cabinets, the dispensing of intoxicating liquor from those cabinets does not constitute a sale for purposes of subdivision 2.

Subd. 3. **Intoxicating liquor; Sunday sales; on-sale.** (a) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of 8:00 a.m. on Sundays and 2:00 a.m. on Mondays.

(b) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed $200.

(c) A city may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the city voting on the question at a general or special election. A county may issue a Sunday intoxicating liquor license in a town only if authorized to do so by the voters of the town as provided in paragraph (d). A county may issue a Sunday intoxicating liquor license in unorganized territory only if authorized to do so by the voters of the election precinct that contains the licensed premises, voting on the question at a general or special election.

(d) An election conducted in a town on the question of the issuance by the county of Sunday sales licenses to establishments located in the town must be held on the day of the annual election of town officers.

(e) Voter approval is not required for licenses issued by the Metropolitan Airports Commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of $75, plus $30 for each duplicate.

Subd. 4. **Intoxicating liquor; off-sale.** No sale of intoxicating liquor may be made by an off-sale licensee:

(1) on Sundays;

(2) before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;

(3) on Thanksgiving Day;

(4) on Christmas Day, December 25; or

(5) after 8:00 p.m. on Christmas Eve, December 24.

Subd. 5. **Bottle clubs.** No establishment licensed under section 340A.414, may permit a person to consume or display intoxicating liquor, and no person may consume or display intoxicating liquor between 1:00 a.m. and 12:00 noon on Sundays, and between 1:00 a.m. and 8:00 a.m. on Monday through Saturday.

Subd. 6. **Municipalities may limit hours.** A municipality may further limit the hours of on and off sales of alcoholic beverages, provided that further restricted on-sale hours for intoxicating liquor must apply equally to on-sale hours of 3.2 percent malt liquor. A city may not permit the sale of alcoholic beverages during hours when the sale is prohibited by this section.

Subd. 7. **Sales after 1:00 a.m.; permit fee.** (a) No licensee may sell intoxicating liquor or 3.2 percent malt liquor on-sale between the hours of 1:00 a.m. and 2:00 a.m. unless the licensee has obtained a permit from the commissioner. Application for the permit must be on a form the commissioner prescribes. Permits are effective for one year from date of issuance. For retailers of intoxicating liquor, the fee for the permit is based on the licensee's gross receipts from on-sales of alcoholic beverages in the 12 months prior to the month in which the permit is issued, and is at the following rates:

(1) up to $100,000 in gross receipts, $300;

(2) over $100,000 but not over $500,000 in gross receipts, $750; and

(3) over $500,000 in gross receipts, $1,000.

For a licensed retailer of intoxicating liquor who did not sell intoxicating liquor at on-sale for a full 12 months prior to the month in which the permit is issued, the fee is $200. For a retailer of 3.2 percent malt liquor, the fee is $200.

(b) The commissioner shall deposit all permit fees received under this subdivision in the alcohol enforcement account in the special revenue fund.

(c) Notwithstanding any law to the contrary, the commissioner of revenue may furnish to the commissioner the information necessary to administer and enforce this subdivision.

History: *1985 c 139 s 1; 1985 c 305 art 7 s 4; 1Sp1985 c 16 art 2 s 3 subd 1; 1987 c 5 s 4; 1987 c 152 art 1 s 1; 1988 c 420 s 1; 1989 c 49 s 3-5; 1990 c 554 s 14; 1991 c 249 s 21,22,31; 1992 c 513 art 3 s 60; 1994 c 611 s 26; 1997 c 129 art 1 s 8; 2002 c 318 s 2; 2003 c 126 s 10-12; 1Sp2003 c 19 art 2 s 59,79; 2005 c 131 s 8-10; 2005 c 136 art 8 s 18,19; 2006 c 210 s 13; 2015 c 9 art 2 s 7*

NOTES AND DECISIONS

340A.504

Approval of Sunday liquor sales requires majority of those voting on the question, not majority of all voting at election. Op. Atty. Gen. 218g-19, September 6, 1967.

CHAPTER 351 – RESIGNATIONS, VACANCIES, REMOVALS

351.01 RESIGNATIONS.

Subdivision 1. **To whom made.** Resignations shall be made in writing signed by the resigning officer:

(1) By incumbents of elective offices, to the officer authorized by law to fill a vacancy in such office by appointment, or to order a special election to fill the vacancy;

(2) By appointive officers, to the body, board, or officer appointing them, unless otherwise specially provided.

Subd. 2. **When effective.** Except as provided by subdivision 3 or other express provision of law or charter to the contrary, a resignation is effective when it is received by the officer, body, or board authorized to receive it.

Subd. 3. **Contingent resignations prohibited; exception.** (a) Except as provided in paragraph (b), no resignation may be made to take effect upon the occurrence of a future contingency. Statements explaining the reasons for a resignation must not be considered to be contingencies unless expressly stated as contingencies.

(b) A resignation may be made expressly to take effect at a stated future date. Unless it is withdrawn as provided under subdivision 4, a resignation is effective at 12:01 a.m. on the stated date.

Subd. 4. **Withdrawal of resignation.** A prospective resignation permitted by subdivision 3 may only be withdrawn by a written statement signed by the officer and submitted in the same manner as the resignation, and may only be withdrawn before it has been accepted by resolution of the body or board or before a written acceptance of the resignation by an officer authorized to receive it.

History: *(6952) RL s 2666; 1987 c 200 s 2; 2004 c 293 art 2 s 44*

351.02 VACANCIES.

Every office shall become vacant on the happening of either of the following events, before the expiration of the term of such office:

(1) The death of the incumbent;

(2) The incumbent's resignation;

(3) The incumbent's removal;

(4) The incumbent's ceasing to be an inhabitant of the state, or, if the office is local, of the district, county or city for which the incumbent was elected or appointed, or within which the duties of the office are required to be discharged;

(5) The incumbent's conviction of any infamous crime, or of any offense involving a violation of the official oath;

(6) The incumbent's refusal or neglect to take the oath of office, or to give or renew the official bond, or to deposit or file such oath or bond within the time prescribed;

(7) The decision of a competent tribunal declaring the incumbent's election or appointment void;

(8) The death of the person elected or appointed to fill a vacancy, or for a full term, before the person qualifies, or before the time when by law the person should enter upon the duties of the office, in which case the vacancy shall be deemed to take place at the time when the term of office would have begun had the person lived.

History: *(6953) RL s 2667; 1973 c 123 art 5 s 7; 1986 c 444*

NOTES AND DECISIONS

351.02

Because district court judgeship is a statewide office, as opposed to a local office, for purposes of statute, district court judge's failure to reside in district during a three-month period preceding defendant's criminal trial in which she still resided in state did not render that office vacant at time of defendant's trial or render her without authority to conduct that trial. *State v. Irby*, 848 N.W.2d 515 (Minn. 2014).

Judge, who had ceased to be a de jure judge when she resided outside of her judicial district, remained a de facto judge, and did not automatically forfeit her office, and thus reversal was not warranted of criminal convictions of defendant whose trial occurred after judge's violation of residency requirement. *State v. Irby,* 820 N.W.2d 30 (Minn. App. 2012).

351.05 VACANCY DURING RECESS OF LEGISLATURE.

When a vacancy occurs during the recess of the legislature, in any office which the legislature, or the governor by and with the advice and consent of the senate, or of both branches of the legislature, is authorized to fill by appointment, unless otherwise specially provided, the governor may appoint some suitable person to perform the duties of such office for the time being. The person so appointed, before proceeding to execute the duties, shall qualify in the manner required by law of the officer in whose place the person is appointed and hold office until the vacancy is regularly filled, as provided by law.

History: *(6956) RL s 2670; 1986 c 444*

351.055 PREPARATIONS FOR SPECIAL ELECTIONS.

If a future vacancy becomes certain to occur and the vacancy must be filled by a special election, the appropriate authorities may begin procedures leading to the special election so that a successor may be elected at the earliest possible time. For prospective vacancies that will occur as a result of a resignation, preparations for the special election may begin immediately after the written resignation is received by the official provided in section 351.01, subdivision 1.

History: *1987 c 175 s 17; 1999 c 132 s 40*

351.06 APPOINTMENT; CONTINUANCE OF TERM; IMPEACHMENT.

Unless otherwise provided for, when a vacancy in an elective office is authorized to be filled by appointment, such appointment shall continue until the next general election occurring after there is sufficient time to give the notice prescribed by law, and until a successor is elected and has qualified. When any state officer, excepting the lieutenant governor, shall be temporarily suspended from the performance of the duties of office by reason of having been impeached, the governor shall appoint some suitable person to exercise the duties of such office during the time of such suspension, and such person, before entering upon the duties, shall comply with the requirements of law relating to the same, and during incumbency shall be governed in the administration thereof by all laws enacted in reference thereto, and receive the compensation provided by law for such office.

History: *(6957) RL s 2671; 1986 c 444*

351.14 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 351.14 to 351.23.

Subd. 2. **Malfeasance.** "Malfeasance" means the willful commission of an unlawful or wrongful act in the performance of a public official's duties which is outside the scope of the authority of the public official and which infringes on the rights of any person or entity.

Subd. 3. **Nonfeasance.** "Nonfeasance" means the willful failure to perform a specific act which is a required part of the duties of the public official.

Subd. 4. **Misfeasance.** "Misfeasance" means the negligent performance of the duties of a public official or the negligent failure to perform a specific act which is a required part of the duties of the public official.

Subd. 5. **Elected county official.** "Elected county official" means any public official who is elected to countywide office or appointed to an elective countywide office, including county attorney, county sheriff, county auditor, county recorder, and county treasurer. "Elected county official" also means a county commissioner elected or appointed from a commissioner district.

History: *1986 c 418 s 1*

351.15 REMOVAL OF ELECTED COUNTY OFFICIAL.

An elected county official may be removed from office in accordance with the procedures established in sections 351.14 to 351.23.

History: *1986 c 418 s 2*

351.16 PETITION; REVIEW.

Subdivision 1. **Form of petition.** Any registered voter may petition the county auditor requesting a removal election and setting forth facts which allege with specificity that an elected county official committed malfeasance or nonfeasance in the performance of official duties during the current or any previous term in the office held by the elected county official, except that a petition may not be submitted during the 180 days immediately preceding a general election for the office which is held by the county official named in the petition. The petitioner must attach to the petition documents which contain the signatures of supporters who are registered voters totaling at least 25 percent of the number of persons who voted in the preceding election for the office which is held by the county official named in the petition. Each page on which signatures are

included must clearly identify the purpose of the petition. The registered voters must be residents of the county or, in a removal election involving a county commissioner, of the commissioner district which elected the named county commissioner. The signatures of supporters must be on forms provided by the county auditor.

Subd. 2. **County auditor's duties.** The county auditor shall examine the petition to determine whether it contains the requisite number of valid signatures of registered voters. If so, the county auditor shall forward the petition, but not the signatures, to the clerk of appellate courts within 15 days of receipt of the petition. If the county auditor determines that the petition does not include the requisite number of signatures, the county auditor shall deny the petition within 15 days of receipt of the petition.

Subd. 3. **Removal of county auditor.** If the county auditor is the named elected county official, the petition must be submitted to the chair of the county board of commissioners who shall appoint a county official to perform the duties of the county auditor specified in sections 351.14 to 351.23.

Subd. 4. **Limitation.** An elected county official is not subject to a removal election on the ground that misfeasance in the performance of official duties was committed, or on the ground of disagreement with actions taken that were within the lawful discretion of the elected county official.

History: *1986 c 418 s 3*

351.17 CHIEF JUSTICE REVIEW; ASSIGNMENT TO SPECIAL MASTER.

The clerk of appellate courts shall submit the petition to the chief justice. The chief justice shall review the petition to determine whether the petition properly alleges facts which, if proven, constitute malfeasance or nonfeasance in the performance of official duties. If the petition properly contains factual allegations of malfeasance or nonfeasance, the chief justice shall assign the case to a special master for a public hearing. The special master must be an active or retired judge. The chief justice may issue an order denying the petition if it appears that the petition does not contain allegations which, if proven, constitute malfeasance or nonfeasance in the performance of official duties.

History: *1986 c 418 s 4*

351.18 WAIVER.

An elected county official who is the subject of a petition under section 351.16 may waive in writing the right to a public hearing. If the hearing is waived, the case must be certified by order of the chief justice to the county auditor for a removal election to be held within 30 days of the receipt of the order.

History: *1986 c 418 s 5*

351.19 PUBLIC HEARING.

Subdivision 1. **Time; subpoenas; amendment of petition.** A public hearing into the allegations of a petition under section 351.16 must be held within 60 days after issuance of the order of the chief justice assigning the case to a special master. The special master may issue subpoenas to compel the testimony of witnesses and the production of documents. The petition may be amended of right by the petitioners at any time prior to 40 days before the scheduled hearing. The special master may permit later amendment of the petition only for good cause.

Subd. 2. **Determinations by special master.** The special master shall take evidence at a public hearing under this section and determine:

(1) whether the petitioners have shown by clear and convincing evidence that the factual allegations of malfeasance or nonfeasance are true; and

(2) if so, whether the facts found to be true constitute malfeasance or nonfeasance.

The special master shall dismiss the petition at any time if it appears that this standard has not been met.

Subd. 3. **Rules.** The public hearing under this section must be conducted using the Minnesota Rules of Civil Procedure, unless modified in sections 351.14 to 351.23, and the Minnesota Rules of Evidence.

Subd. 4. **Legal counsel.** The petitioners and the elected county official shall be represented by legal counsel at their own expense, and shall pay their costs associated with the hearing except that the county may assume the legal costs incurred by the elected county official. The county shall pay all other costs of the hearing.

Subd. 5. **Decision.** The special master shall issue a decision within 60 days after the end of a public hearing under this section.

Subd. 6. **Appeal.** If a petition under this section is dismissed by the special master, either before or after a public hearing, the petitioner may appeal the decision to the supreme court within 30 days. The supreme court shall grant an expedited appeal.

History: *1986 c 418 s 6*

351.20 DECISION; CERTIFICATION.

If the special master determines that the elected county official committed malfeasance or nonfeasance in the performance of official duties, the case must be certified to the county auditor for a removal election on a date to be fixed by the county auditor and held within 30 days of the order of the special master.

History: *1986 c 418 s 7*

351.21 APPEAL.

An elected county official may appeal the decision of a special master under section 351.20 to the supreme court within ten days. The removal election is stayed until 20 days after the supreme court issues a decision on the appeal. The supreme court shall grant an expedited appeal.

History: *1986 c 418 s 8*

351.22 REMOVAL ELECTION; DISQUALIFICATION.

Subdivision 1. **Majority vote; form of question.** An elected county official may be removed pursuant to sections 351.14 to 351.23 by majority vote. The removal election is a special election conducted under applicable provisions of section 375.20. The question submitted to the voters must be:

"Should ....., elected (appointed) to the office of .....

(Name) (title)

be removed from that office? Yes .....

No ....."

Any resulting vacancy must be filled as provided by law.

Subd. 2. **Disqualification.** A removed county official may not thereafter hold the same office for the remainder of the term to which the official was elected.

History: *1986 c 418 s 9*

351.23 EXTENSION OF TIME.

The chief justice may extend the time limitations in sections 351.14 to 351.23 for good cause.

History: *1986 c 418 s 10*

CHAPTER 353 – PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

353.03 BOARD OF TRUSTEES.

Changes effective July 1, 2016

Subdivision 1. **Management; composition; election.** (a) The management of the public employees retirement fund is vested in an 11-member board of trustees consisting of ten members and the state auditor. The state auditor may designate a deputy auditor with expertise in pension matters as the auditor's representative on the board. The governor shall appoint five trustees to four-year terms, one of whom shall be designated to represent school boards, one to represent cities, one to represent counties, one who is a retired

annuitant, and one who is a public member knowledgeable in pension matters. The membership of the association, including recipients of retirement annuities and disability and survivor benefits, shall elect five trustees for terms of four years, one of whom must be a member of the police and fire fund and one of whom must be a former member who met the definition of public employee under section 353.01, subdivisions 2 and 2a, for at least five years prior to terminating membership or a member who receives a disability benefit. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are seated. Except as provided in this subdivision, trustees elected by the membership of the association must be public employees and members of the association.

(b) For seven days beginning October 1 of each year preceding a year in which an election is held, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the association. No name may be withdrawn from nomination by the nominee after October 15. At the request of a candidate for an elected position on the board of trustees, the board shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies, subject to review and approval by the secretary of state under paragraph (e), to govern the form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. The secretary of state shall resolve disputes between the board and a candidate concerning application of these policies to a particular statement.

(c) By January 10 of each year in which elections are to be held, the board shall distribute by mail to the members ballots listing the candidates. No member may vote for more than one candidate for each board position to be filled. A ballot indicating a vote for more than one person for any position is void. No special marking may be used on the ballot to indicate incumbents. Ballots mailed to the association must be postmarked no later than January 31. The ballot envelopes must be so designated and the ballots must be counted in a manner that ensures that each vote is secret.

(d) A candidate who receives contributions or makes expenditures in excess of $100, or has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of $100 for the purpose of bringing about the candidate's election, shall file a report with the campaign finance and public disclosure board disclosing the source and amount of all contributions to the candidate's campaign. The campaign finance and public disclosure board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section 10A.01. These terms do not include the mailing made by the association board on behalf of the candidate. A candidate shall file a report within 30 days from the day that the results of the election are announced. The Campaign Finance and Public Disclosure Board shall maintain these reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it.

(e) The secretary of state shall review and approve the procedures defined by the board of trustees for conducting the elections specified in this subdivision, including board policies adopted under paragraph (b).

(f) The board of trustees and the executive director shall undertake their activities consistent with chapter 356A.

Subd. 1a. **Vacancy.** Any vacancy on the board caused by death, resignation, or removal of any trustee, or occurring because an elected trustee ceases to be a public employee and an active member of the association, must be filled by the board for trustees elected by members, and by the governor for other trustees, for the unexpired portion of the term in which the vacancy occurs. The board shall adopt policies and procedures governing how the vacancy of an elected trustee is to be filled.

Subd. 2. **No compensation; expenses paid.** The members of the board of trustees shall serve without compensation, but shall be reimbursed out of the retirement fund for expenses actually and necessarily paid or incurred in the performance of their duties. Members of the board of trustees shall suffer no loss of compensation from a public employer by reason of service on or for the board or on any authorized committee thereof.

Subd. 2a.[Repealed, 1977 c 429 s 65]

Subd. 2b. **Legal authority.** The board is authorized to take legal action when necessary to effectively administer the various retirement plans administered by the association, consistent with applicable articles of incorporation, bylaws, law, and rules, as applicable, and including, but not limited to, the recapture of overpaid annuities, benefits, or refunds, and the correction of omitted or deficient deductions.

Subd. 3. **Duties and powers.** (a) The board shall:

(1) elect a president and vice-president;

(2) approve the staffing complement, as recommended by the executive director, necessary to administer the fund;

(3) adopt bylaws for its own government and for the management of the fund consistent with the laws of the state and may modify them at pleasure;

(4) adopt, alter, and enforce reasonable rules consistent with the laws of the state and the terms of the applicable benefit plans for the administration and management of the fund, for the payment and collection of payments from members and for the payment of withdrawals and benefits, and that are necessary in order to comply with the applicable federal Internal Revenue Service and Department of Labor requirements;

(5) pass upon and allow or disallow all applications for membership in the fund and allow or disallow claims for withdrawals, pensions, or benefits payable from the fund;

(6) authorize procedures for use of electronic signatures as defined in section 325L.02, paragraph (h), on applications and forms required by the association;

(7) adopt an appropriate mortality table based on experience of the fund as recommended by the association actuary and approved under section 356.215, subdivision 18, with interest set at the rate specified in section 356.215, subdivision 8;

(8) provide for the payment out of the fund of the cost of administering this chapter, of all necessary expenses for the administration of the fund and of all claims for withdrawals, pensions, or benefits allowed;

(9) approve or disapprove all recommendations and actions of the executive director made subject to its approval or disapproval by subdivision 3a; and

(10) approve early retirement and optional annuity factors, subject to review by the actuary retained by the Legislative Commission on Pensions and Retirement; establish the schedule for implementation of the approved factors; and notify the Legislative Commission on Pensions and Retirement of the implementation schedule.

(b) In passing upon all applications and claims, the board may summon, swear, hear, and examine witnesses and, in the case of claims for disability benefits, may require the claimant to submit to a medical examination by a physician of the board's choice, at the expense of the fund, as a condition precedent to the passing on the claim, and, in the case of all applications and claims, may conduct investigations necessary to determine their validity and merit.

(c) The board may continue to authorize the sale of life insurance to members under the insurance program in effect on January 1, 1985, but must not change that program without the approval of the commissioner of finance. The association shall not receive any financial benefit from the life insurance program beyond the amount necessary to reimburse the association for costs incurred in administering

the program. The association shall not engage directly or indirectly in any other activity involving the sale or promotion of goods or services, or both, whether to members or nonmembers.

(d) The board shall establish procedures governing reimbursement of expenses to board members. These procedures must define the types of activities and expenses that qualify for reimbursement, must provide that all out-of-state travel be authorized by the board, and must provide for the independent verification of claims for expense reimbursement. The procedures must comply with the applicable rules and policies of the Department of Finance and the Department of Administration.

(e) The board may purchase fiduciary liability insurance and official bonds for the officers and members of the board of trustees and employees of the association and may purchase property insurance or may establish a self-insurance risk reserve including, but not limited to, data processing insurance and "extra-expense" coverage.

Subd. 3a. **Executive director.** (a) Appointment. The board shall appoint an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director must have had at least five years' experience in an executive level management position, which has included responsibility for pensions, deferred compensation, or employee benefits. The executive director serves at the pleasure of the board. Notwithstanding any law to the contrary, the board must set the salary of the executive director. The salary of the executive director ~~is as provided by~~ must not exceed the limit for a position listed in section 15A.0815, subdivision 2.

(b) Duties. The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as adviser to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

(1) attend all meetings of the board;

(2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;

(3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

(4) designate, with the approval of the board, up to two persons who may serve in the unclassified service and whose salaries are set in accordance with section 43A.18, subdivision 3, appoint a confidential secretary in the unclassified service, and appoint employees to carry out this chapter, who are subject to chapters 43A and 179A in the same manner as are executive branch employees;

(5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the control of, and under such conditions as, the executive director may prescribe;

(6) with the approval of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary to fulfill the purposes of this chapter. All contracts are subject to chapter 16C. The commissioner of administration shall not approve, and the association shall not enter into, any contract to provide lobbying services or legislative advocacy of any kind. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained under section 356.214. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Copies of professional management survey reports shall be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the Legislative Reference Library as provided by section 3.195, and to the executive director of the commission at the same time as reports are furnished to the board. Only management firms

experienced in conducting management surveys of federal, state, or local public retirement systems shall be qualified to contract with the director hereunder;

(7) with the approval of the board provide in-service training for the employees of the association;

(8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, as provided in this chapter;

(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the Department of Finance for approval by the commissioner;

(13) reduce all or part of the accrued interest payable under section 353.27, subdivisions 12, 12a, and 12b, or 353.28, subdivision 5, upon receipt of proof by the association of an unreasonable processing delay or other extenuating circumstances of the employing unit. The executive director shall prescribe and submit for approval by the board the conditions under which such interest may be reduced; and

(14) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Subd. 4. **Offices.** The commissioner of administration shall make provision for suitable office space in the public pension fund facilities created under section 356B.10.

Subd. 5. **Application of laws.** Laws applicable to state agencies and agencies with statewide jurisdiction shall apply to the association.

History: *(254-25) 1931 c 307 s 3; 1949 c 84 s 2; 1951 c 22 s 16; 1959 c 650 s 8,58; 1963 c 641 s 13; 1967 c 641 s 1; 1969 c 940 s 3; 1971 c 106 s 10,11; 1973 c 753 s 19,20; 1974 c 229 s 9; 1975 c 102 s 5-8; 1976 c 329 s 17,18; 1977 c 429 s 18; 1978 c 796 s 28; 1979 c 216 s 6,7; 1981 c 180 s 2-4; 1981 c 224 s 79; 1984 c 462 s 27; 1985 c 11 s 5-10; 1986 c 444; 1987 c 259 s 26; 1987 c 284 art 5 s 3; 1988 c 709 art 5 s 9; 1989 c 319 art 8 s 16; 1991 c 341 s 7; 1994 c 528 art 2 s 6,7; 1997 c 202 art 2 s 63; 2Sp1997 c 3 s 18; 1998 c 386 art 2 s 87; 1999 c 99 s 16; 1999 c 222 art 22 s 2; 2002 c 392 art 11 s 52; 2004 c 223 s 3; 2006 c 271 art 3 s 1315; 2007 c 134 art 2 s 19-21; art 6 s 1; 2008 c 204 s 40; 2013 c 111 art 8 s 3; 2015 c 68 art 12 s 11; 2016 c 173 s 2*

CHAPTER 358 – SEALS, OATHS, ACKNOWLEDGEMENTS

358.05 OATH OF OFFICE.

The oath of office to be taken by members and officers of either branch of the legislature shall be that prescribed by the Constitution of the state of Minnesota, article IV, section 8. Every person elected or appointed to any other public office, including every official commissioner, or member of any public board or body, before transacting any of the business or exercising any privilege of such office, shall take and subscribe the oath defined in the Constitution of the state of Minnesota, article V, section 6.

History: *(6963) RL s 2677; 1976 c 2 s 172*

358.10 OFFICIALS MAY ADMINISTER, WHEN.

(a) All persons holding office under any law of this state, or under the charter or ordinances of any municipal corporation thereof, including judges and clerks of election, and all committee members, commissioners, trustees, referees, appraisers, assessors, and all others authorized or required by law to act or report upon any matter of fact, have the power to administer oaths they deem necessary to the proper discharge of their respective duties.

(b) Any employee of the secretary of state designated by the secretary of state has the power to administer oaths to an individual who wishes to file with the secretary of state an affidavit of candidacy, nominating petition, declaration of intent to be a write-in candidate, or any other document relating to the conduct of elections.

History: *(6968) RL s 2682; 1986 c 444; 1Sp2001 c 10 art 18 s 41*

358.11 OATHS, WHERE FILED.

Except as otherwise provided by law, the oath required to be taken and subscribed by any person shall be filed as follows:

(1) If that of an officer of the state, whether elective or appointive, with the secretary of state;

(2) If of a county officer, or an officer chosen within or for any county, with the county auditor;

(3) If of a city officer, with the clerk or recorder of the municipality;

(4) If of a town officer, with the town clerk;

(5) If of a school district officer, with the clerk of the district;

(6) If of a person appointed by, or made responsible to, a court in any action or proceeding therein, with the court administrator of such court;

(7) If that of a person appointed by any state, county, or other officer for a special service in connection with official duties, with such officer.

If the person taking such oath be also required to give bond, the oath shall be attached to or endorsed upon such bond and filed therewith, in lieu of other filing.

History: *(6969) RL s 2683; 1973 c 123 art 5 s 7; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

CHAPTER 365 – TOWN GENERAL LAW

365.51 ANNUAL MEETING; NOTICE, BUSINESS, ELECTIONS.

Subdivision 1. **When; postponement for bad weather.** (a) A town's annual town meeting must be held on the second Tuesday of March at the place named by the last annual town meeting. If no place was named then, the meeting must be held at the place named by the town board. The place may be outside the town if the place is within five miles of a town boundary. If on the day of the meeting and election in March, the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories such that the clerk determines travel to a polling place would be difficult or hazardous for voters and election judges, the clerk may postpone the election and meeting. If the meeting and election are postponed, the meeting and election shall be held on the third Tuesday in March. Prior to providing notice of the election and meeting, the town board shall by resolution set another date for the meeting and election within 30 days of the third Tuesday in March on which the meeting and election shall be held if bad weather forces postponement of the meeting and election on the third Tuesday in March. The decision to postpone the meeting and election must be made no later than three hours before the opening of the polling place or the convening of the meeting, whichever comes first. The clerk shall notify the election judges and local media offices of the decision to postpone the meeting and election. If the meeting and election are postponed, the notice requirements in subdivision 2 shall apply to the postponed meeting and election.

The balloting of the town election must be concluded on the same day the election is commenced.

(b) If any other political subdivision is conducting an election in conjunction with the township election, postponement of the election shall be subject to section 205.105, 205A.055, or 373.50. If an election is postponed under section 205.105, 205A.055 or 373.50, the town meeting shall also be postponed as if postponed under this section.

Subd. 2. **Notice.** The clerk shall give ten days' published notice of the time and place of the meeting in a qualified newspaper having general circulation in the town. An alternative to published notice is posted notice, as directed by the town board unless the electors at an earlier annual town meeting direct otherwise. The notice must include the date on which the election will be held if postponement due to bad weather is necessary.

Subd. 3. **Officers; ballot questions; other business.** An annual town election shall be held on the same day as the annual town meeting to elect all town officers required by law to be elected and to consider ballot questions, except as provided in section 205.075, subdivision 2. Other town business shall be conducted at the town meeting as provided by law.

Subd. 4. **Precincts; polling places.** The town board may, with respect to an election by ballot at the annual town meeting for the purpose of determining any matter of town business, provide for the casting of ballots in precincts and at polling places. Precincts and polling places shall be designated by the town board in the manner prescribed by sections 204B.14 and 204B.16.

History: *1959 c 675 art 6 s 19; 1967 c 31 s 1; 1969 c 793 s 1; 1973 c 123 art 5 s 7; 1975 c 5 s 131; 1980 c 359 s 1; 1981 c 29 art 7 s 32; 1985 c 307 s 2; 1987 c 90 s 4; 1987 c 229 art 8 s 1; art 11 s 1; 1990 c 471 s 1; 1993 c 223 s 27; 1994 c 646 s 23,24; 2004 c 293 art 2 s 45; 2010 c 201 s 78*

NOTES AND DECISIONS

365.51

Town board that establishes two precincts for stationed federal elections not required to have two precincts and/or polling places for town elections. Op. Atty. Gen. 434B-9, August 10, 1983.

The authority of a town under this section to hold its annual meeting in an adjoining city or village means one abutting or touching the town and not merely nearby or adjacent. Op. Atty. Gen. 434B-13(c), August 20, 1964.

Town meeting and town board may designate and direct publication of notice in the "official newspaper" only. Op. Atty. Gen. 277B-4, March 30, 1961.

Notice need not state specifically a question to be considered which is a matter permitted by law to be acted on at the annual meeting. Op. Atty. Gen. 434A-6, February 24, 1956.

Town meeting and elections may be held at adjoining village. Op. Atty. Gen. 434B-26, February 1, 1954.

Polling place for town may be located in village by vote of the town. Op. Atty. Gen., October 5, 1949.

Town board may contract with school district for electrical wiring of schoolhouse and the use of the schoolhouse for town meetings. Op. Atty. gen. 434C, January 20, 1949.

Notice of special meeting requires a specific statement of each proposition to be considered. Op. Atty. Gen. 396F-2, February 9, 1948.

Town meeting may be held in village hall of village adjoining town even though the village hall is in another county. Op. Atty. Gen. 13C, April 7, 1947.

365.52 SPECIAL MEETING; FOR ANY LAWFUL PURPOSE.

Subdivision 1. **How called; statement; petition.** A special town meeting may be held to conduct any lawful business. To call a special meeting, the supervisors and town clerk, or any two of them together with at least 12 other town landowners, shall file a statement in the town clerk's office. The statement must tell why the meeting is called, the particular business to be transacted, and that the interests of the town require the meeting. A special town meeting may also be called on petition of 20 percent of the electors of the town. The percentage is of the number of voters at the last general election.

Subd. 2. **Precincts; polling places.** The town board may choose to use precincts and polling places to elect town officers or to decide any matter of town business requiring a ballot election. Precincts and polling places, if used, must be set up by the town board under sections 204B.14 and 204B.16.

History: *1959 c 675 art 6 s 20; 1967 c 31 s 2; 1971 c 843 s 1; 1975 c 5 s 132; 1981 c 29 art 7 s 33; 1983 c 359 s 49; 1984 c 562 s 16; 1987 c 229 art 8 s 1; 2003 c 56 s 1; 2004 c 228 art 2 s 11*

NOTE: *See also section 367.03, subdivision 2.*

NOTES AND DECISIONS

365.52

Optional forms of town government may not be submitted for vote at special town meeting. Op. Atty. Gen. 434b-13d, June 30, 1986.

Vacancies in town office could be filled at special town meeting. Op. Atty. Gen. 440, October 24, 1972.

365.59 COUNTY TO APPOINT OFFICERS IF NONE ELECTED.

Subdivision 1. **Second meeting try.** If a town fails to organize or fails to elect officers at the annual town meeting, 12 landowners of the town may call a town meeting for these purposes. The meeting is called by giving ten days' posted notice of it. The notice must include the time, place, and purpose of the meeting.

Subd. 2. **30-day wait; affidavit.** If the notice under subdivision 1 is not posted within 30 days after the date for the annual town meeting, the county board shall appoint officers for the town. The officers shall hold their offices until their successors qualify. The county board shall act only after an affidavit of a landowner of the town is filed with the county auditor. The affidavit must state the facts that require the county board to act.

History: *2004 c 228 art 2 s 12*

CHAPTER 367 – TOWN OFFICERS; OPTIONAL PLANS

367.03 ANNUAL ELECTION OF OFFICERS; VACANCIES; SPECIAL ELECTIONS

Subdivision 1. **Supervisors, terms.** Except in towns operating under option A or in towns operating as provided in subdivision 4, three supervisors shall be elected in each town at the town general election as provided in this section. Each supervisor shall be elected for a term of three years and shall serve until a successor is elected and qualified.

Subd. 2. **New towns.** When a new town is organized and supervisors are elected at a town meeting prior to the annual town election, they shall serve only until the next annual town election. At that election three supervisors shall be elected, one for three years, one for two years, and one for one year, so that the term of one shall expire each year. The number of years for which each is elected shall be indicated on the ballot.

Subd. 3. **Supervisors; towns under option A**. When two supervisors are to be elected for three-year terms under option A, a candidate shall indicate on the affidavit of candidacy which of the two offices the candidate is filing for. At following annual town elections one supervisor shall be elected for three years to succeed the one whose term expires at that time and shall serve until a successor is elected and qualified.

Subd. 4. **Officers; November election.** Except as provided in subdivision 4a, supervisors and other town officers in towns that hold the town general election in November shall be elected for terms of four years commencing on the first Monday in January and until their successors are elected and qualified. The clerk and treasurer shall be elected in alternate years.

Subd. 4a. **Optional six-year terms.** The resolution required under section 205.075, subdivision 2, to adopt the alternative November date for town general election may include the proposal and corresponding transition plan to provide for a six-year term for town supervisors. A town that has adopted the alternative November date for general town elections using the four-year terms provided under subdivision 4 may adopt a resolution establishing six-year terms for supervisors as provided under this subdivision. The resolution must include a plan to provide an orderly transition to six-year terms. The resolution adopting the six-year term for town supervisors may be proposed by the town board or by a resolution of the electors adopted at the annual town meeting and is effective upon an affirmative vote of the electors at the next town general election.

Subd. 5. **Election of clerk, treasurer.** Except in towns operating under option B or option D, or both, or in towns operating as provided in subdivision 4, at the annual town election in even-numbered years one town clerk and at the annual town election in odd-numbered years one town treasurer shall be elected. The clerk and treasurer each shall serve for two years and until their successors are elected and qualified.

Subd. 6. **Vacancies.** (a) When a vacancy occurs in a town office, the town board shall fill the vacancy by appointment. Except as provided in paragraph (b), the person appointed shall hold office until the next annual town election, when a successor shall be elected for the unexpired term.

(b) When a vacancy occurs in a town office:

(1) with more than one year remaining in the term; and

(2) on or after the 14th day before the first day to file an affidavit of candidacy for the town election; the vacancy must be filled by appointment. The person appointed serves until the next annual town election following the election for which affidavits of candidacy are to be filed, when a successor shall be elected for the unexpired term.

(c) A vacancy in the office of supervisor must be filled by an appointment committee comprised of the remaining supervisors and the town clerk.

(d) Any person appointed to fill the vacancy in the office of supervisor must, upon assuming the office, be an eligible voter, be 21 years of age, and have resided in the town for at least 30 days.

(e) When, because of a vacancy, more than one supervisor is to be chosen at the same election, candidates for the offices of supervisor shall file for one of the specific terms being filled.

(f) When, for any reason, the town board or the appointment committee fails to fill a vacancy in the position of an elected town officer by appointment, a special election may be called. To call a special election, the supervisors and town clerk, or any two of them together with at least 12 other town freeholders, must file a statement in the town clerk's office. The statement must tell why the election is called and that the interests of the town require the election. When the town board or the appointment committee fails to fill a vacancy by appointment, a special town election may also be called on petition of 20 percent of the electors of the town. The percentage is of the number of voters at the last general election. A special town election must be conducted in the manner required for the annual town election.

(g) Law enforcement vacancies must be filled by appointment by the town board.

Subd. 7. **Inability or refusal to serve.** In addition to the events specified in section 351.02, a vacancy in a town office may be declared by the town board when an officer is unable to serve in the office or attend board meetings for a 90-day period because of illness, or because of absence from or refusal to attend board meetings for a 90-day period. If any of the preceding conditions occurs, the town board may, after the board by resolution has declared a vacancy to exist, make an appointment to fill the vacancy at a regular or special meeting for the remainder of the unexpired term or until the ill or absent member is again able to resume duties and attend board meetings, whichever is earlier. If the vacancy is in the office of supervisor, the vacancy must be filled by an appointment committee made up of the remaining supervisors and the town clerk. If the original member is again able to resume duties and attend board meetings, the board shall by resolution so determine and remove the appointed officeholder and restore the original member to office.

NOTE: *See also section 365.52.*

History: *1959 c 675 art 6 s 28; 1961 c 195 s 1,2; 1961 c 264 s 1,2; 1963 c 799 s 3; 1975 c 274 s 9; 1976 c 41 s 1; 1978 c 681 s 1,2; 1982 c 463 s 1; 1982 c 595 s 4-6; 1984 c 386 s 1; 1985 c 169 s 11; 1986 c 444; 1987 c 90 s 6; 1990 c 401 art 1 s 1; 1990 c 585 s 31; 1993 c 24 s 1; 1994 c 646 s 25; 1995 c 21 s 1; 1997 c 147 s 74; 1999 c 132 s 41; 2000 c 467 s 32; 1Sp2001 c 10 art 18 s 42; 2002 c 241 s 1; 2003 c 56 s 2; 2010 c 180 s 7, 8*

NOTES AND DECISIONS

367.03

Vacancies in town office could be filled at special town meeting. Op. Atty. Gen. 440, October 24, 1972.

In an annual town election where vacancies in the position of town supervisor are to be filled by election pursuant to M.S. 367.03, subd. 2, and where no one has filed for the position, the title of the vacant position would be placed on the regular ballot for the purpose of a write-in election. Op. Atty. Gen. 437A-6, February 23, 1967.

Town board is not required to hold an organizational meeting to elect a chairman. Op. Atty. Gen. 437A-1, February 3, 1960.

Majority vote of board of appointment constituted by this section is sufficient to fill the vacancy. Op. Atty. Gen. 437A-21, September 11, 1953.

Where only one candidate files for justice of the peace and vote is a tie with write-in candidate, both are not elected even though town is entitled to two justices. Op. Atty. Gen., March 31, 1953.

Township officer must reside in township. Op. Atty. Gen. 440F, September 12, 1951. *See also* Op. Atty. Gen. 471M, December 30, 1959.

367.31 ADOPTION OF SPECIFIC OPTION.

Subd. 4. **Election; form of ballot.** The proposals for adoption of the options shall be stated on the ballot substantially as follows:

"Shall option A, providing for a five-member town board of supervisors, be adopted for the government of the town?"

"Shall option B, providing for the appointment of the clerk and treasurer by the town board, be adopted for the government of the town?"

"Shall option C, providing for the appointment of a town administrator by the town board, be adopted for the government of the town?"

"Shall option D, providing for combining the offices of clerk and treasurer, be adopted for the government of the town?"

If a proposal under option B is to appoint only the clerk or only the treasurer, or if it is to appoint the combined clerk-treasurer following the adoption of option D or when submitted simultaneously with the ballot question for option D, the ballot question shall be varied to read appropriately. If an option B ballot question is submitted for the combined clerk-treasurer office at the same election in which option D is also on the ballot, the ballot must note that the approval of option B is contingent on the simultaneous approval of option D. In any of these cases, the question shall be followed by the words "Yes" and "No" with an appropriate ~~square~~ oval or similar target shape before each in which an elector may record a choice.

History: *1975 c 274 s 2; 1976 c 41 s 2; 1984 c 562 s 38; 1986 c 327 s 3; 1986 c 444; 1988 c 639 s 4; 1989 c 24 s 1-4; 1990 c 401 art 1 s 1; 2003 c 60 s 3; 2015 c 70 art 1 s 57*

367.033 MAY BE ON BOTH TOWN AND SCHOOL BOARD EXCEPT IF URBAN TOWN.

Notwithstanding any other law to the contrary, a person may serve on both a school board, however organized, and a town board of supervisors concurrently. This section does not apply to members of the town board of a town exercising the powers of a statutory city under section 368.01, or a special law.

History: *1971 c 420 s 1; 1973 c 123 art 5 s 7; 1990 c 401 art 1 s 1*

367.10 TOWN CLERK; BOND; OATH.

Every town clerk, before beginning the duties of the office, shall give bond to the town in an amount to be determined by the town board, conditioned for the faithful discharge of the duties of clerk. The bond shall be filed with the county auditor.

History: *(1062) RL s 658; 1982 c 507 s 1; 1984 c 562 s 31; 1985 c 169 s 12; 1990 c 401 art 1 s 1*

367.12 DEPUTY CLERK.

Each town clerk may appoint a deputy, for whose acts the clerk shall be responsible, and who, in the clerk's absence or disability, shall perform the clerk's duties. If a town clerk has not appointed a deputy, the town treasurer shall perform the duties of the clerk relating to receiving candidate filings when the clerk is absent.

History: *2004 c 293 art 2 s 46*

367.25 OATH OF OFFICE; BOND; FILING; PENALTIES.

Subdivision 1. **Requirement, fee.** Every person elected at a March election or appointed to a town office, within ten days after receiving a certificate or notice of election or appointment, shall take and subscribe the oath required by law. Persons elected at a November election shall take their oath before assuming office. If taken before the town clerk, the oath shall be administered and certified without fee.

Subd. 2. **Bond and oath, violations.** Before entering upon duties, the person taking the oath shall file it with the town clerk. Failure to file the oath and bond within the time required shall be deemed a refusal to serve.

Subd. 3. **Oath, violations.** A town officer who enters upon the duties of office before taking the oath required shall forfeit to the town the sum of $50.

History: *1959 c 675 art 6 s 29; 1983 c 359 s 52; 1986 c 444; 1990 c 401 art 1 s 1; 1997 c 147 s 75*

NOTES AND DECISIONS

367.25

Where newly elected town clerk neither took the oath nor filed such oath until after the time prescribed by law, he should nevertheless be regarded as having qualified for office. Op. Atty. Gen. 437A-15, May 10, 1966.

Failure to take oath does not ipso facto create a vacancy, and officer may qualify before steps are taken to declare a vacancy. Op. Atty. Gen. 437-21, April 3, 1951.

367.30 OPTIONAL PLANS.

Subdivision 1. **Option A; five-member town board.** A town may provide for a five-member board of supervisors as provided in sections 367.30 to 367.36. This is option A.

Subd. 2. **Option B; appointment of clerk and treasurer.** A town may provide for the appointment by the town board of its clerk or treasurer, or both, or if combined pursuant to the adoption of option D as defined in subdivision 4, its clerk-treasurer, as provided in sections 367.30 to 367.36. This is option B.

Subd. 3. **Option C; town administrator.** A town may provide for the appointment of an administrator as provided in sections 367.30 to 367.36. This is option C.

Subd. 4. **Option D; combining clerk and treasurer.** A town may combine the offices of clerk and treasurer. This is option D. The combined office may be made elective or appointive pursuant to option B as provided in subdivision 2. Unless the board action or petition seeking the adoption of option D specifies that the appropriate ballot question for option B is also to be submitted to the voters at the same time as the ballot question on option D, the combined position shall be filled in the manner currently being used for the town clerk position.

History: *1975 c 274 s 1; 1983 c 216 art 1 s 86; 1984 c 562 s 37; 1988 c 639 s 2, 3; 1990 c 401 art 1 s 1; 2003 c 60 s 1, 2*

367.36 CLERK, TREASURER COMBINED; AUDIT STANDARDS.

Subdivision 1. **Transition; audit.** (a) In a town in which option D is adopted, the incumbent treasurer shall continue in office until the expiration of the term. Thereafter, or at any time a vacancy other than a temporary vacancy under section 367.03 occurs in the position, the duties of the treasurer prescribed by law shall be performed by the clerk who shall be referred to as the clerk-treasurer. If option D is adopted at an election in which the treasurer is also elected, the election of the treasurer's position is void.

(b) If the offices of clerk and treasurer are combined and the town's annual revenue is more than the amount in paragraph (c), the town board shall provide for an annual audit of the town's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor. If the offices of clerk and treasurer are combined and the town's annual revenue is the amount in paragraph (c) or less, the town board shall provide for an audit of the town's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor at least once every five years, which audit shall be for a one-year period to be determined at random by the person conducting the audit. Upon completion of an audit by a public accountant, the public accountant shall forward a

copy of the audit to the state auditor. For purposes of this subdivision, "public accountant" means a certified public accountant or a certified public accounting firm licensed by the Board of Accountancy under chapter 326A.

(c) For the purposes of paragraph (b), the amount in 2004 is $150,000, and in 2005 and after, $150,000 adjusted for inflation using the annual implicit price deflator for state and local expenditures as published by the United States Department of Commerce.

History: *2004 c 281 s 1*

CHAPTER 373 – COUNTIES; POWERS, DUTIES, PRIVILEGES

373.50 POSTPONEMENT OF ELECTION; INCLEMENT WEATHER.

Subdivision 1. **Applicability.** This section applies to a primary, special, or general election held in a county that is not held in conjunction with a state or federal election.

Subd. 2. **Postponement of election.** (a) In the event of severe or inclement weather, the county auditor may postpone an election when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. When one or more jurisdictions are holding elections in conjunction with one another, the jurisdiction that covers the largest geographic area has the authority, after consulting with the other auditors and clerks, to make the decision to postpone all of the elections. A decision to postpone an election must apply to every precinct in the jurisdiction.

(b) A decision to postpone an election must be made no later than 6:00 p.m. on the day before the election. The auditor must contact the election judges and notify local media outlets of the postponement. The auditor must also post a notice on the jurisdiction's Web site, if practicable.

(c) A postponed election must be rescheduled for the next following Tuesday after the election was originally scheduled. The date on which the postponed election will be held shall be considered the date of the election for purposes of absentee voting under chapter 203B. An election that is postponed due to weather may be postponed again if necessary under this section.

History: *2010 c 201 s 79*

CHAPTER 375 – COUNTY BOARDS

375.025 COMMISSIONER DISTRICTS.

Subdivision 1. **Standards.** The redistricting plan in use in a county shall be used until a new plan is adopted in accordance with this section. Each county shall be divided into as many districts numbered consecutively as it has members of the county board. Commissioner districts shall be bounded by town, municipal, ward, or precinct lines. Each district shall be composed of contiguous territory as regular and compact in form as practicable, depending upon the geography of the county involved and shall be as nearly equal in population as possible. No district shall vary in population more than ten percent from the average for all districts in the county, unless the result forces a voting precinct to be split. A majority of the least populous districts shall contain not less than a majority of the population of the county. A county may be redistricted by the county board after each federal census. When it appears after a federal census that the districts of the county are not in accord with the standards set forth in this subdivision, the county shall be redistricted by the county board within the times set in section 204B.135, subdivision 2. Before acting to redistrict, the county board, or a redistricting commission if one is appointed, shall publish three weeks' notice of its purpose, stating the time and place of the meeting where the matter will be considered, in the newspaper having the contract to publish the commissioners' proceedings for the county for the current year.

Subd. 2. **Voters rights.** Any qualified voter may apply to the district court of the county for a writ of mandamus (a) requiring the county to be redistricted if the county board has not redistricted the county within the time specified in subdivision 1, or (b) to revise the redistricting plan. Any application for revision of a redistricting plan filed with the county auditor that seeks to affect elections held in a year ending in two must be

filed with the district court no later than one week before the first day to file for office in the year ending in ”2”. The district court may direct the county board to show cause why it has not redistricted the county or why the redistricting plan prepared by it should not be revised. On hearing the matter it may allow the county board additional time in which to redistrict the county or to correct errors in the redistricting plan. If it appears to the court that the county board has not been sufficiently diligent in performing its redistricting duties, the court may appoint a redistricting commission to redistrict the county in accordance with the standards set forth in subdivision 1 and any other conditions the court shall deem advisable and appropriate. If a redistricting commission is appointed, the county board shall be without authority to redistrict the county.

Subd. 3. **Redistricting commission.** The redistricting commission shall be composed of not less than five nor more than nine residents of the county. No officer or employee of county or local government except notaries public shall be eligible for membership. Members of the commission shall not be eligible for election to the county board until two years after the redistricting in which they participated becomes effective. Members shall serve without pay but may be reimbursed their necessary expenses in the conduct of the business of the commission. The county board shall provide for the necessary expenses of the commission.

Subd. 4. **Redistricting plan; election following redistricting.** A redistricting plan whether prepared by the county board or the redistricting commission shall be filed in the office of the county auditor. A redistricting plan shall be effective on the 31st day after filing unless a later effective date is specified but no plan shall be effective for the next election of county commissioners unless the plan is filed with the county auditor not less than two weeks before the first date candidates may file for the office of county commissioner. One commissioner shall be elected in each district who, at the time of the election, is a resident of the district. A person elected may hold the office only while remaining a resident of the commissioner district or, after the last day to file for office during a year ending in “2”, while remaining a resident of the county. The county board or the redistricting commission shall determine the number of members of the county board who shall be elected for two-year terms and for four-year terms to provide staggered terms on the county board. Thereafter, all commissioners shall be elected for four years. When a county is redistricted, there shall be a new election of commissioners in all the districts at the next general election except that if the change made in the boundaries of a district is less than five percent of the average of all districts of the county, the commissioner in office at the time of the redistricting shall serve for the full period for which elected.

History: *1974 c 240 s 1; 1980 c 487 s 13; 1984 c 543 s 39; 1984 c 629 s 2; 1986 c 444; 1987 c 297 s 3; 1991 c 349 s 40,41; 1993 c 32 s 1; 2011 c. 18 s 8*, 9

NOTES AND DECISIONS

375.025

Fourteenth amendment prohibits substantial variation in population of election districts. *Avery v. Midland County Texas*, 390 U.S. 474, 88 S. Ct. 1114 (1968). *See also Hanlon v. Towey,* 274 Minn. 187, 142 N.W.2d 741 (1966).

County Board of Commissioners was required to meet state’s statutory standards, including equal-population and population-deviation standards, when reapportioning county commissioner districts due to population changes, even if Board’s redistricting plan met federal constitutional standards. *Fay v. St. Louis County Bd. Of Comm’rs,* 661 N.W.2d 283 (Minn. App. 2003).

In redistricting county commissioner districts, county board was required to consider equality of population. *Ziols v. Rice county Board of Comm’rs,* 661 N.W.2d 283 (Minn. App. 2003).

Basis for applying election exception is based on change in population, not land area. Op. Atty. Gen. 768-d, January 13, 1976.

375.04 TIE DETERMINED BY LOT.

If two or more persons have an equal and the highest number of votes for the office of county commissioner in a district, the auditor shall give written notice to them to attend at the auditor’s office at a time specified. The auditor shall then and there, in their presence, publicly decide by lot which shall be declared elected. The person selected shall be the commissioner from the district.

History: *(653) RL s 422; 1984 c 629 s 2; 1986 c 444*

375.08 BOARD TO FILL VACANCIES IN COUNTY OFFICES.

When a vacancy occurs in the office of county auditor, county treasurer, county recorder, sheriff, county attorney, county surveyor, or coroner, the county board shall fill it by appointment. For that purpose it shall meet at the usual place of meeting, upon one day's notice from the chair or clerk, which shall be served personally upon each member in the same manner as a district court summons. The person appointed shall give the bond and take the oath required by law, and serve the remainder of the term, and until a successor qualifies. When a vacancy occurs in an office that has a chief deputy or first assistant, the chief deputy or first assistant may perform all the duties and functions of the office until it is filled by appointment by the county board.

History: *(659) RL s 425; 1939 c 153; 1976 c 181 s 2; 1978 c 706 s 65; 1984 c 629 s 2; 1986 c 444*

375.101 VACANCY IN OFFICE OF COUNTY COMMISSIONER.

Subdivision 1. **Option for filling vacancies; special election**. (a) Except as provided in subdivision 3, a vacancy in the office of county commissioner may be filled as provided in this subdivision and subdivision 2, or as provided in subdivision 4. If the vacancy is to be filled under this subdivision and subdivision 2, it must be filled at a special election. The county board may by resolution call for a special election to be held according to the earliest of the following time schedules:

(1) not less than 120 days following the date the vacancy is declared, but no later than 12 weeks prior to the date of the next regularly scheduled primary election;

(2) concurrently with the next regularly scheduled primary election and general election; or

(3) no sooner than 120 days following the next regularly scheduled general election.

(b) The person elected at the special election shall take office immediately after receipt of the certificate of election and upon filing the bond and taking the oath of office and shall serve the remainder of the unexpired term. If the county has been reapportioned since the commencement of the term of the vacant office, the election shall be based on the district as reapportioned.

Subd. 2. **When victor seated immediately.** If a vacancy for which a special election is required occurs less than 120 days before the general election preceding the end of the term, the vacancy shall be filled by the person elected at that election for the ensuing term who shall take office immediately after receiving the certificate of election, filing the bond and taking the oath of office.

Subd. 3. **Inability or refusal to serve.** In addition to the events specified in section 351.02, a vacancy in the office of county commissioner may be declared by the county board when a commissioner is unable to serve in the office or attend board meetings for a 90-day period because of illness, or because of absence from or refusal to attend board meetings for a 90-day period. If any of the preceding conditions occurs, the county board may, after the board by resolution has declared a vacancy to exist, make an appointment to fill the vacancy at a regular or special meeting for the remainder of the unexpired term or until the ill or absent member is again able to resume duties and attend county board meetings, whichever is earlier. If the original member is again able to resume duties and attend board meetings, the board shall by resolution so determine and remove the appointed officeholder and restore the original member to office.

Subd. 4. **Vacancies of less than one year; appointment option.** Except as provided in subdivision 3, and as an alternative to the procedure provided in subdivisions 1 and 2, any other vacancy in the office of county commissioner may be filled by board appointment at a regular or special meeting. The appointment shall be evidenced by a resolution entered in the minutes and shall continue until an election is held under this subdivision. All elections to fill vacancies shall be for the unexpired term. If one year or more remains in the unexpired term, a special election must be held under subdivision 1. If less than one year remains in the unexpired term, the county board may appoint a person to fill the vacancy for the remainder of the unexpired term, unless the vacancy occurs within 90 days of the next county general election, in which case an appointment shall not be made and the vacancy must be filled at the general election. The person elected to fill

a vacancy a the general election takes office immediately in the same manner as for a special election under subdivision 1, and serves the remainder of the unexpired term and the new term for which the election was otherwise held.

Subd. 5. **County boards vacancy appointment; public hearing.** Before making an appointment to fill a vacancy under subdivision 4, the county board must hold a public hearing not more than 30 days after the vacancy occurs with public notice given in the same manner as for a special meeting of the county board. At the public hearing the board must invite public testimony from persons residing in the district in which the vacancy occurs relating to the qualifications of prospective appointees to fill the vacancy. Before making an appointment, the board also must notify public officials in the affected district on the appointment, including town board and city council members, and must enter into the record at the board meeting in which the appointment is made the names and addresses of the public officials notified. If after the public hearing, the board is unable or decides not to make an appointment under subdivision 4, it must hold a special election under subdivision 1, but the time period in which the election must be held begins to run from the date of the public hearing.

History: *1975 c 280 s 2; 1984 c 629 s 2; 1996 c 422 s 1; 2007 c 52 s 1, 2; 2008 c 246 s 1, 2; 2010 c 201 s 80, 81*

375.20 BALLOT QUESTIONS.

If the county board may do an act, incur a debt, appropriate money for a purpose, or exercise any other power or authority, only if authorized by a vote of the people, the question may be submitted at a special or general election, by a resolution specifying the matter or question to be voted upon. If the question is to authorize the appropriation of money, creation of a debt, or levy of a tax, it shall state the amount. Notice of the election shall be given as in the case of special elections. If the question submitted is adopted, the board shall pass an appropriate resolution to carry it into effect. In the election the form of the ballot shall be: "Shall (here state the substance of the resolution to be submitted)?, Yes ..... No.....,". The county board may call a special county election upon a question to be held within 74 days after a resolution to that effect is adopted by the county board. Upon the adoption of the resolution the county auditor shall post and publish notices of the election, as required by section 204D.22, subdivisions 2 and 3. The election shall be conducted and the returns canvassed in the manner prescribed by sections 204D.20 to 204D.27, so far as practicable.

History: *(786) RL s 450; 1931 c 384; 1961 c 560 s 32; 1975 c 5 s 133; 1981 c 29 art 7 s 34; 1984 c 629 s 2; 1986 c 444; 2013 c 131 art 2 s 79*

NOTES AND DECISIONS

367.20

Special election may be held for approval of county hospital. Op. Atty. Gen. 1001-b, May 24, 1991.

Questions of moving county seat and questions of bond sale to defray costs could be presented as separate questions on same ballot. Op. Atty. Gen. 125-a-19, August 27, 1971.

CHAPTER 375A – OPTIONAL FORMS OF COUNTY GOVERNMENT

375A.12 HOW, WHEN TO ADOPT, ABANDON OPTIONS.

Subdivision 1. **This section governs; exceptions.** Except as otherwise provided in sections 375A.01 to 375A.13 the options provided in sections 375A.01 to 375A.10 shall be adopted in the manner and at the times specified in this section.

Subd. 2. **Form of government options.** The options provided in sections 375A.01 to 375A.10 shall be adopted in any county only after an affirmative vote of the voters in the county on the question of the adoption of the option. Except as provided in section 375A.01, only one such plan may be submitted at any one election.

Subd. 3. **Referenda; procedure.** Any referendum required to be held as a condition of the adoption of an option may be initiated by a resolution by the county board, a recommendation of a county government study commission or a petition signed by voters equal in number to five percent of the electors voting at the last previous election for the office of governor requesting that a referendum be held on the adoption of one or more of the options provided in sections 375A.01 to 375A.10. If a study commission has been established, a

referendum on an option may not be initiated by a resolution of the county board or a petition of voters until after the study commission has completed its study provided for in section 375A.13, subdivision 3.

Subd. 4. **Conduct of election.** When a referendum is required to be held, the county auditor shall conduct the referendum following the procedures provided in section 375.20, as far as practicable, and not inconsistent with sections 375A.01 to 375A.10. The referendum may be held at any primary, general or special election held not less than 30 days before the first day on which candidates may file for county office.

Subd. 5. **Form of ballot.** In the submission of any proposal pursuant to subdivision 2 the ballot shall be substantially in the following form:

"Shall the office(s) of…… be appointed rather than elected at the expiration of the(ir) current terms(s)?"

Subd. 6. **Optional forms; abandonment.** Any optional plan or other option provided for in sections 375A.01 to 375A.13 may be abandoned by the same procedures required for the adoption of the optional plan or the option. Except as otherwise provided in sections 375A.01 to 375A.13 any plan or option shall remain in effect until abandoned or another plan or option is adopted, but a plan or option shall remain in effect not less than three years after its adoption before proceedings to abandon may be commenced, except that options consistent with the at-large chair plan and the administrator plan may be adopted at any time after either the at-large chair plan or the administrator plan has been adopted.

History: *1973 c 542 s 12; 1986 c 399 art 1 s 25,26; 1986 c 416 s 7,8; 1986 c 444; 1998 c 349 s 1; 2014 c 264 s 28*

NOTES AND DECISIONS

375A.12

County board could not consolidate offices of auditor and treasurer without voter approval. Op. Atty. Gen. 125a-69, May 5, 1981.

CHAPTER 382 – COUNTY OFFICERS

382.10 BONDS RECORDED.

Official bonds of county officers when approved by the county board, and their oaths of office and the bonds and oaths of their deputies, except county recorder, shall be filed and recorded in the office of the county recorder.

History: *(981) RL s 608; 1909 c 115 s 1; 1973 c 524 s 2; 1976 c 181 s 2*

CHAPTER 383B – HENNEPIN COUNTY

383B.151 FINANCIAL INTEREST FORBIDDEN.

No official, person authorized to make purchases, or county employee shall be financially interested, either directly or indirectly, in any contract or purchase order for any goods, materials, supplies, equipment or contracted service furnished to or used by any department, board, commission or agency of the county government. No public official, person authorized to make purchases, or county employee may accept or receive, directly or indirectly from any person, firm or corporation to which any contract or purchase order may be awarded any money or anything of value whatsoever or any promise, obligation or contract for future reward or compensation, except as authorized under section 10A.071, subdivision 3, or 471.895, subdivision 3. Any violation of the provisions of this section shall be a gross misdemeanor.

History: *1979 c 198 art 4 s 11; 2005 c 156 art 6 s 64*

CHAPTER 387 – SHERIFF

387.01 QUALIFICATIONS; BOND; OATH.

Every person who files as a candidate for county sheriff must be licensed as a peace officer in this state. Every person appointed to the office of sheriff must become licensed as a peace officer before entering upon the duties of the office. Before entering upon duties every sheriff shall give bond to the state in a sum not less than $25,000 in counties whose population exceeds 150,000, and not less than $5,000 in all other counties, to be approved by the county board, conditioned that the sheriff will well and faithfully in all things perform and

execute the duties of office, without fraud, deceit, or oppression, which bond, with an oath of office, shall be filed for record with the county recorder.

History: *(905) RL s 547; 1973 c 668 s 1; 1976 c 181 s 2; 1986 c 444; 1997 c 147 s 76*

NOTES AND DECISIONS

387.01

Statute requiring sheriff to be licensed peace officer was valid. *Elbers v. Growe,* 502 N.W.2d 810 (Minn. Ct. App. 1993).

CHAPTER 388 – COUNTY ATTORNEY

388.01 ELECTION; QUALIFICATIONS; TERM.

There shall be elected in each county a county attorney who shall be licensed to practice law in this state, and whose term of office shall be four years and until a successor qualifies. Before entering upon duties the county attorney shall take an oath. The oath must be filed for record with the county recorder.

History: *(924) RL s 563; 1943 c 355 s 1; 1959 c 189 s 1; 1965 c 749 s 1; 1973 c 524 s 6; 1976 c 181 s 2; 1986 c 444; 1991 c 326 s 20; 1997 c 147 s 77*

CHAPTER 410 CLASSIFICATION; CHARTERS (CITIES, ORGANIZATIONS)

410.01 CITIES, CLASSES.

Cities are hereby divided, for legislative purposes, into classes as follows:

First class — Those having more than 100,000 inhabitants provided that once a city is defined to be of the first class, it shall not be reclassified unless its population decreases by 25 percent from the census figures which last qualified the city for inclusion in the class;

Second class — Those having more than 20,000 and not more than 100,000 inhabitants;

Third class — Those having more than 10,000 and not more than 20,000 inhabitants, and

Fourth class — Those having not more than 10,000 inhabitants.

Changes in classification resulting from any future national census shall take effect upon the filing of certified copies of the census in the office of the secretary of state as provided in section 600.18. Meanwhile the council or other governing body shall take measures for the election of proper officials and for dividing the city into wards, if necessary, and otherwise prepare for the coming change.

History: *(1265) RL s 746; 1951 c 348 s 1; 1959 c 510 s 1; 1978 c 489 s 1*

410.015 DEFINITIONS RELATING TO CITIES.

The term "statutory city" means any city which has not adopted a home rule charter pursuant to the constitution and laws; the words "home rule charter city" mean any city which has adopted such a charter. In any law adopted after July 1, 1976, the word "city" when used without further description extending the application of the term to home rule charter cities means statutory cities only.

History: *1976 c 44 s 19; 1976 c 155 s 3*

410.10 CHARTER ELECTION.

Subdivision 1. **Timing; procedure; recall.** Upon delivery of such draft, the council or other governing body of the city shall cause the proposed charter to be submitted at the next general election thereafter occurring in the city within six months after the delivery of such draft, and if there is no general city election occurring in the city within six months after the delivery of such draft, then the council or other governing body of the city shall cause the proposed charter to be submitted at a special election to be held within 90 days after the delivery of such draft. The council or other governing body may call a special election for that purpose only at any time. If the election is held at the same time with the general election, the voting places and election officers shall be the same for both elections. At any time before the council has fixed the date of the election upon the proposed charter, the charter commission may recall it for further action; and the council may authorize recall of the charter by the commission at any later date prior to the first publication of the proposed charter.

Subd. 2. **Election notice; publication.** The notice of election shall contain the complete charter and shall be published once a week for two successive weeks in the official newspaper of the city, or if there be none, in a legal newspaper of general circulation in the city. In every city of the first class, the publication shall be made in a newspaper having an aggregate regular paid circulation of at least 25,000 copies.

The governing body may in addition thereto publish the notice in any other legal newspaper published in the city.

Subd. 3. **Ballot words, form.** The ballot shall bear the printed words, "Shall the proposed new charter be adopted? Yes.... No....," with a square after each of the last two words, in which the voter may place a cross to express a choice. If any part of such charter be submitted in the alternative, the ballot shall be so printed as to permit the voter to indicate a preference in any instance by inserting a cross in like manner.

Subd. 4. **Rejection; later proposals.** If any charter so submitted be rejected the charter commission may propose others from time to time until one is adopted.

History: *(1284) RL s 754; 1909 c 214 s 1; 1959 c 305 s 5; 1961 c 608 s 4; 1973 c 123 art 5 s 7; 1986 c 444*

NOTES AND DECISIONS

410.10

Council is not required to submit manifestly unconstitutional proposal to voters. *Davies v. City of Minneapolis*, 316 N.W.2d 498 (Minn. 1982).

Mandamus will lie to force council to call election on charter or amendment. *State ex rel. Lowe v. Barlow*, 129 Minn. 181, 151 N.W. 970 (1915).

410.12 AMENDMENTS.

Subdivision 1. **Proposals.** The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 1a. **Alternative methods of charter amendment.** A home rule charter may be amended only by following one of the alternative methods of amendment provided in subdivisions 1 to 7.

Subd. 2. **Petitions.** The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. A petition must contain each petitioner's signature in ink or indelible pencil and must indicate after the signature the place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of .....)
) ss.
County of .....)

..... being duly sworn, deposes and says that the affiant, and the affiant only, personally circulated the foregoing paper, that all the signatures appended thereto were made in the affiant's presence, and that the affiant believes them to be the genuine signatures of the persons whose names they purport to be.

Signed .....

(Signature of Circulator)

Subscribed and sworn to before me this ..... day of ....

Notary Public (or other officer) authorized to administer oaths

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

Subd. 3. **May be assembled as one petition.** All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completing an examination of the petition, the city clerk shall certify the result of the examination to the council. If the city clerk shall certify that the petition is insufficient the city clerk shall set forth in a certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of the findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if the certificate shall show the petition still to be insufficient, the city clerk shall file it in the city clerk's office and notify the committee of the petitioners of the findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subd. 4. **Election.** Amendments shall be submitted to the qualified voters at a general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment.

Subd. 5. **Amendments proposed by council.** The council of any city having a home rule charter may propose charter amendments to the voters by ordinance. Any ordinance proposing such an amendment shall be submitted to the charter commission. Within 60 days thereafter, the charter commission shall review the proposed amendment but before the expiration of such period the commission may extend the time for review for an additional 90 days by filing with the city clerk its resolution determining that an additional time for review is needed. After reviewing the proposed amendment, the charter commission shall approve or reject the proposed amendment or suggest a substitute amendment. The commission shall promptly notify the council of the action taken. On notification of the charter commission's action, the council may submit to the people, in the same manner as provided in subdivision 4, the amendment originally proposed by it or the substitute amendment proposed by the charter commission. The amendment shall become effective only when approved by the voters as provided in subdivision 4. If so approved it shall be filed in the same manner as other amendments. Nothing in this subdivision precludes the charter commission from proposing charter amendments in the manner provided by subdivision 1.

Subd. 6. **Amendments, cities of the fourth class.** The council of a city of the fourth class having a home rule charter may propose charter amendments by ordinance without submission to the charter commission. Such ordinance, if enacted, shall be adopted by at least a four-fifths vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. The council shall submit the proposed amendment to the people in the manner provided in subdivision 4, but not sooner than three months after the passage of the ordinance. The amendment becomes effective only when approved by the voters as provided in subdivision 4. If so approved, it shall be filed in the same manner as other amendments.

Subd. 7. **Amendment by ordinance.** Upon recommendation of the charter commission the city council may enact a charter amendment by ordinance. Such an ordinance, if enacted, shall be adopted by the council by an affirmative vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. An ordinance amending a city charter shall not become effective until 90 days after passage and publication or at such later date as is fixed in the ordinance. Within 60 days after passage and publication of such an ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition must be signed by registered voters equal in number to at least five percent of the registered voters in the city or 2,000, whichever is less. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by the voters as in the case of charter amendments submitted by the charter commission, the council, or by petition of the voters, except that the council may submit the ordinance at any general or special election held at least 60 days after submission of the petition, or it may reconsider its action in adopting the ordinance. As far as practicable the elements of subdivisions 1 to 3 apply to petitions submitted under this section, to an ordinance amending a charter, and to the filing of such ordinance when approved by the voters.

History: *(1286) RL s 756; 1907 c 199 s 1; 1911 c 343 s 1; 1939 c 292 s 1; 1943 c 227 s 1; 1949 c 122 s 1; 1959 c 305 s 3,4; 1961 c 608 s 5,6; 1969 c 1027 s 3; 1973 c 503 s 1-4; 1986 c 444; 1998 c 254 art 1 s 107; 1999 c 132 s 42; 2008 c 331 s 7; 2010 c 184 s 42*

NOTES AND DECISIONS

410.12

It is absolute duty of city council to submit properly proposed charter amendments for vote unless it is apparent they are not constitutional. *Davies v. City of Minneapolis*, 316 N.W.2d 498 (Minn. 1982); *State v. Beach*, 155 Minn. 33, 191 N.W. 1012 (1912).

Blank ballots would not be considered in computing results of charter amendment election. *Godward v. City of Minneapolis*, 190 Minn. 51, 250 N.W. 719 (1933); Op. Atty. Gen. 58-I, October 20, 1966.

Ballot could not provide that only voters who voted for first proposed amendment could vote on second and third proposals. Op. Atty. Gen. 28-a-5, August 7, 1970.

Amendment to several charter sections relating one issue may be submitted to voters as one general question. Op. Atty. Gen. 58-I, November 16, 1951.

City council has no veto power over proposed amendment. Op. Atty. Gen. 48-c, September 22, 1951.

410.121 SALE OF INTOXICATING LIQUOR OR WINE; FAVORABLE VOTE.

If the charter which is to be amended or replaced contains provisions which prohibit the sale of intoxicating liquor or wine in certain areas, such provisions shall not be amended or removed unless 55 percent of the votes cast on the proposition shall be in favor thereof.

History: *1969 c 1027 s 2*

410.191 CITY COUNCIL MEMBERS; CITY EMPLOYMENT.

Notwithstanding any charter provision, neither the mayor nor any city council member may be employed by the city. For purposes of this section, "employed" refers to full-time permanent employment as defined by the city's employment policy.

History: *2010 c 206 s 1*

410.20 RECALL AND REMOVAL OF OFFICERS; ORDINANCES.

Such commission may also provide for the recall of any elective municipal officer and for removal of the officer by vote of the electors of such city, and may also provide for submitting ordinances to the council by petition of the electors of such city and for the repeal of ordinances in like manner; and may also provide that no ordinance passed by the council, except an emergency ordinance, shall take effect within a certain time after its passage, and that if, during such time, a petition be made by a certain percentage of the electors of the city protesting against the passage of such ordinance until the same be voted on at an election held for such purpose, and then such ordinance to take effect or not as determined by such vote.

History: *(1294) 1909 c 170 s 5; 1959 c 305 s 5; 1986 c 444*

NOTES AND DECISIONS

410.20

Proposed charter amendment to allow referendum on "any action" of council was invalid. *Housing and Redev. Auth. of Minneapolis v. City of Minneapolis*, 293 Minn. 227, 198 N.W.2d 531 (1972).

Power of referendum is limited to acts of legislative character involving permanent or uniform rules of law. *Hanson v. City of Granite Falls*, 529 N.W.2d 485 (Minn. Ct. App. 1995).

410.21 APPLICATION OF GENERAL ELECTION LAWS.

The provisions of any charter of any such city adopted pursuant to this chapter shall be valid and shall control as to nominations, primary elections, and elections for municipal offices, notwithstanding that such charter provisions may be inconsistent with any general law relating thereto, and such general laws shall apply only in so far as consistent with such charter.

History: *(1295) 1909 c 170 s 6*

CHAPTER 412 – STATUTORY CITIES

412.02 CITY ELECTIONS; OFFICERS, TERMS, VACANCIES; CITY EMPLOYEES.

Subdivision 1. **Officers elected.** The following officers shall be elected for the terms and in the years shown and in the cities described in the table.

Officer	Number of Years in Term	Year Elected	City Elected
Mayor	Two or four	Every two years except where four years is otherwise provided pursuant to statute	Every statutory city
Clerk	Four	Every four years in year when treasurer is not elected	Every statutory standard plan city in which there is no clerk-treasurer
Treasurer	Four	Every four years in year in which clerk is not elected	Every statutory standard plan city in which there is no clerk-treasurer
Clerk-Treasurer	Four	Every four years in year in which one council member is elected	Every statutory standard plan city where such office exists pursuant to subdivision 3

Three Council members	Four	Two every four years and one in alternative election	Every statutory standard plan city with a council of five
Four Council members	Four	Two each election	Every statutory optional plan city with a council of five
Five Council members	Four	Three every four years and two in alternative election	Every statutory standard plan city with a council of seven
Six Council members	Four	Three each election	Every statutory optional plan city with a council of seven

Subd. 1a. **City council; city employees.** Neither the mayor nor any city council member may be employed by the city. For purposes of this subdivision, "employed" refers to full-time permanent employment as defined by the city's employment policy.

Subd. 2. **Term.** Terms of elective officers shall commence on the first Monday in January following the election at which the officer is chosen. All officers chosen and qualified as such shall hold office until their successors qualify.

Subd. 2a. **Vacancy.** Except as otherwise provided in subdivision 2b, a vacancy in an office shall be filled by council appointment until an election is held as provided in this subdivision. In case of a tie vote in the council, the mayor shall make the appointment. If the vacancy occurs before the first day to file affidavits of candidacy for the next regular city election and more than two years remain in the unexpired term, a special election shall be held at or before the next regular city election and the appointed person shall serve until the qualification of a successor elected at a special election to fill the unexpired portion of the term. If the vacancy occurs on or after the first day to file affidavits of candidacy for the regular city election or when less than two years remain in the unexpired term, there need not be a special election to fill the vacancy and the appointed person shall serve until the qualification of a successor. The council must specify by ordinance under what circumstances it will hold a special election to fill a vacancy other than a special election held at the same time as the regular city election.

Subd. 2b. **Inability or refusal to serve.** A vacancy in the office of mayor or council member may be declared by the council when the officeholder is unable to serve in the office or attend council meetings for a 90-day period because of illness, or because of absence from or refusal to attend council meetings for a 90-day period. If any of the preceding conditions occurs, the council may, after it has by resolution declared a vacancy to exist, fill the vacancy at a regular or special council meeting for the remainder of the unexpired term, or until the person is again able to resume duties and attend council meetings, whichever is earlier. When the person is again able to resume duties and attend council meetings, the council shall by resolution remove the temporary officeholder and restore the original officeholder.

Subd. 3. **Clerk, treasurer combined; audit standards.** In cities operating under the standard plan of government the council may by ordinance adopted at least 60 days before the next regular city election combine the offices of clerk and treasurer in the office of clerk-treasurer, but such an ordinance shall not be effective until the expiration of the term of the incumbent treasurer or when an earlier vacancy occurs. After the effective date of the ordinance, the duties of the treasurer and deputy treasurer as prescribed by this chapter shall be performed by the clerk-treasurer or a duly appointed deputy. he offices of clerk and treasurer may be reestablished by ordinance. If the offices of clerk and treasurer are combined as provided by this section

and the city's annual revenue for all governmental and enterprise funds combined is more than $100,000, the council shall provide for an annual audit of the city's financial affairs by the state auditor or a public accountant in accordance with minimum auditing procedures prescribed by the state auditor. If the offices of clerk and treasurer are combined and the city's annual revenue for all governmental and enterprise funds combined is $100,000 or less, the council shall provide for an audit of the city's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor at least once every five years, which audit shall be for a one-year period to be determined at random by the person conducting the audit.

Subd. 4. [Repealed, 1973 c 34 s 7]

Subd. 5. [Repealed, 1983 c 359 s 151]

Subd. 6. **Council increased or reduced.** The council may by ordinance adopted at least 60 days before the next regular city election submit to the voters of the city the question of whether the city council should be increased or reduced to seven or five members. The ordinance shall include a schedule of elections and terms to accomplish the change. The proposal shall be voted on at the next city general election and, if approved by a majority of those voting on the question, go into effect in accordance with the schedule.

History: *1959 c 675 art 6 s 30; 1961 c 230 s 1; 1963 c 799 s 5; 1963 c 811 s 1; 1965 c 417 s 1-4; 1967 c 289 s 2; 1973 c 34 s 1; 1973 c 123 art 2 s 1 subd 2; art 2 s 2; 1973 c 492 s 7; 1974 c 337 s 5; 1976 c 2 s 131; 1976 c 44 s 21; 1981 c 172 s 3,4; 1983 c 359 s 62; 1986 c 444; 1989 c 30 s 1,2; 1995 c 27 s 2; 1996 c 422 s 2,3; 1999 c 75 a 1; 1999 c 132 s 43; 2010 c 206 s 2*

NOTES AND DECISIONS

412.02

Person elected to fill remainder of unexpired term may assume office upon receipt of election certificate. Op. Atty. Gen. 471-m, November 23, 1999.

Majority of councilmen cannot resign leaving council powerless to transact business. They must hold office until their successors are chosen and qualify. Op. Atty. Gen. 47J, April 17, 1967.

Upon a finding that a village trustee had ceased to be an inhabitant of the village, the council was authorized to declare a vacancy and fill each vacancy by appointment pursuant to this section. Op. Atty. Gen. 471M, February 23, 1967.

A vacancy in office of the treasurer must be filled by village council although it is to be combined with the office of clerk at a later date. Op. Atty. Gen. 358E-7, March 5, 1965.

"Lame Duck" trustee can vote on appointment filling vacancy. Majority of those voting carry appointment motion. Op. Atty. Gen. 471M, December 29, 1958.

Trustee who has ceased to be an inhabitant of village does not have right to maintain such office, and he has no right to vote for a successor. Op. Atty. Gen. 471M, June 6, 1958.

Where nonresident received highest number of votes for office of treasurer, a vacancy occurs which should be filled by appointment. Op. Atty. Gen., December 8, 1947.

A vacancy does not occur because of absence in military service. Op. Atty. Gen., September 4, 1942.

412.022 COUNCIL MAY PROVIDE FOUR-YEAR TERM.

Subdivision 1. **Procedure.** The council may, by ordinance, establish a four-year term or reestablish a two-year term for the office of mayor commencing with the ensuing term, except that in a standard plan city which establishes a four-year term for mayor, the first mayor to serve a four-year term shall be elected at the first election when the clerk is not to be elected. In any case the ordinance shall not affect the term of the mayor elected in the year in which it is adopted unless it is adopted at least four weeks before the closing date for the filing of affidavits of candidacy for such election.

Subd. 2. [Repealed, 1976 c 44 s 70]

Subd. 3. [Repealed, 1976 c 44 s 70]

History: *1967 c 289 s 16; 1969 c 238 s 1; 1973 c 34 s 3; 1973 c 123 art 2 s 1 subd 2; 1976 c 44 s 22; 1984 c 655 art 1 s 64*

412.541 OPTIONAL PLANS.

Subdivision 1. **Optional Plan A.** Any statutory city may provide for the appointment of its clerk and treasurer, or clerk-treasurer and the election of an additional council member as hereinafter provided in this chapter. These departures from the standard form of government are referred to as hereafter as Optional Plan A.

Subd. 2. **Optional Plan B.** Any statutory city of more than 1,000 population may provide for the council-manager plan of government hereinafter provided in this chapter and referred to as Optional Plan B.

Subd. 3 [Repealed, 1967 c 289 s 18]

Subd. 4. **Adoption or abandonment; standard form.** Any one of such plans may be adopted or abandoned in a city by following the procedures set forth in section 412.551. Until the adoption of an optional plan, and except as provided in section 412.572, every city shall operate under the standard form of government earlier provided in this chapter under which the voters elect the treasurer, if there is one, and a council consisting of a mayor, three to five council members, and the clerk or clerk-treasurer.

History: *1949 c 119 s 66; 1965 c 417 s 6, 7; 1967 c 289 s 8, 9; 1973 c 123 art 2 s 1 subd 2; 1986 c 444; 1989 c 30 s 6*

412.551 ELECTION ON OPTIONAL PLAN.

Subd. 2. **Form of ballot.** The proposals for the adoption of optional plans shall be stated on the ballot substantially as follows:

"Shall Optional Plan A, modifying the standard plan of a city government by providing for the appointment by the council of the clerk and treasurer be adopted for the government of the city?"

"Shall Optional Plan B, providing for the council-manager form of city government, be adopted for the government of the city?"

If the city has combined the offices of clerk and treasurer, the word "clerk-treasurer" shall be substituted for the words "clerk and treasurer" in the question on the ballot on adoption of Optional Plan A. In any of these cases, the question shall be followed by the words, "Yes" and "No" with an oval or similar target shape to the left of each word so that the voter may indicate by a mark either a negative or affirmative vote.

History: *1949 c 119 s 67-71; 1965 c 417 s 8; 1967 c 289 s 10; 1973 c 123 art 2 s 1 subd 2; 1986 c 444; 2015 c 70 art 1 s 60*

CHAPTER 414 – MUNICIPAL BOUNDARY ADJUSTMENTS

414.041 CONSOLIDATION OF MUNICIPALITIES.

Subdivision 1. **Initiating the proceeding.** (a) Two or more municipalities may be the subject of a single proceeding provided that each municipality abuts at least one of the included municipalities.

(b) The proceeding shall be initiated in one of the following ways:

(1) submitting to the director a resolution of the city council of each affected municipality;

(2) submitting to the director a petition signed by a number of residents eligible to vote equivalent to five percent or more of the resident voters of a municipality who voted for governor at the last general election; or

(3) by the director.

(c) The petition or resolution shall set forth the following information about each included municipality: name, description of boundaries, the reasons for requesting the consolidation and the names of all parties entitled to mailed notice under section 414.09.

(d) The party initiating the proceeding shall serve copies of the petition or resolution on all of the included municipalities.

(Text of subds. 2 to 8 not included)

History*: 2004 c 293 art 2 s 47*

NOTES AND DECISIONS

414.041

Voter approval of municipal consolidation requires the affirmative vote of the majority of persons voting on the issue of consolidation, not a majority vote of all persons voting at the general election. Op. Atty. Gen. 484e-1, October 5, 2000.

CHAPTER 447 – HOSPITALS, WELFARE ACTIVITIES

447.32 OFFICERS AND ELECTIONS.

Subdivision 1. **Terms of office.** Each hospital district shall be governed by a hospital board composed of one member elected from each city and town in the district and one member elected at large. A member's term of office is four years commencing on the first Monday in January and until a successor qualifies. At the first election, however, members must be elected for terms set by the governing body calling the election, so that half the terms, as nearly as may be, expire on the first Monday in January of the next odd-numbered year and the remaining terms expire two years from that date. After that, before a member's term expires, a new member shall be elected for a term of four years from the expiration date.

If a member dies, resigns, fails to qualify, or moves from the hospital district, a successor may be appointed by a majority of the remaining members of the board. The successor shall hold office until the first Monday in January after the next regular hospital district election. At the election a successor must be elected to fill the unexpired term.

When an additional city or town is annexed to the district, in accordance with section 447.36, its governing body shall by resolution appoint a member to the board. The member shall hold office until the first Monday in January after the next regular hospital district election. At the election a successor must be elected for a term of either two or four years, to be set by the hospital board so that the number of members of the board whose terms expire in any later year will not exceed one-half of the members plus one.

Subd. 2. **Elections.** Except as provided in this chapter, the Minnesota Election Law applies to hospital district elections, as far as practicable. Regular elections must be held in each hospital district at the same time, in the same election precincts, and at the same polling places as general elections of state and county officers. It may establish the whole district as a single election precinct or establish two or more different election precincts and polling places for the elections. If there is more than one precinct, the boundaries of the election precincts and the locations of the polling places must be defined in the notice of election, either in full or by reference to a description or map on file in the office of the clerk.

Special elections may be called by the hospital board to vote on any matter required by law to be submitted to the voters. A special election may not be conducted either during the 56 days before or the 56 days after a regularly scheduled primary or general election, conducted wholly or partially within the hospital district. Special elections must be held within the election precinct or precincts and at the polling place or places designated by the board. In the case of the first election of officers of a new district, precincts and polling places must be set by the governing body of the most populous city or town included in the district.

Advisory ballots may be submitted by the hospital board on any question it wishes, concerning the affairs of the district, but only at a regular election or at a special election required for another purpose.

Subd. 3. **Election notices.** At least two weeks before the first day to file affidavits of candidacy, the clerk of the district shall publish a notice stating the first and last day on which affidavits of candidacy may be filed, the places for filing the affidavits and the closing time of the last day for filing. The clerk shall post a similar notice in at least one conspicuous place in each city and town in the district at least ten days before the first day to file affidavits of candidacy.

At least 74 days prior to every hospital district election, the hospital district clerk shall provide a written notice to the county auditor of each county in which the hospital district is located. The notice must include the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. The county auditor shall immediately provide a notice to the secretary of state in a manner and including information prescribed by the secretary of state.

The notice of each election must be posted in at least one public and conspicuous place within each city and town included in the district at least two weeks before the election. It must be published in the official newspaper of the district or, if a paper has not been designated, in a legal newspaper having general circulation within the district, at least two weeks before the election. Failure to give notice does not invalidate the election of an officer of the district. A voter may contest a hospital district election in accordance with chapter 209. Chapter 209 applies to hospital district elections.

Subd. 4. **Candidates; ballots; certifying election.** A person who wants to be a candidate for the hospital board shall file an affidavit of candidacy for the election either as member at large or as a member representing the city or town where the candidate resides. The affidavit of candidacy must be filed with the city or town clerk not more than 98 days nor less than 84 days before the first Tuesday after the first Monday in November of the year in which the general election is held. The city or town clerk must forward the affidavits of candidacy to the clerk of the hospital district or, for the first election, the clerk of the most populous city or town immediately after the last day of the filing period. A candidate may withdraw from the election by filing an affidavit of withdrawal with the clerk of the district no later than 5:00 p.m. two days after the last day to file affidavits of candidacy.

Voting must be by secret ballot. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers. Ballots must be prepared as provided in the rules of the secretary of state. The ballots must be marked and initialed by at least two judges as official ballots and used exclusively at the election. Any proposition to be voted on may be printed on the ballot provided for the election of officers. The hospital board may also authorize the use of voting systems subject to chapter 206. Enough election judges may be appointed to receive the votes at each polling place. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

After canvassing the election, the board shall issue a certificate of election to the candidate who received the largest number of votes cast for each office. The clerk shall deliver the certificate to the person entitled to it in person or by certified mail. Each person certified shall file an acceptance and oath of office in writing with the clerk within 30 days after the date of delivery or mailing of the certificate. The board may fill any office as provided in subdivision 1 if the person elected fails to qualify within 30 days, but qualification is effective if made before the board acts to fill the vacancy.

Subd. 5. **Board meetings.** Regular meetings of the hospital board must be held at least once a month, at a time and place the board sets by resolution. A hospital board which no longer operates a district hospital shall meet annually, or more frequently as determined by the board. Special meetings may be held:

(1) at any time upon the call of the chair or of any two other members;

(2) upon written notice mailed to each member three days before the meeting;

(3) upon other notice as the board by resolution may provide; or

(4) without notice if each member is present or files with the clerk a written consent to holding the meeting. The consent may be filed before or after the meeting. Any action within the authority of the board may be taken by the vote of a majority of the members present at a regular or adjourned regular meeting or at a duly called special meeting, if a quorum is present. A majority of all the members of the board constitutes a quorum, but a lesser number may meet and adjourn from time to time and compel the attendance of absent members.

Subd. 6. **Officers' election.** At its first regular meeting after each regular election, the board shall elect one of their number as chair. They shall also select a clerk and treasurer who may be members of the board or others. The chair, clerk, and treasurer shall hold office at the pleasure of the board, subject to the terms of any contract of employment that the board may enter into with the clerk or treasurer.

Subd. 7. **Officers' duties.** The chair shall preside at all meetings of the board, shall sign orders upon the treasurer for claims allowed by the board, and shall perform all duties usually incumbent upon a presiding officer. The clerk shall record the minutes of all meetings of the board, shall countersign all orders upon the treasurer, and shall be the custodian of district books and records. The treasurer shall be the custodian of all money received by the district, and shall pay out money only on orders signed by the chair and clerk. Each order must state the nature of the claim for which it is issued, the name of the payee, and the fund on which it is drawn. It may be drawn so that when signed by the treasurer in an appropriate place it becomes a check on the depository of funds of the hospital district. In case of absence, inability, or refusal of the chair, clerk, or treasurer to execute and disburse orders in payment of a claim duly allowed by the hospital board, the board may declare any of their offices vacant and fill them by appointment. The board may also appoint a deputy to perform the functions of the officers, subject to the officers' supervision and control.

Subd. 8. **Compensation.** The members of the hospital board shall receive the compensation fixed by the board. Each board member may also be reimbursed for actual and necessary expenses incurred in the performance of official duties as provided for state employees, except that mileage must be compensated under section 471.665, subdivision 1.

Subd. 9. **Liability for damages.** Except as otherwise provided in this subdivision, no person who serves without compensation as a member of the board of a hospital district created or organized under sections 447.31 to 447.37 shall be held civilly liable for an act or omission by that person if the act or omission was in good faith, was within the scope of the person's responsibilities as a member of the board and did not constitute willful or reckless misconduct. This subdivision does not apply to:

(1) an action or proceeding brought by the attorney general for a breach of a fiduciary duty as a director;

(2) a cause of action to the extent it is based on federal law; or

(3) a cause of action based on the board member's express contractual obligation.

Nothing in this subdivision shall be construed to limit the liability of a member of the board for physical injury to the person of another or for wrongful death which is personally and directly caused by the board member.

For purposes of this subdivision the term "compensation" means anything of value received for services rendered, except:

(1) reimbursement for expenses actually incurred;

(2) a per diem in an amount not to exceed the per diem authorized for state advisory councils and committees pursuant to section 15.059, subdivision 3; or

(3) payment by the hospital district of insurance premiums on behalf of a member of the board.

History: *1959 c 570 s 2; 1965 c 51 s 76,77; 1971 c 338 s 1; 1973 c 123 art 5 s 7; 1978 c 674 s 60; 1979 c 210 s 1,2; 1986 c 444; 1987 c 229 art 10 s 1; 1987 c 326 s 3; 1991 c 227 s 25-27; 1995 c 207 art 9 s 50; 1999 c 132 s 44; 2000 c 467 s 33, 34; 2004 c 293 art 2 s 48,49;2005 c 156 art 6 s 65; 2010 c184 s 44; 2013 c 131 art 2 s 80-82*

NOTES AND DECISIONS

447.32

Candidates not elected at large may be voted on only by voters in unit to be represented. Op. Atty. Gen. 1001-k, August 31, 1961.

CHAPTER 471 – MUNICIPAL RIGHTS, POWERS, DUTIES

471.46 VACANCIES; PERSONS INELIGIBLE TO APPOINTMENT.

No county, city, town or school district officer shall be appointed to fill a vacancy in any elective office if the officer has the power, either alone or as a member of a board, to make the appointment; and the ineligibility shall not be affected by resignation before such appointment is made. This section shall not prevent the appointment of a member of a city council to the office of mayor or clerk, but in that case the member shall not vote in the appointment.

History: *(254-49) 1939 c 249; 1943 c 346 s 1; 1959 c 422 s 1; 1973 c 123 art 5 s 7; 1986 c 444*

471.87 PUBLIC OFFICERS, INTEREST IN CONTRACT; PENALTY

Except as authorized in section 123B.195 or 471.88, a public officer who is authorized to take part in any manner in making any sale, lease, or contract in official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially therefrom. Every public officer who violates this provision is guilty of a gross misdemeanor.

History: *1951 c 379 s 1; 1955 c 41 s 1; 1986 c 444; 2015 c 21 art 1 s 77*

471.895 CERTAIN GIFTS BY INTERESTED PERSONS PROHIBITED.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Gift" has the meaning given it in section 10A.071, subdivision 1.

(c) "Interested person" means a person or a representative of a person or association that has a direct financial interest in a decision that a local official is authorized to make.

(d) "Local official" means:

(1) an elected or appointed official of a county or city or of an agency, authority, or instrumentality of a county or city; and

(2) an elected or appointed member of a school board, a school superintendent, a school principal, or a district school officer of any independent school district.

Subd. 2. **Prohibition.** An interested person may not give a gift or request another to give a gift to a local official. A local official may not accept a gift from an interested person.

Subd. 3. **Exceptions.** (a) The prohibitions in this section do not apply if the gift is:

(1) a contribution as defined in section 211A.01, subdivision 5;

(2) services to assist an official in the performance of official duties, including but not limited to providing advice, consultation, information, and communication in connection with legislation, and services to constituents;

(3) services of insignificant monetary value;

(4) a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;

(5) a trinket or memento costing $5 or less;

(6) informational material of unexceptional value; or

(7) food or a beverage given at a reception, meal, or meeting away from the recipient's place of work by an organization before whom the recipient appears to make a speech or answer questions as part of a program.

(b) The prohibitions in this section do not apply if the gift is given:

(1) because of the recipient's membership in a group, a majority of whose members are not local officials, and an equivalent gift is given or offered to the other members of the group;

(2) by an interested person who is a member of the family of the recipient, unless the gift is given on behalf of someone who is not a member of that family; or

(3) by a national or multistate organization of governmental organizations or public officials, if a majority of the dues to the organization are paid from public funds, to attendees at a conference sponsored by that organization, if the gift is food or a beverage given at a reception or meal and an

equivalent gift is given or offered to all other attendees.

History: *1994 c 377 s 6; 2001 c 93 s 1; 2005 c 156 art 6 s 66; 2014 c 279 s 13*

CHAPTER 473 – METROPOLITAN GOVERNMENT

473.121 DEFINITIONS.

Subdivision 2. **Metropolitan area or area.** "Metropolitan area" or "area" means the area over which the metropolitan council has jurisdiction, including only the counties of Anoka, Carver, Dakota excluding the city of Northfield, Hennepin excluding the city of Hanover, Ramsey, Scott excluding the city of New Prague, and Washington.

Subd. 4. **Metropolitan county.** "Metropolitan county" means any one of the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott or Washington.

History: *1975 c 13 s 1; 1976 c 127 s 24; 1976 c 179 s 1-6; 1977 c 347 s 68; 1977 c 421 s 6; 1977 c 454 s 29-32; 1978 c 543 s 1; 1980 c 378 s 1; 1980 c 564 art 10 s 1; 1983 c 330 s 1; 1984 c 654 art 3 s 101-107; 1985 c 248 s 70; 1986 c 460 s 1-3; 1987 c 384 art 2 s 1; 1994 c 628 art 3 s 36,37; 1995 c 186 s 82; 1995 c 236 s 3*

CHAPTER 475 – MUNICIPAL DEBT

475.58 OBLIGATIONS; ELECTIONS TO DETERMINE ISSUE.

Subdivision 1. **Approval by electors; exceptions**. Obligations authorized by law or charter may be issued by any municipality upon obtaining the approval of a majority of the electors voting on the question of issuing the obligations, but an election shall not be required to authorize obligations issued:

(1) to pay any unpaid judgment against the municipality;

(2) for refunding obligations;

(3) for an improvement or improvement program, which obligation is payable wholly or partly from the proceeds of special assessments levied upon property specially benefited by the improvement or by an improvement within the improvement program, or of taxes levied upon the increased value of property within a district for the development of which the improvement is undertaken, including obligations which are the general obligations of the municipality, if the municipality is entitled to reimbursement in whole or in part from the proceeds of such special assessments or taxes and not less than 20 percent of the cost of the improvement or the improvement program is to be assessed against benefited property or is to be paid from the proceeds of federal grant funds or a combination thereof, or is estimated to be received from such taxes within the district;

(4) payable wholly from the income of revenue producing conveniences;

(5) under the provisions of a home rule charter which permits the issuance of obligations of the municipality without election;

(6) under the provisions of a law which permits the issuance of obligations of a municipality without an election;

(7) to fund pension or retirement fund liabilities of a municipality pursuant to section 475.52, subdivision 6;

(8) under a capital improvement plan under section 373.40;

(9) under sections 469.1813 to 469.1815 (property tax abatement authority bonds), if the proceeds of the bonds are not used for a purpose prohibited under section 469.176, subdivision 4g, paragraph (b);

(10) to fund postemployment benefit liabilities pursuant to section 475.52, subdivision 6, of a municipality, other than a school district, if the liabilities are limited to:

(i) satisfying the requirements of section 471.61, subdivision 2b; and

(ii) other postemployment benefits, which the municipality no longer provides to employees hired after a date before the obligations are issued; and

(11) under section 475.755.

Subd. 1a. **Resubmission limitation**. If the electors do not approve the issuing of obligations at an election required by subdivision 1, the question of authorizing the obligations for the same purpose and in the same amount may not be submitted to the electors within a period of 180 days from the date the election was held. If the question of authorizing the obligations for the same purpose and in the same amount is not approved a second time it may not be submitted to the electors within a period of one year after the second election.

Subd. 2. **Funding, refunding**. Any county, city, town, or school district whose outstanding gross debt, including all items referred to in section 475.51, subdivision 4, exceed in amount 1.62 percent of its estimated market value may issue bonds under this subdivision for the purpose of funding or refunding such indebtedness or any part thereof. A list of the items of indebtedness to be funded or refunded shall be made by the recording officer and treasurer and filed in the office of the recording officer. The initial resolution of the governing body shall refer to this subdivision as authority for the issue, state the amount of bonds to be issued and refer to the list of indebtedness to be funded or refunded. This resolution shall be published once each week for two successive weeks in a legal newspaper published in the municipality or if there be no such newspaper, in a legal newspaper published in the county seat. Such bonds may be issued without the submission of the question of their issue to the electors unless within ten days after the second publication of the resolution a petition requesting such election signed by ten or more voters who are taxpayers of the municipality, shall be filed with the recording officer. In event such petition is filed, no bonds shall be issued hereunder unless authorized by a majority of the electors voting on the question.

Subd. 3. Expired.

Subd. 3a. **Youth ice facilities**. A municipality may, without regard to the election requirement under subdivision 1 or under any other provision of law or home rule charter, issue and sell obligations to refund existing debt of an indoor ice arena that is used predominantly for youth athletic activity if all the following conditions are met:

(1) the obligations are secured by a pledge of revenues from the facility; and

(2) the governing body of the municipality finds, based on analysis provided by a professional experienced in finance, that the facility's revenues and other available money will be sufficient to pay the obligations, without reliance on a property tax levy or the municipality's general purpose state aid.

Subd. 3a. **Street reconstruction.** (a) A municipality may, without regard to the election requirement under subdivision 1, issue and sell obligations for street reconstruction, if the following conditions are met:

(1) the streets are reconstructed under a street reconstruction plan that describes the street reconstruction to be financed, the estimated costs, and any planned reconstruction of other streets in the municipality over the next five years, and the plan and issuance of the obligations has been approved by a vote of all of the members of the governing body present at the meeting following a public hearing for which notice has been published in the official newspaper at least ten days but not more than 28 days prior to the hearing; and

(2) if a petition requesting a vote on the issuance is signed by voters equal to five percent of the votes cast in the last municipal general election and is filed with the municipal clerk within 30 days of the public hearing, the municipality may issue the bonds only after obtaining the approval of a majority of the voters voting on the question of the issuance of the obligations.

(b) Obligations issued under this subdivision are subject to the debt limit of the municipality and are not excluded from net debt under section 475.51, subdivision 4.

(c) For purposes of this subdivision, street reconstruction includes utility replacement and relocation and other activities incidental to the street reconstruction, turn lanes and other improvements having a substantial

public safety function, realignments, other modifications to intersect with state and county roads, and the local share of state and county road projects.

(d) Except in the case of turn lanes, safety improvements, realignments, intersection modifications, and the local share of state and county road projects, street reconstruction does not include the portion of project cost allocable to widening a street or adding curbs and gutters where none previously existed.

Subd. 4. **Proper use of bond proceeds**. The proceeds of obligations issued after approval of the electors under this section may only be spent: (1) for the purposes stated in the ballot language; or (2) to pay, redeem, or defease obligations and interest, penalties, premiums, and costs of issuance of the obligations. The proceeds may not be spent for a different purpose or for an expansion of the original purpose without the approval by a majority of the electors voting on the question of changing or expanding the purpose of the obligations.

History: *(1938-6) 1927 c 131 s 4; 1949 c 682 s 8; 1951 c 422 s 4; 1955 c 298 s 1; 1969 c 446 s 1; 1971 c 886 s 1; 1971 c 903 s 3; 1973 c 123 art 5 s 7; 1974 c 380 s 8,9; 1Sp1985 c 14 art 8 s 53; 1988 c 519 s 4; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 480 art 9 s 22; 1991 c 342 s 16; 1995 c 256 s 26,27; 1996 c 463 s 48; 1998 c 389 art 3 s 25; art 8 s 24; 1999 c 248 s 14; 2001 c 214 s 43; 1Sp2001 c 5 art 15 s 28; 2008 c 154 a 10 s 25, 26; 2009 c 88 a 2 s 36; 2009 c 96 a 1 s 19; 2013 c 143 art 14 s 103*

NOTES AND DECISIONS

475.58

Bond proceeds may not be used for purposes other than those approved in bond election. *State ex. rel. Traeger v. Carlton*, 242 Minn. 296, 64 N.W.2d 776 (1954); Op. Atty. Gen. 159-A-5, July 16, 1982.

CHAPTER 524 – UNIFORM PROBATE CODE

524.5-310 FINDINGS; ORDER OF APPOINTMENT.

(a) The court may appoint a limited or unlimited guardian for a respondent only if it finds by clear and convincing evidence that:

(1) the respondent is an incapacitated person; and

(2) the respondent's identified needs cannot be met by less restrictive means, including use of appropriate technological assistance.

(b) Alternatively, the court, with appropriate findings, may treat the petition as one for a protective order under section 524.5-401, enter any other appropriate order, or dismiss the proceeding.

(c) The court shall grant to a guardian only those powers necessitated by the ward's limitations and demonstrated needs and, whenever feasible, make appointive and other orders that will encourage the development of the ward's maximum self-reliance and independence. Any power not specifically granted to the guardian, following a written finding by the court of a demonstrated need for that power, is retained by the ward.

(d) Within 14 days after an appointment, a guardian shall send or deliver to the ward, and counsel if represented at the hearing, a copy of the order of appointment accompanied by a notice which advises the ward of the right to appeal the guardianship appointment in the time and manner provided by the Rules of Appellate Procedure.

(e) Each year, within 30 days after the anniversary date of an appointment, a guardian shall send or deliver to the ward and to interested persons of record with the court a notice of the right to request termination or modification of the guardianship or to request an order that is in the best interests of the ward or for other appropriate relief, and notice of the status of the ward's right to vote.

History: *2003 c 12 art 1 s 34; 2005 c 156 art 6 s 67; 2009 c 150 s 8*

CHAPTER 609 – CRIMINAL CODE

609.02 DEFINITIONS.

Subdivision 1. **Crime**. "Crime" means conduct which is prohibited by statute and for which the actor may be sentenced to imprisonment, with or without a fine.

Subd. 2. **Felony**. "Felony" means a crime for which a sentence of imprisonment for more than one year may be imposed.

Subd. 3. **Misdemeanor**. "Misdemeanor" means a crime for which a sentence of not more than 90 days or a fine of not more than $1,000, or both, may be imposed.

Subd. 4. **Gross misdemeanor**. "Gross misdemeanor" means any crime which is not a felony or misdemeanor. The maximum fine which may be imposed for a gross misdemeanor is $3,000.

Subd. 4a. **Petty misdemeanor**. "Petty misdemeanor" means a petty offense which is prohibited by statute, which does not constitute a crime and for which a sentence of a fine of not more than $300 may be imposed.

Subd. 5. **Conviction**. "Conviction" means any of the following accepted and recorded by the court:

(1) A plea of guilty; or

(2) A verdict of guilty by a jury or a finding of guilty by the court.

[Subd.6-17 not included]

History: *1963 c 753 art 1 s 609.02; 1969 c 735 s 3; Ex1971 c 27 s 42,43; 1977 c 355 s 2; 1979 c 258 s 2,3; 1983 c 274 s 14; 1983 c 331 s 4,5; 1985 c 167 s 1; 1986 c 444; 1987 c 307 s 1,2; 1987 c 329 s 3; 1987 c 384 art 2 s 1; 1989 c 5 s 1,2; 1992 c 571 art 6 s 10; 1993 c 326 art 5 s 6; 1997 c 239 art 9 s 34; 1Sp1997 c 2 s 59,60; 1999 c 194 s 5; 2000 c 488 art 5 s 2,3; 1Sp2001 c 8 art 10 s 7; 2014 c 263 s 4*

609.165 RESTORATION OF CIVIL RIGHTS; POSSESSION OF FIREARMS AND AMMUNITION.

Subdivision 1. **Restoration.** When a person has been deprived of civil rights by reason of conviction of a crime and is thereafter discharged, such discharge shall restore the person to all civil rights and to full citizenship, with full right to vote and hold office, the same as if such conviction had not taken place, and the order of discharge shall so provide.

Subd. 1a. **Certain convicted felons ineligible to possess firearms or ammunition.** The order of discharge must provide that a person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, is not entitled to ship, transport, possess, or receive a firearm or ammunition for the remainder of the person's lifetime. Any person who has received such a discharge and who thereafter has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms and ammunition has been restored under subdivision 1d, shall not be subject to the restrictions of this subdivision.

Subd. 1b. **Violation and penalty.** (a) Any person who has been convicted of a crime of violence, as defined in section 624.712, subdivision 5, and who ships, transports, possesses, or receives a firearm or ammunition, commits a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both.

(b) A conviction and sentencing under this section shall be construed to bar a conviction and sentencing for a violation of section 624.713, subdivision 2.

(c) The criminal penalty in paragraph (a) does not apply to any person who has received a relief of disability under United States Code, title 18, section 925, or whose ability to possess firearms and ammunition has been restored under subdivision 1d.

Subd. 1d. **Judicial restoration of ability to possess firearms and ammunition by a felon.** A person prohibited by state law from shipping, transporting, possessing, or receiving a firearm or ammunition because of a conviction or a delinquency adjudication for committing a crime of violence may petition a court to restore the person's ability to possess, receive, ship, or transport firearms and otherwise deal with firearms and ammunition.

The court may grant the relief sought if the person shows good cause to do so and the person has been released from physical confinement.

If a petition is denied, the person may not file another petition until three years have elapsed without the permission of the court.

Subd. 2. **Discharge.** The discharge may be:

(1) by order of the court following stay of sentence or stay of execution of sentence; or

(2) upon expiration of sentence.

Subd. 3. **Applicability.** This section does not apply to a forfeiture of and disqualification for public office as provided in section 609.42, subdivision 2.

History: *1963 c 753 art 1 s 609.165; 1973 c 654 s 15; 1975 c 271 s 6; 1978 c 723 art 1 s 15; 1986 c 444; 1987 c 276 s 1; 1994 c 636 art 3 s 9; 1996 c 408 art 4 s 7; 1998 c 376 s 5; 2003 c 28 art 3 s 3-5; 2005 c 83 s 1; 2015 c 65 art 3 s 18*

NOTES AND DECISIONS

609.165

Firearm prohibition statute was applicable to defendant, who had been convicted of felony second-degree burglary, even though his conviction was later deemed a misdemeanor; conviction, even if subsequently deemed a misdemeanor, was a "crime of violence" for purposes of firearm prohibitions statue. *State v. Anderson*, 733 N.W.2d 128 (Minn. 2007).

609.43 MISCONDUCT OF PUBLIC OFFICER OR EMPLOYEE.

A public officer or employee who does any of the following, for which no other sentence is specifically provided by law, may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both:

(1) Intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the office or employment within the time or in the manner required by law; or

(2) In the capacity of such officer or employee, does an act knowing it is in excess of lawful authority or knowing it is forbidden by law to be done in that capacity; or

(3) Under pretense or color of official authority intentionally and unlawfully injures another in the other's person, property, or rights; or

(4) In the capacity of such officer or employee, makes a return, certificate, official report, or other like document having knowledge it is false in any material respect.

History: *1963 c 753 art 1 s 609.43; 1984 c 628 art 3 s 11; 1986 c 444*

CHAPTER 609B – COLLATERAL SANCTIONS

609B.139 ELECTIONS; COLLATERAL SANCTIONS.

Sections 609B.140 to 609B.146 provide references to collateral sanctions related to elections.

History: *2005 c 136 art 14 s 18*

609B.140 CONVICTION FOR FAILURE TO PROSECUTE; FORFEITURE OF OFFICE.

A county attorney convicted of a misdemeanor under section 201.275 shall forfeit office.

History: *2005 c 136 art 14 s 18*

609B.141 CONVICTION FOR TREASON OR FELONY; INELIGIBILITY FOR BALLOT CERTIFICATION.

If a person is convicted of a felony or treason and has not had the person's civil rights restored, under section 204B.10 the person's name shall not be certified to be placed on a ballot.

History: *2005 c 136 art 14 s 18*

609B.142 CONVICTED SEX OFFENDER; SCHOOL BOARD MEMBER INELIGIBILITY.

Under section 205A.06, subdivision 1b, a person convicted of an offense for which registration is required under section 243.166 is ineligible to become a candidate for the office of school board member and may not file an affidavit of candidacy for that office. Ineligibility is determined by registration requirements in effect at the time the offender files for office.

History: *2005 c 136 art 14 s 18*

609B.143 VIOLATION OF CAMPAIGN FINANCIAL REPORTS; FORFEITURE OF NOMINATION OR OFFICE.

If a candidate is convicted of a campaign violation under section 211A.09, the court shall declare that the candidate has forfeited nomination or office.

History: *2005 c 136 art 14 s 18*

609B.144 CONVICTION FOR VIOLATION OF CAMPAIGN FINANCIAL REPORTS; DISQUALIFICATION.

A person convicted of violating chapter 211A or a person whose election to office has been set aside for violating chapter 211A may not be appointed to fill a vacancy in the office under section 211A.10.

History: *2005 c 136 art 14 s 18*

609B.146 CONVICTION FOR VIOLATION OF FAIR CAMPAIGN PRACTICES; DISQUALIFICATION.

A person convicted of violating chapter 211B or a person whose election to office has been set aside for violating chapter 211B may not be appointed to fill a vacancy in the office under section 211B.18.

History: *2005 c 136 art 14 s 18*

CHAPTER 626 – PEACE OFFICERS, SEARCHES; PURSUIT; MANDATORY REPORTING

626.846 ATTENDANCE, FORFEITURE OF POSITION.

Subd. 6. **Office of sheriff; licensure as peace officer required.** A person seeking election to the office of sheriff must be licensed as a peace officer. A person seeking appointment to the office of sheriff, or seeking appointment to the position of chief law enforcement officer, as defined by the rules of the board, after June 30, 1987, must be licensed or eligible to be licensed as a peace officer. The person shall submit proof of peace officer licensure or eligibility as part of the application for office. A person elected or appointed to the office of sheriff or the position of chief law enforcement officer shall be licensed as a peace officer during the person's term of office or employment.

History: *1967 c 870 s 6; 1977 c 433 s 8; 1977 c 455 s 90; 1978 c 681 s 13-18; 1980 c 578 s 3,4; 1981 c 310 s 5,6; 1986 c 444; 1987 c 358 s 130; 1994 c 636 art 4 s 33; 1997 c 7 art 1 s 169; 1997 c 147 s 78*

NOTES AND DECISIONS

626.846

Requirement that sheriff be licensed as peace officer is valid. *Elbers v. Growe*, 502 N.W.2d 810 (Minn. Ct. App. 1993).

CHAPTER 645 – INTERPRETATION OF STATUTES AND RULES

645.08 CANONS OF CONSTRUCTION.

In construing the statutes of this state, the following canons of interpretation are to govern, unless their observance would involve a construction inconsistent with the manifest intent of the legislature, or repugnant to the context of the statute:

(1) Words and phrases are construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a special meaning, or are defined in this chapter, are construed according to such special meaning or their definition;

(2) The singular includes the plural; and the plural, the singular; words of one gender include the other genders; words used in the past or present tense include the future;

(3) General words are construed to be restricted in their meaning by preceding particular words;

(4) Words in a law conferring a joint authority upon three or more public officers or other persons are construed to confer authority upon a majority of such officers or persons; and

(5) A majority of the qualified members of any board or commission constitutes a quorum.

History: *1941 c 492 s 8; 1986 c 444*

645.11 PUBLISHED NOTICE.

Unless otherwise specifically provided, the words "published notice," when used in reference to the giving of notice in any proceeding or the service of any summons, order, or process in judicial proceedings, mean the publication in full of the notice, or other paper referred to, in the regular issue of a qualified newspaper, once each week for the number of weeks specified. When the publication day of any newspaper falls upon Thanksgiving Day, or upon any legal holiday, the publication of notice in any proceeding or the publication of any summons, order, or process in judicial proceedings, may be made either the day before or the day after Thanksgiving Day, or such legal holiday. When the published notice contains a description of real estate which is located within the legal limits of any city, which city is situated in more than one county, such published notice may be published in any legal newspaper within such city.

History: *1941 c 103; 1941 c 492 s 11; 1973 c 123 art 5 s 7*

645.12 POSTED NOTICE.

Subdivision 1. **Definition.** The term "posted notice," when used in reference to the giving of notice in any proceeding or the service of any summons, order, or process in judicial proceedings, means the posting, at the beginning of the prescribed period of notice, of a copy of the notice or document referred to, in a manner likely to attract attention, in each of three of the most public places in the town, city, district, or county to which the subject matter of the notice relates, or in which the thing of which notice is given is to occur or to be performed.

Subd. 2. **Posting; large number of similar notices in same proceeding.** Posting, posting in a conspicuous place, or conspicuously posting shall, when the number of notices of like nature in the same proceeding is so large that it would be impractical to affix the notices separately to a wall, post, or bulletin board, include placing the notices in a loose leaf binder or binders with a statement of the contents on the outside thereof, which shall be kept on a table or counter in the designated place of posting, provided that such notices shall be accessible and subject to inspection by the public at all times.

Subd. 3. **Posting; large number of licenses issued to same person.** Posting, posting in a conspicuous place, or conspicuously posting shall, when the number of licenses issued to the same person, persons, copartnership, or corporation is so large that it would be impractical to affix the licenses separately to a wall, post, or fixture, include placing such licenses in a series of open face envelopes with a statement of the contents on the outside thereof, which shall be prominently displayed, provided that such licenses shall be accessible and subject to inspection at all times.

History: *1941 c 492 s 12*

645.13 TIME; PUBLICATION FOR SUCCESSIVE WEEKS.

When the term "successive weeks" is used in any law providing for the publishing of notices, the word "weeks" shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which the publication is made.

History: *1941 c 492 s 13*

645.14 TIME; COMPUTATION OF MONTHS.

When, in any law, the lapse of a number of months before or after a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in the last months so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

History: *1941 c 492 s 14*

645.15 COMPUTATION OF TIME.

Where the performance or doing of any act, duty, matter, payment, or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law, the time, except as otherwise provided in sections 645.13 and 645.14, shall be computed so as to exclude the first and include the last day of the prescribed or fixed period or duration of time. When the last day of the period falls on Saturday, Sunday or a legal holiday, that day shall be omitted from the computation.

History: *1941 c 492 s 15; 1981 c 117 s 1*

645.44 WORDS AND PHRASES DEFINED.

Subdivision 1. **Scope**. The following words, terms, and phrases used in Minnesota Statutes or any legislative act shall have the meanings given them in this section, unless another intention clearly appears.

Subd. 1a. **Appellate courts**. "Appellate courts" means the supreme court and the court of appeals.

Subd. 1b. **Chair**. "Chair" includes chairman, chairwoman, and chairperson.

Subd. 2. **Court administrator**. When used in reference to court procedure, "court administrator" means the court administrator of the court in which the action or proceeding is pending, and "court administrator's office" means that court administrator's office.

Subd. 3. **County, town, city**. When a county, town or city is mentioned, without any particular description, it imports the particular county, town or city appropriate to the matter.

Subd. 4. **Folio**. "Folio" means 100 words, counting as a word each number necessarily used; if there be fewer than 100 words in all, the paper shall be computed as one folio; likewise any excess over the last full folio.

Subd. 5. **Holidays**. "Holiday" includes New Year's Day, January 1; Martin Luther King's Birthday, the third Monday in January; Washington's and Lincoln's Birthday, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Christopher Columbus Day, the second Monday in October; Veterans Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25; provided, when New Year's Day, January 1; or Independence Day, July 4; or Veterans Day, November 11; or Christmas Day, December 25; falls on Sunday, the following day shall be a holiday and, provided, when New Year's Day, January 1; or Independence Day, July 4; or Veterans Day, November 11; or Christmas Day, December 25; falls on Saturday, the preceding day shall be a holiday. No public business shall be transacted on any holiday, except in cases of necessity and except in cases of public business transacted by the legislature, nor shall any civil process be served thereon. However, for the executive branch of the state of Minnesota, "holiday" also includes the Friday after Thanksgiving but does not include Christopher Columbus Day. Other branches of state government and political subdivisions shall have the option of determining whether Christopher Columbus Day and the Friday after Thanksgiving shall be holidays. Where it is determined that Columbus Day or the Friday after Thanksgiving is not a holiday, public business may be conducted thereon.

Any agreement between a public employer and an employee organization citing Veterans Day as the fourth Monday in October shall be amended to cite Veterans Day as November 11.

Subd. 5a. **Public member**. "Public member" means a person who is not, or never was, a member of the profession or occupation being licensed or regulated or the spouse of any such person, or a person who does not have or has never had, a material financial interest in either the providing of the professional service being licensed or regulated, or an activity directly related to the profession or occupation being licensed or regulated.

Subd. 6. **Oath; affirmation; affirm; sworn**. "Oath" includes "affirmation" in all cases where by law an affirmation may be substituted for an oath; and in like cases "swear" includes "affirm" and "sworn" "affirmed."

Subd. 7. **Person**. "Person" may extend and be applied to bodies politic and corporate, and to partnerships and other unincorporated associations.

Subd. 8. **Population; inhabitants**. When used in reference to population, "population" and "inhabitants" mean that shown by the last preceding federal decennial census unless otherwise expressly provided.

Subd. 8a. **Public waters**. "Public waters" means public waters as defined in section 103G.005, subdivision 15, and includes "public waters wetlands" as defined in section 103G.005, subdivision 15a.

Subd. 9. **Recorded; filed for record**. When an instrument in writing is required or permitted to be filed for record with or recorded by any officer, the same imports that it must be recorded by such officer in a suitable book kept for that purpose, unless otherwise expressly directed.

Subd. 10. **Seal**. When the seal of a court, public office, or corporation is required by law to be affixed to any paper, the word "seal" includes an impression thereof upon the paper alone, as well as an impression on a wafer, wax, or other substance thereto attached. When the seal of a court is required by law to be affixed to any paper or document, the word "seal" also includes an image of the court seal affixed by the court to an electronic image of the paper or document.

Subd. 11. **State; United States**. When applied to a part of the United States, "state" extends to and includes the District of Columbia and the several territories. "United States" embraces the District of Columbia and territories.

Subd. 12. **Sheriff**. "Sheriff" may be extended to any person officially performing the duties of a sheriff, either generally or in special cases.

Subd. 13. **Time; month; year**. "Month" means a calendar month and "year" means a calendar year, unless otherwise expressed; and "year" is equivalent to the expression "year of our Lord."

Subd. 13a. **Wetlands**. "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

(1) have a predominance of hydric soils;

(2) are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

(3) under normal circumstances, support a prevalence of such vegetation.

Subd. 14. **Writing; in writing**. "Written" and "in writing" may include any mode of representing words and letters. The signature of a person, when required by law, (a) must be in the handwriting of the person or, (b) if the person is unable to write, (i) the person's mark or name written by another at the request and in the presence of the person or, (ii) by a rubber stamp facsimile of the person's actual signature, mark, or a signature of the person's name or a mark made by another and adopted for all purposes of signature by the person with a motor disability and affixed in the person's presence. The signature of a person on a document that will be filed with a court, when required by law, may also be made electronically if otherwise authorized by statute or court rule.

Subd. 15. **May**. "May" is permissive.

Subd. 15a. **Must**. "Must" is mandatory.

Subd. 16. **Shall**. "Shall" is mandatory.

Subd. 17. **Violate**. "Violate" includes failure to comply with.

Subd. 18. **Pledge; mortgage; conditional sale; lien; assignment**. "Pledge," "mortgage," "conditional sale," "lien," "assignment," and similar terms used in referring to a security interest in goods include corresponding types of security interests under article 9 of the Uniform Commercial Code.

Subd. 19. **Fee and tax.** (a) "Tax" means any fee, charge, exaction, or assessment imposed by a governmental entity on an individual, person, entity, transaction, good service, or other thing. It excludes a price that an individual or entity chooses voluntarily to pay in return for receipt of goods or services provided by the governmental entity. A government good or service does not include access to or the authority to engage in

private market transactions with a nongovernmental party such as licenses to engage in a trade, profession or business or to improve private property.

(b) For purposes of applying the laws of this state, a “fee,” “charge,” or other similar term that satisfies the functional requirements of paragraph (a) must be treated as a tax for all purposes, regardless of whether the statute or law names or describes it as a tax. The provisions of this subdivision do not exempt a person, corporation, organization, or entity from payment of a validly imposed fee, charge, exaction, or assessment, nor preempt or supersede limitations under law that apply to fees, charges, or assessments.

(c) This subdivision is not intended to extend or limit article 4 section 18, of the Minnesota Constitution.

Subd. 20 **Estimated market value.** When used in determining or calculating a limit on taxation, spending, state aid amounts, or debt, bond, certificate of indebtedness, or capital note issuance by or for a local government unit, “estimated market value” has the meaning given in section 273.032.

History: *1941 c 492 s 44; 1945 c 337 s 1; 1947 c 201 s 4; 1955 c 495 s 1; 1955 c 783 s 1; 1959 c 52 s 2; 1965 c 812 s 25; 1969 c 69 s 1; 1973 c 123 art 5 s 2,7; 1973 c 228 s 1; 1973 c 343 s 1; 1974 c 88 s 1; 1977 c 347 s 64; 1979 c 332 art 1 s 92; 1980 c 487 s 21; 1983 c 247 s 216; 1984 c 656 s 4; 1986 c 444 s 5; 1Sp1986 c 3 art 1 s 82; 1990 c 391 art 8 s 57; 1991 c 354 art 6 s 19; 1996 c 462 s 43; 2000 c 382 s 18; 1Sp2001 c 10 art 2 s 84; 2009 c 88 a 12 s 18; 2013 c 143 art 15 s 109; 2014 c 204 s 12 & 13*

MINNESOTA RULES RELATED TO ELECTIONS

CHAPTER 8200 - VOTER REGISTRATION

COUNTY AUDITOR'S DUTIES

8200.0300 DELEGATION OF DUTIES.

The county auditor may delegate to municipal officials all duties assigned to the county auditor by chapter 8200 and by Minnesota Statutes, chapter 201, except the preparation and distribution of lists of registered voters. The auditor may delegate the responsibility to accept voter registration applications, but a delegation of this responsibility does not relieve the auditor of the duty to accept voter registration applications.

Statutory Authority: *MS s 14.388; 201.022; 201.221; 204B.25*

History: *12 SR 2215; 25 SR 616; 29 SR 155*

8200.0400 [Repealed, 20 SR 2787]

8200.0700 [Repealed, 20 SR 2787]

REGISTRATION RECORDS

8200.0800 ~~DELIVERY OF VOTER REGISTRATION RECORDS FOR ELECTIONS.~~

Repealed - published electronically June 15, 2016

[Repealed, 40 SR 1553] ~~The county auditor shall provide for the transportation of the necessary voter registration records to the precinct polling place on election day. The auditor shall prescribe procedures to ensure the safety of the voter registration records and their timely delivery at the precinct polling place on election day.~~

~~The auditor shall maintain the dignity and integrity of the voting system.~~

Statutory Authority: *MS s 201.022; 201.221*

History: *12 SR 2215; 40 SR 1553*

VOTER REGISTRATION APPLICATIONS

8200.1100 PRINTING SPECIFICATIONS.

New language published electronically June 15, 2016

Subpart 1. **Applications returned by mail.** Voter registration applications printed for the purpose of distribution and mailing may be printed pursuant to items A to D.

A. The size must be 8-1/2 inches by 11 inches, including a 9/16-inch stub.

B. The paper must be at least 80-pound white offset.

C. The secretary of state may approve alternate forms of voter registration applications to be attached to or included in tax booklets and forms used by state agencies, and other forms deemed appropriate by the secretary of state if the forms have spaces for the information required in Minnesota Statutes, section 201.071. The secretary of state may approve the county use of an application with dimensions other than those prescribed in item A.

D. The stub must have an adhesive applied to it so that the application can be sealed when it is folded together for mailing.

E. County auditors may consume the existing stock of voter registration applications on hand as of January 1, 2008, through the 2008 general election and on election days thereafter.

Subp. 2. **Other applications.** Paper voter registration applications for use at county auditor offices or at polling places on election day must be printed pursuant to items A to D.

A. The size must be 8-1/2 by 11 inches.

B. The paper must be white offset.

C. The secretary of state may approve the county use of an application with dimensions other than those prescribed in item A.

D. The voucher oath prescribed by part 8200.9939 may be printed on the reverse side of the voter registration application produced under this subpart.

Statutory Authority: MS *s 14.388; 201.022; 201.061; 201.071; 201.221; 203B.09*

History: *8 SR 1348; 12 SR 2215; 20 SR 2787; 25 SR 616; 29 SR 155; 31 SR 350; 32 SR 2055; 40 SR 1553*

8200.1200 REGISTRATION APPLICATION; FORMAT.

New language published electronically June 15, 2016

Subpart 1. **Form.** Any voter registration application must:

A. meet the requirements of Minnesota Statutes, section 201.071;

B. be consistent in layout with the data entry screens used by the statewide voter registration system;

C. take into consideration readability and ease of understanding;

D. if produced under part 8200.1100, subpart 1, provide room for including a mailing address for returning the completed registration;

E. include on or with the application a set of instructions for the application;

F. include on or with the application a statement that assistance for registration and voting is available for elderly and disabled persons and residents of health care facilities;

G. include on the application a reference to where a privacy information statement may be found, if produced under part 8200.1100, subpart 1; and

H. include on or with the application a privacy information statement, if produced under part 8200.1100, subpart 2.

Subp. 1a. [Repealed, 31 SR 350]

Subp. 1b. **Design specifications.** The secretary of state shall provide examples of the voter registration application to all county auditors.

Subp. 2. **Box for office use only.** Paper voter registration applications must contain a box marked for "election judge official use only" which contains "W __", "P __", and "SD." These abbreviations stand for "ward," "precinct," and "school district." Other information may also be included. Judges of election shall record the type of election day voter registration proof and its number, if any, in the "election judge official use only" box.

Subp. 3. **Identifying mark.** Paper voter registration applications may include a mark identifying where the applicant obtained the application or how the application was delivered to the county auditor or secretary of state.

Statutory Authority: *MS s 14.388; 201.022; 201.061; 201.071; 201.221; 203B.09*

History: *8 SR 1348; 12 SR 2215; 20 SR 2787; 23 SR 459; 25 SR 616; 29 SR 155; 31 SR 350 ; 32 SR 2055; 40 SR 1553*

8200.1300 [Repealed, 12 SR 2215]

8200.1400 [Repealed, 20 SR 2787]

8200.1500 [Repealed, 20 SR 2787]

8200.1600 [Repealed, 12 SR 2215]

8200.1700 PRINTING AND DISTRIBUTING VOTER REGISTRATION APPLICATIONS.

Each county auditor shall have printed and shall maintain an adequate number of voter registration applications in compliance with this chapter and Minnesota Statutes, chapter 201. An election official who

causes voter registration applications to be printed shall print the applications in a form prescribed by this chapter and Minnesota Statutes, chapter 201. The auditor shall provide voter registration applications to any person or group who requests a reasonable number of applications for the purpose of distribution.

Statutory Authority: *MS s 14.388; 201.022; 201.071; 201.221*

History: *12 SR 2215; 20 SR 2787; 29 SR 155; 31 SR 350*

8200.1800 EXPERIMENTAL FORMS.

The secretary of state may provide for the experimental use of alternate forms on a trial basis.

Statutory Authority: *MS s 201.221*

History: *8 SR 1348*

PLACES TO REGISTER

8200.2100 DUTIES OF AUDITOR.

Each county auditor shall designate a number of public buildings within the county where persons may obtain, complete, and deposit registration applications. The county auditor or a designee shall be on duty in the designated building and the person on duty shall transmit completed registration applications to the county auditor within two working days after receipt.

Statutory Authority: *MS s 14.388; 201.022; 201.221*

History Authority: *12 SR 2215; 20 SR 2787; 29 SR 155*

8200.2200 BUILDINGS FOR REGISTRATION.

Each political subdivision shall have at least one building where voter registration applications may be obtained and deposited.

Statutory Authority: MS s 14.388; 201.022; 201.221

History: *12 SR 2215; 20 SR 2787; 29 SR 155; 38 SR 1368*

8200.2300 [Repealed, 10 SR 1690]

ACCEPTED OR PROCESSED APLICATIONS

8200.2500 DEFINITION OF ACCEPTED OR PROCESSED.

For purposes of section 303(a)(5)(A)(i) of the Help America Vote Act of 2002, Public Law 107-552, "accepted or processed" means that the determination has been made that the voter registration application is not deficient and the registration status of the voter is "active" or "challenged."

Statutory Authority: *MS s 14.388*

History: *29 SR 155*

AUDITOR'S DUTIES; NOTIFICATIONS; PROCESSING APPLICATIONS

8200.2600 REGISTRATIONS AND NAME AND ADDRESS CHANGES TO REGISTRATIONS.

If a county auditor determines that a registration application or a name or address change to registration has been completed, the auditor shall file the application or name or address change to registration and enter the registration or name or address change to registration and enter the registration or name or address change to registration on the state registration system. The county auditor shall file and maintain each voter registration application in an orderly manner. The county auditor shall have a notice mailed to each newly registered voter and to each voter who changed name or address information indicating the voter's name, address, precinct, and polling place. The notice must require that it be returned if not deliverable as addressed.

Statutory Authority: *MS s 14.388; 201.022; 201.221*

History: *12 SR 2215; 25 SR 616; 29 SR 155*

8200.2700 AUDITOR'S RANDOM NOTIFICATION.

Following each election in which voters register on election day, the county auditor shall send a mailed notice of registration to a random sample of three percent of the election day registrants within ten days of the election. This rule shall not relieve the county auditor of the responsibility to send a mailed notice to all registrants.

Statutory Authority: *MS s 201.221*

8200.2800 [Repealed, 29 SR 155]

8200.2900 DEFICIENT REGISTRATIONS; NOTICE OF DEFICIENT REGISTRATIONS.

When a person attempts to register prior to election day and the county auditor determines that the registration is deficient, the auditor shall notify the person attempting to register that the registration was not correctly completed. The auditor shall attempt to obtain from the applicant any needed information by mail or, if a telephone number or an e-mail address was provided by the applicant, by telephone or e-mail.

If the needed information consists of the applicant's Minnesota driver's license, Minnesota state identification card, or Social Security number, or confirmation that the applicant has not been issued a Minnesota driver's license, Minnesota state identification card, or Social Security number, the auditor shall also attempt to obtain that information through the process provided in part 8200.9310, subpart 2.

If the auditor cannot obtain the needed information, the voter registration application is deficient and shall be maintained separately for 22 months.

A new applicant whose voter registration application is deficient shall not be classified as "active" or "challenged."

If an applicant submits a voter registration application that is deficient, the county auditor shall send a notice of deficient registration to the person seeking to register.

If the auditor notifies an applicant of a deficient voter registration application, the auditor shall also notify the applicant of the dates on which a preelection registration is not permitted by Minnesota Statutes, section 201.061, subdivision 1, and of the procedures for election day registration.

In the notice to the applicant, the auditor shall explain that a registration received by the auditor during the period when preelection registration is not permitted by Minnesota Statutes, section 201.061, subdivision 1, means the applicant will be registered to vote on the day after the upcoming election unless the applicant registers to vote on election day.

If an applicant submits a deficient voter registration application during the period when preelection registration is not permitted by Minnesota Statutes, section 201.061, subdivision 1, the auditor shall notify the applicant that the applicant must register at the polling place of the precinct in which she or he resides on election day to vote at the election.

The secretary of state shall provide a sample notice of deficient registration.

Statutory Authority: *MS s 14.388; 201.221*

History: *17 SR 1279; 23 SR 459; 25 SR 616; 29 SR 155 ; 38 SR 1368*

8200.2950 ADDRESSES ON VOTER REGISTRATION APPLICATIONS.

A person having a residence with a street address who completes a voter registration application must provide the street address assigned to the person's residence in the residence space on the voter registration application. Only when the United States Postal Service will not deliver mail to the registrant's residence address, the registrant must also enter an alternate mailing address on the voter registration application.

Statutory Authority: *MS s 14.388; 201.071; 201.221*

History: *23 SR 459; 25 SR 616; 29 SR 155*

8200.3000 REGISTRATION IN WRONG COUNTY.

When a county auditor receives a voter registration application from a person whose address is in another county, the auditor shall within two working days forward the application to the auditor of the proper county if the county can be ascertained.

Statutory Authority: *MS s 14.388; 201.221*

History: *25 SR 616; 29 SR 155*

8200.3100 NOTICE OF INCOMPLETE REGISTRATION; COMPLETION OF INCOMPLETE REGISTRATIONS.

Subpart 1. **Conditions requiring.** A. If an applicant submits a voter registration application that is incomplete as defined in Minnesota Statutes, section 201.061, subdivision 1a, the auditor shall send a notice of incomplete registration. The notice sent to the applicant must:

(1) inform the applicant that the registration is incomplete;

(2) inform the applicant that to complete the registration, the applicant must present documents or take actions prior to voting;

(3) explain the applicant's options for completing the registration prior to 20 days before the election or at the polls on election day as set forth in Minnesota Statutes, section 201.061, subdivision 1a;

(4) provide the list of documents that may be presented to complete the registration; and

(5) explain the methods by which the applicant can register to vote on election day if the applicant is unable to complete the registration by any of the options described in subitem (3).

B. If an applicant submits a voter registration application that is incomplete as defined in Minnesota Statutes, section 201.121, subdivision 1, paragraph (f), the auditor shall record in the voter registration system that the registration is incomplete under that section and send the applicant a notice of incomplete registration advising the voter that the voter needs to:

(1) provide information that completes the registration to the registration office or contact that office prior to 20 days before the election; or

(2) provide the information to the election judges on election day for entry on the roster.

The secretary of state shall provide a sample notice of incomplete registration. The applicant must be allowed to vote only after completing the registration or after registering or updating their registration using current information for the applicant.

After an election, the auditor shall compile a list of voters who voted who were not verified by election day. The auditor shall verify the records in the manner described in part 8200.5500 for registrations received on election day.

If a voter provides the necessary information and votes without updating their registration or registering on election day to correct information listed on the roster, the county auditor shall send that person a postal verification card as if the voter had registered on election day.

If that postal verification card is returned to the county auditor, the auditor shall challenge the status on the voter record and may refer the registration to the county attorney.

Subp. 2. [Repealed, 23 SR 459]

Statutory Authority: *MS s 14.388; 201.061; 201.221*

History: *23 SR 403; 23 SR 459; 25 SR 616; 29 SR 155*

8200.3110 NOTICE OF LATE REGISTRATION.

A. If an applicant submits a voter registration application that is not deficient but that is filed during the period when preelection registration is not permitted by Minnesota Statutes, section 201.061, subdivision 1, the auditor shall send a notice of late registration to the person seeking to register. The notice of late registration must require that it be returned if not deliverable and must explain that if the applicant chooses not to register and vote at the upcoming election, the applicant's registration will become effective on the day after the election.

B. The secretary of state shall provide a sample notice of late registration.

Statutory Authority: *MS s 14.388*

History: *29 SR 155*

8200.3200 CERTAIN APPLICANTS EXEMPT FROM IDENTIFICATION REQUIREMENTS.

Pursuant to section 303(b)(3)(C) of the Help America Vote Act of 2002, Public Law 107-252, persons who are voting by absentee ballot or otherwise than in person pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, or any other federal law are exempt from Minnesota Statutes, section 201.061, subdivision 1a.

Statutory Authority: *MS s 14.388*

History: *29 SR 155; 38 SR 1368*

8200.3300 [Repealed, 20 SR 2787]

8200.3400 [Repealed, 20 SR 2787]

8200.3500 ACKNOWLEDGMENT OF INELIGIBLE APPLICATIONS.

Ineligible applicants shall be notified of the reasons for their ineligibility and their cards maintained separately by the auditor for 22 months.

Statutory Authority: *MS s 201.221*

History: *25 SR 616*

8200.3550 NOTICE OF CHALLENGE REMOVAL.

The county auditor shall mail a notice indicating the person's name, address, precinct, and polling place to any registered voter whose civil rights have been restored after a felony conviction; who has been removed from under a guardianship of the person under which the person did not retain the right to vote; or who has been restored to capacity by the court after being ineligible to vote. The notice must require that it be returned if not deliverable.

Statutory Authority: *MS s 14.388; 201.221*

History: *23 SR 459; 29 SR 155*

8200.3600 CHANGE OF RESIDENCE.

A person who has previously registered to vote in Minnesota who changes residence must be permitted to vote only after the person's registration has been updated to the person's new residence address.

Statutory Authority: *MS s 14.388; 201.221*

History: *17 SR 1279; 29 SR 155; 38 SR 1368*

8200.3700 REMOVAL OF APPLICATIONS FROM REGISTRATION FILES.

If a voter registration application is to be removed from the registration files, except that of a deceased person or that of a voter who has reregistered in another state, the county auditor may notify the person whose application is to be removed of the removal and the reason for the removal in writing. The applications removed must be maintained in separate files for 22 months.

Statutory Authority: *MS s 14.388; 201.022; 201.221*

History: *12 SR 2215; 25 SR 616; 29 SR 155; 31 SR 350*

8200.3800 EMERGENCY VOTING

Subpart 1. **When required.** If a voter who has registered prior to an election day is challenged because the voter's name does not appear on the polling place roster of the precinct in which the voter desires to vote, the voter may register on that election day by following the election day registration procedures in parts 8200.1100 to 8200.9300 and 8220.0300 to 8220.4800. Or, if it appears upon examination that the voter's name was erroneously omitted from the roster, the voter must be permitted to vote in the precinct after completing the required name and address information and signing the oath on the polling place roster. The judges shall note on the list that the voter was permitted to vote pursuant to instructions from the county auditor and two judges shall initial the entry.

Subp. 2. [Repealed, 12 SR 2215]

Statutory Authority: *MS s 201.022; 201.221*

History: *12 SR 2215; 20 SR 2787*

8200.3900 PROCESSING OF NATIONAL VOTER REGISTRATION ACT APPLICATIONS.

All county auditors shall accept voter registration applications on forms prescribed by the Federal Election Commission as provided by the National Voter Registration Act if the application is from a person eligible to vote in Minnesota, and includes whether the person is a United States citizen and will be 18 years old on or before election day, the applicant's name, address in Minnesota, previous address (if any), date of birth, current and valid Minnesota driver's license or Minnesota state identification card number, or, if the applicant has no current and valid Minnesota driver's license or Minnesota state identification card, the last four digits of the applicant's Social Security number if the applicant has been issued a Social Security number, the applicant's signature, and the date of registration. The application must be treated by the county auditor in the same manner as a Minnesota voter registration application.

Statutory Authority: *MS s 14.388; 201.022; 201.221*

History: *19 SR 593; 29 SR 155*

8200.4000 PROCESSING OF FEDERAL POST CARD APPLICATION.

Any federal post card application received from a member of the armed forces of the United States or from a person currently residing in Minnesota but temporarily living in another country must be processed as a voter registration application and, if the application is properly completed, the information on that application must be entered into the statewide voter registration system.

Statutory Authority: *MS s 201.061; 201.221; 203B.09*

History: *32 SR 2055*

ELECTION DAY REGISTRATION

8200.5100 REGISTRATION AT PRECINCT ONLY.

New language published electronically June 15, 2016

Subpart 1. **Procedure; proof.** Any person otherwise qualified but not registered to vote in the precinct in which the person resides may register to vote on election day at the polling place of the precinct in which the person resides. To register on election day, a person must complete and sign the registration application and provide proof of residence. A person may prove residence on election day only:

A. by presenting:

(1) a valid Minnesota driver's license, learner's permit, or a receipt for either that contains the voter's valid address in the precinct;

(2) a valid Minnesota identification card issued by the Minnesota Department of Public Safety or a receipt for the identification card that contains the voter's valid address in the precinct; or

(3) a tribal identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, address, signature, and picture of the individual;

B. by having a valid registration in the same precinct;

C. by presenting a notice of late registration mailed by the county auditor or municipal clerk;

D. by having a person who is registered to vote in the precinct and knows the applicant is a resident of the precinct sign the oath in part 8200.9939; or

E. by having an employee employed by and working in a residential facility located in the precinct, who knows that the applicant is a resident of that residential facility, vouch for that facility resident, and sign the oath in part 8200.9939, in the presence of the election judge.

"Residential facility" means transitional housing as defined in Minnesota Statutes, section 256E.33, subdivision 1; a supervised living facility licensed by the commissioner of health under Minnesota Statutes, section 144.50, subdivision 6; a nursing home as defined in Minnesota Statutes, section 144A.01, subdivision 5; a residence registered with the commissioner of health as a housing with services establishment as defined in Minnesota Statutes, section 144D.01, subdivision 4; a veterans home operated by the board of directors of the Minnesota Veterans Homes under Minnesota Statutes, chapter 198; a residence licensed by the commissioner of human services to provide a residential program as defined in Minnesota Statutes, section 245A.02, subdivision 14; a residential facility for persons with a developmental disability licensed by the commissioner of human services under Minnesota Statutes, section 252.28; group residential housing as defined in Minnesota Statutes, section 256I.03, subdivision 3; a shelter for battered women as defined in Minnesota Statutes, section 611A.37, subdivision 4; or a supervised publicly or privately operated shelter or dwelling designed to provide temporary living accommodations for the homeless.

To be eligible to sign the oath, the employee must show proof of employment at the residential facility, which may be accomplished by methods including:

(1) having the employee's name appear on a list of employees provided by the general manager or equivalent officer of the residential facility to the county auditor at least 20 days before the election;

(2) providing a statement on the facility's letterhead that the individual is an employee of the facility that is signed and dated by a manager or equivalent officer of the facility; or

(3) providing an employee identification badge.

The oaths in items D and E must be attached to the voter registration application and retained for at least 22 months.

Subp. 2. **Additional proof of residence allowed.** An eligible voter may prove residence under this subpart by presenting one of the photo identification cards listed in item A and one of the additional proofs of residence listed in item B.

A. The following documents are acceptable photo identification cards under this subpart if they contain the voter's name and photograph:

(1) a driver's license, a learner's permit, or identification card, issued by the state of Minnesota or any other state of the United States as defined in Minnesota Statutes, section 645.44, subdivision 11;

(2) a United States passport;

(3) a United States military or veteran identification card;

(4) a student identification card issued by a Minnesota secondary or postsecondary educational institution; or

(5) a tribal identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the individual's signature.

B. The following documents are acceptable additional proofs of residence under this subpart if the documents show the voter's name and current address in the precinct:

(1) an original bill, including account statements and start-of-service notification, for telephone, television, or Internet provider services, regardless of how those telephone, television, or Internet provider services are delivered; gas, electric, solid waste, water, or sewer services; credit card or banking services; or rent or mortgage payments. The due date on the bill must be within 30 days before or after election day, or, for bills without a due date, dated within 30 days before election day. For bills delivered electronically, "original" means a printed copy of the electronic bill or a display of the bill on the voter's portable electronic device;

(2) a current student fee statement that contains the student's valid address in the precinct; or

(3) a residential lease or residential rental agreement if the lease or rental agreement is valid through election day.

Subp. 3. **Additional proof of residence allowed for students.** An eligible voter may prove residence by presenting a current valid photo identification issued by a postsecondary educational institution in Minnesota if the voter's name, student identification number (if available), and address within the precinct appear on a current residential housing list under Minnesota Statutes, section 135A.17, certified to the county auditor by the postsecondary educational institution.

This additional proof of residence for students must not be allowed unless the postsecondary educational institution submits to the county auditor no later than 60 days prior to the election a written agreement that the postsecondary educational institution will certify for use at the election accurate updated residential housing lists under Minnesota Statutes, section 135A.17. A written agreement is effective for the election and all subsequent elections held in that calendar year, including the November general election.

The additional proof of residence for students must be allowed on an equal basis for voters who reside in housing meeting the requirements of Minnesota Statutes, section 135A.17, if the residential housing lists certified by the postsecondary educational institution meet the requirements of this part.

An updated residential housing list must be certified to the county auditor no earlier than 20 days prior to each election. The certification must be dated and signed by the chief officer or designee of the postsecondary educational institution and must state that the list is current and accurate and includes only the names of persons residing as of the date of the certification.

The auditor shall instruct the election judges of the precinct in procedures for use of the list in conjunction with photo identification. The auditor shall supply a list to the election judges with the election supplies for the precinct.

The auditor shall notify all postsecondary educational institutions in the county of the provisions of this subpart.

Subp. 4. [Repealed, 38 SR 1368]

Statutory Authority: *MS s 14.388; 201.022; 201.061; 201.221; 203B.09*

History: *11 SR 218; 12 SR 2215; 20 SR 2787; 23 SR 403; 23 SR 459; 25 SR 616; 31 SR 350; 32 SR 2055; 38 SR 1368; 40 SR 1553*

8200.5200 SWEARING TO RESIDENCE.

No person in a polling place as a challenger, pursuant to Minnesota Statutes, section 204C.07, shall be permitted to swear to the residence of any persons attempting to register on election day. A voter registered in the same precinct, including an election judge, may swear to the residence of any person who the voter knows to be a resident of the precinct. An election judge must swear to a person's residence before another election judge.

Statutory Authority: *MS s 201.221*

History: *17 SR 1279*

8200.5300 ELECTION JUDGE DUTIES.

One judge may both distribute ballots and register voters during the course of an election day, but one judge shall not perform both functions for the same voter. Persons wishing to register to vote on election day may determine whether they wish to fill out the voter registration application themselves or request the assistance of an election judge. The judges shall confine their questions to information necessary to complete the voter registration application.

Statutory Authority: *MS s 14.388; 201.221*

History: *29 SR 155*

8200.5400 NOTATION OF IDENTIFICATION ON REGISTRATION APPLICATION.

New language published electronically June 15, 2016

When a voter uses a driver's license, learner's permit, or identification card, issued by the state of Minnesota or any other state of the United States as defined in Minnesota Statutes, section 645.44, subdivision 11; United States passport; United States military or veteran identification card; tribal identification card; or Minnesota secondary or postsecondary educational institution student identification card to prove residence or identity when registering on election day, the election judge who is registering voters shall record the number, if any, on the voter registration application in the "election judge official use only" area of the application. When a voter uses one of the documents listed in part 8200.5100, subparts 2 and 3 to prove residence for election day registration, the election judge who is registering voters shall record the type of document on the voter registration application in the "election judge official use only" area of the application.

Statutory Authority: *MS s 14.388; 201.022; 201.061; 201.221; 203B.09*

History: *12 SR 2215; 23 SR 403; 23 SR 459; 25 SR 616; 29 SR 155; 32 SR 2055; 38 SR 1368; 40 SR 1553*

8200.5500 REGISTRATIONS RECEIVED ON ELECTION DAY.

Subpart 1. **Sufficiency of driver's license, Minnesota state identification card, or four-digit Social Security number information.** Minnesota driver's license, Minnesota state identification card, or Social Security number information provided as part of an election day registration voter registration application pursuant to Minnesota Statutes, section 201.061, subdivision 3, is sufficient as defined in section 303(a)(5)(A)(iii) of the Help America Vote Act of 2002, Public Law 107-252, to permit the applicant to vote at the election or an applicant can register as otherwise provided by Minnesota law.

Subp. 2. **Verification; correction; enforcement.** All new voter registration applications and updates of existing voter registrations submitted on election day pursuant to Minnesota Statutes, section 201.061,

subdivision 3, must be verified pursuant to part 8200.9310 and Minnesota Statutes, section 201.121.

If, after matching the information in the statewide voter registration system with the information contained in the Department of Public Safety database or, in the case of an applicant who does not have a Minnesota driver's license or Minnesota identification card, in the database of the Social Security Administration, the accuracy of the information on the voter registration application cannot be verified, the county auditor must investigate and attempt to resolve the discrepancy.

The county auditor must send notices to election day registrants whose information cannot be verified and request that the voters contact the registration office.

If the voter does not provide information that resolves the discrepancy so that the voter registration application can be verified, the county auditor must challenge the voter in the statewide voter registration system and may refer the matter to the county attorney. If during the verification process the Department of Public Safety provides information that indicates that the voter is ineligible to vote, the county auditor must challenge the voter's record in the statewide voter registration system and refer the matter to the county attorney.

Statutory Authority: *MS s 14.388; 201.221*

History: *25 SR 616; 29 SR 155; 38 SR 1368*

8200.5600 TRAINING ELECTION JUDGES.

Election judges who will be registering voters on election day shall receive training on election day voter registration procedures from the county auditor or designated municipal clerk at the same time training is provided pursuant to *Minnesota Statutes*, section 204B.25. Note: See chapter 8240.

Statutory Authority: *MS s 204B.25*

8200.5700 [Repealed, 29 SR 155]

8200.5710 REPORT OF DECEASED VOTER.

If on election day an individual wishes to report a deceased voter to an election judge, the individual reporting the deceased voter must complete notification of death of the registered voter in accordance with Minnesota Statutes, section 201.13. The notification of death must be in substantially the following form:

In accordance with Minnesota Statutes, section 201.13, I am a registered voter and I have personal knowledge that _____ is deceased.

Name of Registered Voter

Signature of Registered Voter Date

Deceased's Date of Birth: Date of Death:

Deceased's Last Known Address:

Statutory Authority: *MS s 201.221*

History: *38 SR 1368*

POSTERS

8200.5800 POSTERS.

The county auditor shall supply each polling place with posters furnished to the county by the secretary of state. The election judges shall post the posters in an appropriate location in the polling place prior to opening the polls.

Statutory Authority: *MS s 201.221*

COPIES OF PUBLIC INFORMATION LISTS

8200.6100 COPIES OF PUBLIC INFORMATION LISTS.

Persons requesting copies of public information lists shall provide the secretary of state or county auditor with a written request stating the information required by Minnesota Statutes, section 201.091, subdivision 4. The secretary of state may provide forms for these requests.

Statutory Authority: *MS s 201.022; 201.221*

History: *20 SR 2787*

8200.6200 PUBLIC INFORMATION LIST AVAILABLE FOR INSPECTION.

The public information list must be available for public inspection for authorized purposes at all times in the county auditor's office. The secretary of state may make available for purchase public information lists in electronic or other media.

Statutory Authority: *MS s 14.388; 201.022; 201.061; 201.221; 203B.09*

History: *20 SR 2787; 29 SR 155; 32 SR 2055*

8200.6300 [Repealed, 25 SR 616]

8200.6400 FORM OF PUBLIC INFORMATION LIST PROVIDED BY SECRETARY OF STATE.

The public information list provided by the secretary of state must contain the information required by Minnesota Statutes, section 201.091, subdivision 4, and must not contain the information in Minnesota Statutes, section 201.091, subdivision 9. The public information list may also include the precinct, ward, congressional district, legislative district, county commissioner district, judicial district, school district, or other identifiers for each election district in which the voter resides. The public information list may be requested in electronic or other media.

Statutory Authority: *MS s 14.388; 201.091; 201.221*

History: *15 SR 2308; 25 SR 616; 29 SR 155*

CHALLENGES AND VIOLATIONS

8200.7100 CHALLENGES TO VOTER REGISTRATION.

Persons wishing to challenge a voter's registration pursuant to Minnesota Statutes, section 201.195 may do so in the form in part 8200.9950.

The petition shall be accompanied by an affidavit of the challenger stating the basis for the challenge on personal knowledge.

Statutory Authority: *MS s 201.22*

8200.7200 COUNTY ATTORNEY REPORT.

County attorneys shall report the outcome of any investigation of alleged violations of voter registration laws to the secretary of state within ten days of the determination.

Statutory Authority: *MS s 201.221*

8200.8100 [Repealed, 8 SR 1348]

8200.8200 [Repealed, 8 SR 1348]

8200.8300 [Repealed, 8 SR 1348]

8200.9100 [Repealed, 20 SR 2787]

POLLING PLACE ROSTERS

8200.9115 FORM OF POLLING PLACE ROSTERS.

New language published electronically June 15, 2016

Subpart 1. **General form of roster.** The polling place rosters must contain the following items from the statewide registration system: voter's name, voter's address, voter's date of birth, voter's school district number, and a line on which the voter's signature can be written. When a voter's registration has been challenged pursuant to Minnesota Statutes, section 201.121, subdivision 2, an indicator noting the voter's challenged status must be printed on the line or included in the field provided for the voter's signature. A similar indicator must be printed on the line or included in the field provided for the voter's signature to note a voter's guardianship or felony status, if any.

The following certification must be included at the top of each page of the polling place roster: "I swear or affirm that I am at least 18 years of age and a citizen of the United States; that I reside at the address shown and have resided in Minnesota for 20 days immediately preceding this election; that I am not under guardianship of the person in which the court order revokes my right to vote, have not been found by a court to be legally incompetent to vote, and that I have the right to vote because, if convicted of a felony, my felony sentence has expired (been completed) or I have been discharged from my sentence; and that I am registered and will be voting only in this precinct. I understand that giving false information is a felony punishable by not more than five years imprisonment and a fine of not more than $10,000, or both."

One or more pages in a printed polling place roster must be provided for use by voters who register to vote in the polling place on election day. An election day registrant shall fill in the registrant's name, address, and date of birth and shall sign the roster on the line provided.

The polling place roster must also contain the name of the precinct and, for paper rosters, must include a page number. In addition, each line provided for a voter's signature must be consecutively numbered on each page.

The roster may also include additional material as permitted under Minnesota Statutes, section 201.221, subdivision 3.

Subp. 2. [Repealed, 25 SR 616]

Subp. 3. **Production of rosters.** The Secretary of State shall identify and develop methods of producing polling place rosters. The Secretary of State shall provide polling place rosters for each election in the state. The rosters provided by the secretary of state must be forwarded to the county auditors in an electronic format specified by the secretary of state. Alternatively, the list provided to the county auditors may be provided in another medium, if a written agreement specifying the medium is signed by the secretary of state and the county auditor at least 90 days before the November general election. A written agreement is effective for all elections until rescinded by either party.

Statutory Authority: *MS s 14.388; 201.022; 201.061; 201.091; 201.221; 203B.09*

History: *15 SR 2308; 19 SR 593; 25 SR 616; 29 SR 155; 31 SR 350; 32 SR 2055; 40 SR 1553*

8200.9120 INSPECTION OF POLLING PLACE ROSTERS.

An individual who asks to inspect a polling place roster used on election day must provide the county auditor with identification and a written request stating the information required by Minnesota Statutes, section 201.091, subdivision 4. Before fulfilling the request for inspection, the auditor must conceal the month and day of birth of each person on the roster.

Statutory Authority: *MS s 201.091; 201.221*

History: *25 SR 616*

8200.9200 [Repealed, 20 SR 2787]

MAINTAINING CERTAIN RECORDS

8200.9300 MAINTAINING CERTAIN VOTER REGISTRATION RECORDS; SECURITY.

Subpart 1. [Repealed, 20 SR 2787]

Subp. 2. [Repealed, 20 SR 2787]

Subp. 3. [Repealed, 20 SR 2787]

Subp. 4. [Repealed, 20 SR 2787]

Subp. 5. [Repealed, 20 SR 2787]

Subp. 6. [Repealed, 20 SR 2787]

Subp. 7. **Challenges and other notices.** A record of any challenge to a voter registration shall be made part of the registration file and shall remain until removed according to law. The word "challenged" shall appear on the same line as or directly above the name of a challenged voter on the polling place roster. A record of any notice affixed to a voter registration application pursuant to Minnesota Statutes, section 201.15, shall remain part of the file until removed according to law. The word "guardianship" shall appear on the same line as or directly above the name of the voter on the polling place roster. If any other special notice or information is affixed to a voter registration application, an indication of the notice shall be printed on the polling place roster.

Subp. 8. **Absentee voting.** When an absentee return envelope is marked "Accepted" pursuant to Minnesota Statutes, section 203B.121, subdivision 2, the roster shall be marked pursuant to Minnesota Statutes, section 203B.121, subdivision 3.

Subp. 9. **Security.** The auditor or clerk is responsible for maintaining the integrity of the polling place roster and for restricting access to the statewide registration system to properly authorized persons. The auditor or clerk shall provide for the transport and security of the polling place roster according to part 8200.0800.

Subp. 10. **Voter's receipt.** The election judges shall determine the number of ballots to be counted by adding the number of return envelopes from accepted absentee ballots to the number of voter's receipts issued pursuant to Minnesota Statutes, section 204C.10, subdivision 2, or to the number of names signed on the polling place roster. The election jurisdiction may require that the election judges number or initial each voter's receipt as it is issued.

Subp. 11. [Repealed, 38 SR 1368].

Statutory Authority: *MS s 14.388; 201.022; 201.221*

History: *8 SR 1348; 20 SR 2787; 29 SR 155; 38 SR 1368*

STATEWIDE REGISTRATION SYSTEM

8200.9305 ADMINISTRATION OF STATEWIDE REGISTRATION SYSTEM.

The secretary of state shall develop and operate a centralized database of all registered voters in the state of Minnesota. The database must be available to each county in the state through a statewide registration system provided by the secretary of state. The registration system must allow the secretary of state and the county auditors to add or modify information from the system in order to maintain an accurate database of registrants. The system must provide all county auditors and the secretary of state and, within a reasonable time after the system is initially implemented, municipal and school district clerks, with a method to view and search registration information.

A county auditor must use the statewide registration system to execute the duties of chief registrar of voters and chief custodian of registration records in the auditor's county.

Statutory Authority: *MS s 14.388; 201.022; 201.221*

History: *19 SR 593; 29 SR 155*

8200.9310 TREATMENT OF VOTER REGISTRATION APPLICATIONS.

Subpart 1. **Transmission of voter registration applications.** A completed voter registration application may be submitted to any state agency or county auditor. The secretary of state shall provide training to state agencies on the proper forwarding of voter registration applications. Voter registration applications submitted to the secretary of state must be forwarded to the appropriate county auditor for entry into the statewide registration system. With the approval of the appropriate county auditor, the secretary of state shall enter the registration applications into the statewide registration system for that county.

The secretary of state may electronically transmit the information on the voter registration applications to the appropriate county auditor. The county auditor shall promptly enter the information into the statewide registration system. The original applications submitted to the secretary of state must be maintained either by the secretary of state or by the appropriate county auditor. Voter registration applications must be stored in either paper, microfilm, or electronic format.

The secretary of state shall have full access to all functions of the statewide registration system.

Subp. 2. **Verification; defined; notification.** A. Verification means:

(1) that the information provided by the applicant on the voter registration application for all of the following categories matches the information in the same categories of the database maintained by the Department of Public Safety or in the database of the Social Security Administration if the applicant has no driver's license or identification card:

(a) name;

(b) date of birth;

(c) Minnesota driver's license or Minnesota state identification card number; or

(d) last four digits of Social Security number, if the applicant has not been issued a Minnesota driver's license or Minnesota state identification card.

If a voter has not been issued a Minnesota driver's license, a Minnesota state identification card, or a Social Security number, and the voter has so indicated on the voter's voter registration application, units (c) and (d) are inapplicable and the registration is verified; or

(2) that if after matching the information listed in subitem (1), even though the information may not be an exact match, the county auditor can still reasonably conclude that the information in the database of the Department of Public Safety, or in the database of the Social Security Administration if the applicant has no driver’s license or identification card, and the information provided by the applicant on the voter registration application, relate to the same person, in which case the county auditor shall note in the statewide registration system the basis for the conclusion.

B. The secretary of state must attempt to verify information entered into the voter registration system as a result of new voter registration applications by comparing the information stored by the voter registration system with information contained in the database maintained by the Department of Public Safety. The secretary of state must provide reports on attempted verifications that show the information of record in each database and that list:

(1) voter registration applications that match the information in the Department of Public Safety database or, in the case of an applicant who does not have a Minnesota driver's license or Minnesota identification card in the database of the Social Security Administration, and that are therefore verified;

(2) voter registration applications that cannot be verified with certainty against the information in the Department of Public Safety database or, in the case of an applicant who does not have a Minnesota driver's license or Minnesota identification card, in the database of the Social Security Administration. The report must match and contrast the information contained in the several databases; and

(3) voter registration applications with Minnesota drivers' license numbers, Minnesota identification card numbers, or if the applicant has no driver's license or identification card, the last four digits of the applicant's Social Security number that do not match the numbers of record in the Department of Public Safety database or, in the case of an applicant who does not have a Minnesota driver's license or Minnesota identification card, in the database of the Social Security Administration.

The reports prepared by the secretary of state must include a separate list of potential matches for incomplete mail-in registrations described in Minnesota Statutes, section 201.061, subdivision 1a.

C. The county auditor must review the reports provided by the secretary of state of records that have not been verified with certainty within ten days after the reports become available in the statewide voter registration system. The auditor must attempt to match the information on the voter registration application with the information in the database maintained by the Department of Public Safety or, in the case of an applicant who does not have a Minnesota driver's license or Minnesota identification card, in the database of the Social Security Administration, to permit the auditor to verify the information supplied on the voter registration application. The auditor shall attempt to obtain from the applicant any needed information by mail or, if a telephone number or an e-mail address was provided by the applicant, by telephone or e-mail. The auditor must record on the voter record in the statewide voter registration system each registration verified in this manner.

If the auditor cannot verify information for a registration, the auditor must record that the information supplied on the voter registration application could not be verified and is incomplete pursuant to Minnesota Statutes, section 201.121, subdivision 1.

Subp. 3. **Correction.** If a Minnesota driver's license number or Minnesota state identification card number supplied by the applicant cannot be verified because it does not exist in the Department of Public Safety database, the secretary of state or the county auditor shall correct the voter record to indicate that the number must not be used as the verification number on the voter record. In the case of an applicant who does not have a Minnesota driver's license number, Minnesota identification card number, or Social Security number that can be verified by comparison with the Department of Public Safety database, or in the database of the Social Security Administration, if the applicant has no Minnesota driver's license or Minnesota identification card, the unique voter record number generated by the statewide voter registration system must be used as the verification number for the record.

Subp. 4. [Repealed, 31 SR 350]

Subp. 5. **Updates.** A. A voter with an active voter registration may change the information on record by submitting a voter registration application meeting all the requirements for a new voter registration application.

B. If, after matching the updated information with the information contained in the Department of Public Safety database or, in the case of an applicant who does not have a Minnesota driver's license or Minnesota identification card, in the database of the Social Security Administration, the accuracy of the updated information cannot be verified, the county auditor must send a notice to the voter whose information cannot be verified and request that the voter provide the information or contact the registration office.

If the discrepancy cannot be resolved, the county auditor must challenge the voter in the statewide voter registration system and may refer the matter to the county attorney. If during the verification process the Department of Public Safety provides information that indicates that the voter is ineligible to vote, the county auditor must challenge the voter in the statewide voter registration system and refer the matter to the county attorney.

Statutory Authority: *MS s 14.388; 201.022; 201.221*

History: *19 SR 593; 29 SR 155; 31 SR 350*

8200.9315 PROCEDURE FOR ENTERING DATA INTO STATEWIDE VOTER REGISTRATION SYSTEM.

When entering information from a voter registration application into the statewide registration system, the secretary of state or county auditor shall:

A. conduct a statewide search of the registration database to determine if the applicant has previously registered in Minnesota;

B. assign the applicant to the proper voting precinct for the address provided on the application;

C. determine all election districts in which the applicant will be eligible to vote;

D. assign the registration record a unique identification number, and date the record as to when the registration was entered into the registration database;

E. maintain a record of voting history of the registrant for at least the previous six calendar years and a record of previous registrations and changes to voter status in the state for at least two years; and

F. provide information on prior registrations in other states. At periodic intervals, the secretary of state shall notify the chief election officials of other states of persons who have registered to vote in Minnesota and who indicated a prior registration in their state.

The secretary of state shall establish a precinct finder that must be maintained by each county auditor. The precinct finder must identify the voting precinct that will be assigned to the applicant. For the purposes of redistricting, the secretary of state shall include geographical data from the United States Census Bureau in the precinct finder.

Statutory Authority: *MS s 14.388; 201.022; 201.221; 203B.09*

History: *19 SR 593; 29 SR 155; 32 SR 2055*

8200.9320 INTERACTION WITH DEPARTMENT OF PUBLIC SAFETY.

The Secretary of State, in cooperation with the commissioner of public safety, shall develop a single unified application for use by the Department of Public Safety to permit eligible voters who have indicated they wish to register to vote to simultaneously register to vote and apply for a driver's license or state identification card. The Secretary of State and the commissioner of public safety may access a common database of information entered from this application.

The information from the unified application for voter registration and a driver's license or state identification card must be transferred electronically from the commissioner of public safety to the Secretary of State. The Secretary of State shall make available to each county auditor the data necessary to add or update a voter record on the statewide registration system. The county auditor shall process the data in the manner provided in part 8200.9315.

Statutory Authority: *MS s 201.022; 201.221*

History: *19 SR 59*

8200.9325 SECURITY FOR STATEWIDE REGISTRATION SYSTEM.

All authorized users of the statewide registration system must be identified uniquely in the manner provided by the Secretary of State. No access to the statewide registration system will be allowed to any person not identified as an authorized user of the system.

To ensure that information obtained from the statewide registration system is being used in the manner provided by law, the Secretary of State shall insert verification records into the statewide registration system. The verification records must not be included on any master list or polling place roster. If the Secretary of State has reason to believe that information obtained from the statewide registration system was used in a manner inconsistent with Minnesota Statutes, section 201.091, a report must be immediately transmitted to the appropriate county attorney.

Statutory Authority: *MS s 201.022; 201.221*

History: *19 SR 593*

8200.9910 [Repealed, 20 SR 2787]
8200.9916 [Repealed, 12 SR 2215]
8200.9919 [Repealed, 20 SR 2787]
8200.9922 [Repealed, 12 SR 2215]
8200.9925 [Repealed, 12 SR 2215]

FORMS

8200.9939 FORM OF OATH, SPECIFIED BY PART 8200.5100.

New language published electronically June 15, 2016

I,_____(Name of Voucher) swear or affirm that (Check one):

( ) I am pre-registered to vote in this precinct

Voter ID # _____

(to be completed by the election judge)

( ) I registered in this precinct today and did not have another person vouch for me

( ) I am an employee of a residential facility

_____

(Name of residential facility)

Residential Address of Voucher or Address of Residential Facility

_____

Street Address City

Telephone Number _____

E-mail address (optional) _____

I personally know that _____

(Name of person registering)

is a resident of this precinct.

_____

Signature of Voucher

Election Judge Official Use Only:

Subscribed and sworn to before me

__/__/____ _____

Date Signature of Election Judge

The above oath shall be attached to the voter registration card and retained for at least 22 months.

Statutory Authority: *MS s 201.022; 201.061; 201.221; 203B.09*

History: *20 SR 2787; 32 SR 2055; 40 SR 1553*

8200.9940 PRECINCT LIST OF PERSONS VOUCHING FOR VOTER RESIDENCE ON ELECTION DAY AND NUMBER OF PERSONS VOUCHED FOR.

Precinct List of Persons Vouching

City/Town Ward Precinct

- To be completed by election judges.
- Use to track the number of people vouched for by each voucher.
- Cross out the next number each time that person vouches for a registrant.
- Employees of residential facilities may vouch for an unlimited number of facility residents who are registering to vote at the facility's address. Otherwise, vouchers may only vouch for a maximum of eight registrants.

Voucher's Name	Voucher's Voter ID No.	Number Vouched for on Election Day
Example: John Doe	1234567	1 2 3 4 5 6 7 8
1		1 2 3 4 5 6 7 8
2		1 2 3 4 5 6 7 8
3		1 2 3 4 5 6 7 8
4		1 2 3 4 5 6 7 8
5		1 2 3 4 5 6 7 8
6		1 2 3 4 5 6 7 8
7		1 2 3 4 5 6 7 8
8		1 2 3 4 5 6 7 8
9		1 2 3 4 5 6 7 8
10		1 2 3 4 5 6 7 8
11		1 2 3 4 5 6 7 8
12		1 2 3 4 5 6 7 8
13		1 2 3 4 5 6 7 8
14		1 2 3 4 5 6 7 8
15		1 2 3 4 5 6 7 8
16		1 2 3 4 5 6 7 8
17		1 2 3 4 5 6 7 8
18		1 2 3 4 5 6 7 8

19	1 2 3 4 5 6 7 8
20	1 2 3 4 5 6 7 8
21	1 2 3 4 5 6 7 8
22	1 2 3 4 5 6 7 8
23	1 2 3 4 5 6 7 8
24	1 2 3 4 5 6 7 8
25	1 2 3 4 5 6 7 8
26	1 2 3 4 5 6 7 8
27	1 2 3 4 5 6 7 8
28	1 2 3 4 5 6 7 8
29	1 2 3 4 5 6 7 8
30	1 2 3 4 5 6 7 8

Certified by the Head Election Judge of the Precinct:

_____	_____	_____
Printed Name	Signature	Date

Statutory Authority: *MS s 201.061; 201.221; 203B.09*

History: *32 SR 2055; 38 SR 1368*

8200.9950 CHALLENGES TO VOTER REGISTRATION, SPECIFIED BY PART 8200.7100.

To the Auditor of _____ County
County Courthouse
_____(County Seat), Minnesota

I, _____ (Name of person making challenge), am a registered voter in _____ County, Minnesota.

I reside at

_____

(Street or Route No.) (City or Township).

I challenge the registration of

_____

(Name of challenged voter)

whose registration lists his or her residence as

_____

(Street or Route No.) (City or Township).

The grounds for my challenge are:

_____

_____

_____
_____
_____
(attach additional sheets of signed statement if necessary).
__/__/__ _____
(Date) (Signature of Challenger)

Statutory Authority: *MS s 201.221*

History: *17 SR 1279*

8200.9953 [Repealed, 20 SR 2787]

8200.9960 CHALLENGES TO VOTER REGISTRATION, FORM TO BE USED UNDER MINNESOTA STATUTES, SECTION 204C.12, SUBDIVISION 2.

I, _____ , do hereby state under oath,
Name of person making challenge
I am:
( ) an election judge.
( ) a challenger authorized by Minnesota Statutes, section 204C.07.
( ) a Minnesota voter.

I reside at _____ , _____,
Street Address City or Township
Telephone number: _____
E-mail address (optional): _____

I challenge the registration of _____
Name of challenged voter
whose registration lists his or her residence as
_____ _____
Street Address City or Township

This challenge is based on my personal knowledge. The grounds for my challenge are:
_____
_____
(attach additional sheets of signed statement if necessary).
I swear or affirm that the information stated here is truthful.
___/___/___ _____
Date Signature of Challenger

Signed and sworn to or affirmed before me

___/___/___ _____
Date Signature of Election Judge

For Election Judge Use Only:

Challenge was administered by Election Judge: _____
Time: _____
( ) Voter refused to take challenge oath.
( ) Challenge was dismissed: Voter passed challenge and voted.
( ) Challenge was sustained: Voter failed challenge and did not vote.

Additional comments:
Statutory Authority: *MS s 201.061; 201.221; 203B.09*
History: *32 SR 2055*

CHAPTER 8205 PETITIONS

8205.1000 [Repealed, 25 SR 616]

GENERAL REQUIREMENTS

8205.1010 FORM OF PETITIONS.

Subpart 1. **Applicability.** This part applies to any petition required for any election in this state, including nominating petitions, recall petitions, and proposed recall petitions.

Subp. 2. **General form requirements.** Petitions must be prepared in accordance with items A to I.

A. A petition must be prepared on paper no larger than 8-1/2 inches wide and 14 inches long. The signer's oath and the signature lines must be on the same side of the paper.

B. The language on the petition must be printed in no smaller than 10-point type.

C. Each petition page must have a short title describing the purpose of the petition.

D. Each petition page must have a statement summarizing the purpose of the petition.

E. If the purpose of the petition is to put a question on the ballot, each petition may have a statement of 75 words or less summarizing the ballot question.

F. Each petition page must have a signer's oath in no smaller than 12-point type. If the form of the signer's oath is not specified by statute, the following oath must be used: "I swear (or affirm) that I know the contents and purpose of this petition and that I signed the petition only once and of my own free will."

G. Each petition page must include the following statement immediately above the signature lines: "All information must be filled in by person(s) signing the petition unless disability prevents the person(s) from doing so.

H. Each petition page must have no more than ten signature lines. The signature lines must be consecutively numbered. Each signature line must have space for the date of signature; a signature; and each signatory's year of birth; printed first, middle, and last name; and residence address, municipality, and county.

I. Each petition page must include the following statement: "All information on this petition is subject to public inspection."

Statutory Authority: *MS 204B.071*

History: *25 SR 616*

8205.1020 CIRCULATING PETITIONS.

Subpart 1. **Applicability.** This part applies to any petition required for any election in this state, including nominating petitions, recall petitions, and proposed recall petitions.

Subp. 2. **Photocopies.** Petitioners may circulate photocopies of a sample petition page.

Statutory Authority: *MS 204B.071*

History: *25 SR 616*

8205.1030 SIGNING PETITIONS.

Subpart 1. **Applicability.** This part applies to any petition required for any election in this state, including nominating petitions, recall petitions, and proposed recall petitions.

Subp. 2. **Required information.** The person signing the petition shall complete the signature date, name, year of birth, and residence address on the petition.

Subp. 3. **Signing by disabled person.** A person physically unable to complete the petition may ask another for assistance.

Subp. 4. **Signing only once.** A person may sign a petition only once.

Statutory Authority: *MS 204B.071*

History: *25 SR 616*

8205.1040 FILING PETITIONS.

Subpart 1. **Applicability.** This part applies to any petition required for any election or recall in this state.

Subp. 2. **Definition of filing officer.** As used in this part and part 8250.1050, "filing officer" means:

A. in the case of a petition for a county office or county question, the county auditor;

B. in the case of a petition for a federal office, the secretary of state;

C. in the case of a state office, the filing officer who receives the affidavit for filing under Minnesota Statutes, section 204B.09, subdivision 1, paragraph (d);

D. in the case of a petition for a municipal office or municipal question, the municipal clerk;

E. in the case of a petition for a school district office or school district question, the school district clerk;

F. in the case of a petition for a special district office or special district question, the special district clerk;

G. in the case of a recall petition or a proposed recall petition filed under Minnesota Statutes, chapter 211C, the secretary of state;

H. in the case of a removal petition filed under Minnesota Statutes, section 351.16, the county auditor; or

I. in the case of a recall petition or a proposed recall petition filed pursuant to a municipal charter or ordinance, the municipal clerk.

Subp. 3. **Filing procedures.** The person filing the petition must submit the entire petition at one time to the filing officer. The petitioners may submit the petition by mail, messenger, or similar delivery service. Filing of a petition is effective upon receipt by the filing officer. Petition pages must not be altered by anyone except the filing officer for verification purposes after the petition has been filed.

Subp. 4. **Receipt.** The filing officer must provide the person filing the petition with a receipt for the petition. The receipt must include the type of petition filed; the name, address, and telephone number of the person submitting the petition; the date on which the petition was filed; and the total number of pages in the petition submitted.

Statutory Authority: *MS 204B.071*

History: *25 SR 616*

8205.1050 VERIFYING PETITIONS.

Subpart 1. **Applicability.** This part does not apply to proposed recall and recall petitions. The verification processes for proposed recall and recall petitions are located in parts 8205.2010 and 8205.2120. This part does not apply to statewide Major Political Party Recognition Petitions or statewide Minor Political Party Recognition Petitions. The verification processes for Major Political Party Recognition Petitions and Minor Political Party Recognition Petitions are located in parts 8205.3000, 8205.3100, 8205.3200, and 8205.3300.

Subp. 2. **Verifying petitions.** The filing officer shall verify each petition using the method in items A to C.

A. The filing officer shall inspect the form of the petition to determine whether it complies with part 8205.1010. The filing officer need only determine substantial compliance with regard to any type size on the form.

B. The filing officer shall inspect the petition to determine whether it has been signed by the required number of signatories and whether the signatories meet the applicable eligibility requirements.

If the petition has not been signed by the required number of qualified signatories, the filing officer must notify the person who filed the petition:

(1) that the petition has not been signed by the required number of signatories; and

(2) of the number of additional signatures needed.

If the time for circulating the petition has not expired, the petitioners may collect additional signatures and submit them at one time to the filing officer before the circulation period expires.

C. If the petition satisfies the form requirements in part 8205.1010 and has been signed by the required number of qualified signatories during the applicable time period, the filing officer shall notify the person whose name is on the petition receipt that the petition is sufficient.

Subp. 3. **Time for verification.** The filing officer shall complete the verification of a petition as soon as practicable but no later than ten working days after the day on which the petition was filed.

Statutory Authority: *MS 204B.071*

History: *25 SR 616; 38 SR 1368*

RECALL PETITIONS

8205.2000 FORM OF PROPOSED RECALL PETITION.

Subpart 1. **Applicability of other rules.** A proposed recall petition must comply with parts 8205.1010 to 8205.1040.

Subp. 1a **Form of proposed recall petition.** Proposed recall petitions must be prepared in accordance with items A to C.

A. The words "PROPOSED RECALL PETITION" must be printed at the top of each page of the petition.

B. Each page of the proposed petition must include the following information:

(1) the information required by *Minnesota Statutes*, section 211C.03; and

(2) an oath in the following form: "I solemnly swear (or affirm) that I am an eligible voter residing in the district where the state officer serves or, in the case of a statewide officer, in the state; I know the purpose and content of the petition; and I signed the petition only once and of my own free will."

C. Separate petitions must be used to propose the recall of more than one state officer.

D. The secretary of state shall provide sample proposed recall petition pages.

Subp. 2. [Repealed, 25 SR 616.]

Subp. 3. **Submitting the proposed recall petition.** The proposed recall petition must be submitted to the secretary of state.

The persons submitting the proposed recall petition also shall submit a written statement designating no more than three consenting signatories of the petition who will represent all petitioners in all matters relating to the recall. The secretary shall provide sample written statements.

The petition must be accompanied by a fee of $100. If the filing fee is paid with a check, draft, or similar negotiable instrument for which sufficient funds are not available or that is dishonored, the secretary of state shall send notice of the worthless instrument to the petitioners via registered mail with return receipt requested. The petitioners have five days from the time the secretary receives proof of receipt to provide the secretary of state with sufficient funds. If adequate payment is not made, the secretary of state shall dismiss the proposed petition.

Subp. 4. **Receipt of proposed recall petition.** The receipt must include the name of the state officer who is the subject of the proposed petition.

Statutory Authority: *MS s 207A.09; 211C.03; 211C.04; 211C.06*

History: *22 SR 1713; 25 SR 616*

8205.2010 VERIFYING THE PROPOSED RECALL PETITION.

Subpart 1. **Verifying the proposed recall petition.** The secretary of state shall inspect the form of each proposed recall petition to determine whether it complies with the requirements in parts 8205.1010 and 8205.2000, subpart 1. The secretary of state need only determine substantial compliance with regard to any type size on the form. The secretary of state shall inspect each proposed recall petition to determine whether it has been signed by at least 25 persons eligible to vote in the district where the state officer subject to the proposed recall petition serves or, in the case of a statewide officer, within the state. The secretary of state

shall verify that the address given by each signatory is in the district served by the state officer subject to the proposed recall petition and that the birth date given by each signatory establishes that the signatory was at least 18 years old when the petition was signed.

If the secretary of state determines that less than 25 eligible voters have signed a proposed recall petition, the secretary of state shall immediately dismiss the petition and send written notice to the person submitting the petition.

If the secretary of state determines that the proposed recall petition is sufficient, the secretary shall immediately send written notice to the state officer subject to the proposed recall petition and the petitioners and shall forward the proposed petition to the clerk of the appellate courts.

Subp. 2. **Time for verification.** The secretary of state shall complete the verification of a proposed recall petition no later than three working days after the day on which the petition was filed.

Statutory Authority: *MS s 207A.09; 211C.03; 211C.04; 211C.06*

History: *22 SR 1713; 25 SR 616*

8205.2100 ISSUING THE RECALL PETITION.

Subpart 1. **Secretary of state's duties.** When the secretary of state receives a recall order from the supreme court, the secretary shall provide the petitioners with:

A. a sample recall petition page that includes the statement of facts and grounds for recall ordered by the supreme court;

B. the number of signatures needed for the petition to be valid; and

C. the date by which the petition must be filed with the secretary of state to meet the filing deadline.

Subp. 2. [Repealed, 25 SR 616]

Statutory Authority: *MS s 207A.09; 211C.03; 211C.04; 211C.06*

History: *22 SR 1713; 25 SR 616*

8205.2110 FORM OF RECALL PETITION.

Subpart 1. **Applicability of other rules.** A recall petition must comply with parts 8205.1010 to 8205.1040.

Subp. 1a. **Form of recall petition.** Recall petitions must be prepared in accordance with items A and B.

A. The words “RECALL PETITION” must be printed at the top of each page of the petition.

B. Each page in the petition must include the following information:

(1) the information required by *Minnesota Statutes*, section 211C.03; and

(2) an oath in the following form: “I solemnly swear (or affirm) that I am an eligible voter residing in the district where the state officer serves or, in the case of a statewide officer, in the state; I know the purpose and content of the petition; and I signed the petition only once and of my own free will.”

C. A separate petition must be used for the recall of each state officer.

Subp. 2. [Repealed, 25 SR 616.]

Subp. 3. **Submitting the petition.** The completed petition must be filed with the secretary of state.

Subp. 4. **Receipt of recall petition.** The receipt must include the name of the state officer who is the subject of the petition.

Statutory Authority: *MS s 207A.09; 211C.03; 211C.04; 211C.06*

History: *22 SR 1713; 25 SR 616*

8205.2120 VERIFYING THE RECALL PETITION.

Subpart 1. **Verifying the recall petition.** The secretary of state shall verify each recall petition by the following method.

A. The secretary of state shall inspect the form of the recall petition to determine whether it complies with the requirements in parts 8205.1010 and 8205.2110, subpart 1.

B. The secretary of state shall inspect each petition to determine whether it was filed within 90 days after the date of issuance. If the secretary of state determines that the petition was not filed within 90 days after the date of issuance, the secretary shall dismiss the petition and notify the petitioners of the reason for dismissal.

C. The secretary of state shall inspect each petition to determine whether it has been signed by a number of persons eligible to vote in the district served by the state officer subject to the recall petition that is equal to at least 25 percent of the number of votes cast at the most recent general election for the office held by the state officer subject to the recall petition. If the petition has not been signed by the required number of eligible voters and the 90-day time limit has expired during the verification process, the secretary shall dismiss the petition and notify the petitioners of the reason for the dismissal. If the petition has not been signed by the required number of eligible voters but the 90-day time limit has not expired, the secretary shall notify the petitioners:

(1) that the petition has not been signed by the required number of voters;

(2) of the number of additional signatures needed;

(3) that the 90-day time limit has not expired;

(4) of the number of days left in the 90-day time limit; and

(5) that the petitioners may provide the secretary with the required number of additional signatures before the 90-day time limit expires.

If the petitioners do not provide the necessary number of additional signatures during the 90-day time limit, the secretary shall dismiss the petition and notify the petitioners. If the petitioners provide the necessary number of required signatures within the 90-day time limit, the secretary shall continue the verification process.

D. The secretary of state shall use a random sampling technique to verify that the persons signing the petition are eligible voters.

(1) If a member of the house of representatives or senate is the subject of the recall petition, the sample size must be 650 signatures.

(2) If the governor, lieutenant governor, secretary of state, state auditor, state treasurer, or attorney general, or a supreme court, court of appeals, or district court judge is the subject of the recall petition, the sample size must be 2,000 signatures.

(3) The secretary shall consecutively number every completed signature line on the petition. The signature lines on the petition that correspond to the random numbers generated constitute the sample for the verification process.

(4) The secretary of state shall verify that the address given by each signatory in the sample is in the district served by the state officer subject to the recall petition and that the birth date given by each signatory in the sample establishes that the signatory was at least 18 years old when the petition was signed. Signatures from persons determined by the secretary to be ineligible to vote must not be counted.

(5) The secretary shall determine what percentage of the signatories in the sample are eligible voters.

(6) The secretary shall multiply the total number of petition signatories by the percentage of signatories determined to be eligible voters in the sample to determine how many of the signatories on the petition are deemed to be eligible voters.

(7) If the statistical sampling shows the number of signatories deemed to be eligible voters is less than 100 percent of the required number and the 90-day time limit has expired during the verification process, the secretary shall dismiss the petition and notify the petitioners of the reasons for the dismissal.

(8) If the statistical sampling shows the number of signatories deemed to be eligible voters is less than 100 percent of the required number but the 90-day time limit has not expired during the verification process, the secretary shall notify the petitioners:

(a) that the petition has not been signed by the required number of eligible voters;

(b) of the number of additional signatures needed;

(c) that the 90-day time limit has not expired;

(d) of the number of days left in the 90-day time limit; and

(e) that the petitioners may provide the secretary with the required number of additional signatures before the 90-day time limit expires. If the petitioners do not provide the secretary with additional signatures during the 90-day time limit, the secretary shall dismiss the petition and notify the petitioners. If the petitioners provide the secretary with additional signatures, the secretary shall reverify the petition using the procedure described in subpart 1.

E. If the secretary of state determines that the petition satisfies the form requirements in parts 8205.1010 and 8205.2110, subpart 1, the petition has been filed within the 90-day time limit, that the petition has been signed by the required number of signatories, and that the statistical sampling shows the number of signatories who are eligible voters is 100 percent or greater of the required number, the secretary shall certify the petition and immediately send written notice to the governor, the petitioners, and the state officer subject to the petition.

Subp. 2. **Time for verification.** The secretary of state shall complete the verification of a petition no later than ten working days after the day on which the petition was filed.

Statutory Authority: *MS s 207A.09; 211C.03; 211C.04; 211C.06*

History: *22 SR 1713; 25 SR 616*

MAJOR AND MINOR POLITICAL PARTY RECOGNITION PETITIONS

8205.3000 FORM OF MAJOR AND MINOR POLITICAL PARTY RECOGNITION PETITION.

Subpart 1. **Applicability of other rules.** A major or minor political party recognition petition must comply with parts 8205.1010 to 8205.1040.

Subp. 2. **Form of Major Political Party Recognition Petition.** Major Political Party Recognition Petitions must be prepared in accordance with items A and B.

A. The words "MAJOR POLITICAL PARTY RECOGNITION PETITION" must be printed at the top of each page of the petition.

B. Each page in the petition must include the following information:

(1) An affirmation that each signatory:

(a) supports the general principles of that party's constitution;

(b) voted for a majority of that party's candidates in the last general election; or

(c) intends to vote for a majority of that party's candidates in the next general election.

(2) An oath in the following form: "I solemnly swear (or affirm) that I know the purpose and content of the petition; and I signed the petition only once and of my own free will."

C. A separate petition must be used for each prospective major political party.

Subp. 3. **Form of the Minor Political Party Recognition Petition.** A Minor Political Party Recognition Petition must be prepared in accordance with items A and B.

A. The words "MINOR POLITICAL PARTY RECOGNITION PETITION" must be printed at the top of each page of the petition.

B. An oath in the following form: "I solemnly swear (or affirm) that I am a member of the _____ party; I know the purpose and content of the petition; and I signed the petition only once and of my own free will."

C. A separate petition must be used for each prospective minor political party.

Subp. 4. **Filing.** Prior to filing the petition, the party must ensure the signatures are consecutively numbered. The completed petition must be filed with the secretary of state. Upon filing the petition the prospective major or minor political party must provide the name, address, and telephone number of a contact person.

Statutory Authority: *MS s 204B.071*

History: *38 SR 1368*

8205.3200 VERIFYING STATEWIDE MAJOR POLITICAL PARTY RECOGNITION PETITION AND STATEWIDE MINOR POLITICAL PARTY RECOGNITION PETITION.

New language published electronically June 15, 2016

Subpart 1. **Verifying the statewide political party recognition petitions.** The secretary of state shall verify each statewide Major Political Party Recognition Petition and each statewide Minor Political Party Recognition Petition by the following method.

A. The secretary of state shall determine whether the petition was filed before the close of the filing period for state and federal offices. If the secretary of state determines that the petition was not filed before the close of filing for state and federal offices, the secretary of state shall dismiss the petition and notify the petitioners of the reason for dismissal.

B. The secretary of state shall inspect the form of the major or minor political party recognition petition to determine whether or not it complies with requirements in parts 8205.1010 to 8205.1040 and 8205.3000.

C. The secretary of state shall inspect each petition to determine whether or not it has been signed by a number of eligible persons equal to at least:

(1) five percent of the total number of individuals who voted in the preceding state general election for qualification as a major political party; or

(2) one percent of the total number of individuals who voted in the preceding state general election for qualification as a minor political party.

If the petition has not been signed by the required number of eligible persons and the filing deadline has passed during the verification process, the secretary of state shall dismiss the petition and notify the petitioners of the reason for dismissal. If the petition has not been signed by the required number of eligible persons but the filing deadline has not passed, the secretary of state shall notify the petitioners:

(a) that the petition has not been signed by the required number of eligible persons;

(b) of the number of additional signatures needed;

(c) that the filing deadline has not yet passed;

(d) of the date of the filing deadline; and

(e) that the petitioners may provide the secretary of state with the required number of additional signatures before the close of the filing period.

If the petitioners do not provide the necessary number of additional signatures before the end of the filing period, the secretary of state shall dismiss the petition and notify the petitioners. If the petitioners provide the necessary number of required signatures before the close of the filing period, the secretary of state shall continue the verification process.

D. The secretary of state shall use a random sampling technique to verify that the persons signing the petition are eligible persons.

(1) The sample size must be 2,000 signatures for a statewide political party recognition petition.

(2) The secretary of state shall consecutively number every completed signature line on the petition. The signature lines on the petition that correspond to the random number generated constitute the sample for the verification process.

(3) The secretary of state shall verify that the address given by each signatory in the sample is in the state of Minnesota and that the birth date given by each signatory in the sample establishes that the signatory was eligible to sign the petition. The secretary of state must also determine that the signatory signed the petition not more than one year prior to filing of the petition. Signatures from persons determined by the secretary of state to be ineligible to vote must not be counted.

(4) The secretary of state shall determine what percentage of the signatories in the sample are eligible persons.

(5) The secretary shall multiply the total number of petition signatories by the percentage of signatories determined to be eligible persons in the sample to determine how many of the signatories on the petition are deemed to be eligible persons.

(6) If the statistical sampling shows the number of signatories deemed to be eligible persons is less than 100 percent of the required number and the filing deadline has passed during the verification process, the secretary of state shall dismiss the petition and notify the petitioners of the reasons for the dismissal.

(7) If the statistical sampling shows the number of signatories deemed to be eligible persons is less than 100 percent of the required number but the filing deadline has not passed during the verification process, the secretary of state shall notify the petitioners:

(a) that the petition has not been signed by the required number of eligible persons;

(b) of the number of additional signatures needed;

(c) that the filing period has not expired;

(d) of the date on which the filing period expires; and

(e) that the petitioners may provide the secretary of state with the required number of additional signatures before the filing deadline.

If the petitioners do not provide the secretary of state with additional signatures before the end of the filing period, the secretary of state shall dismiss the petition and notify the petitioners. If the petitioners provide the secretary of state with additional signatures, the secretary of state shall reverify the petition using the procedure described in this subpart.

E. If the secretary of state determines that the petition satisfies the form requirements in parts 8205.1010 and 8205.3000, that the petition has been filed prior to the close of the filing deadline for state and federal candidates, that the petition has been signed by the required number of signatories, and that the statistical sampling shows the number of signatories who are eligible persons is 100 percent or greater of the required number, the secretary of state shall certify the petition and immediately send written notice to the petitioners, the commissioner of the Minnesota Department of Revenue, and the executive director of the Campaign Finance and Public Disclosure Board.

Subp. 2. **Time for verification.** The secretary of state shall complete the verification of a petition no later than ten working days after the day on which the petition was filed.

Statutory Authority: *MS s 204B.071*

History: *38 SR 1368; 40 SR 1553*

CHAPTER 8210 - ABSENTEE BALLOTS

ABSENTEE BALLOT MATERIALS; INSTRUCTIONS

8210.0050 ABSENTEE OR MAIL BALLOT MATERIALS.

All materials mailed in connection with absentee or mail voting shall bear the official United States Postal Service Election Mail insignia.

All envelopes used in connection with absentee or mail voting shall also bear a legend indicating the ballot category enclosed, in no smaller than 8-point type. The categories are:

A. registered;

B. nonregistered;

C. registered (agent delivery);

D. nonregistered (agent delivery);

E. military/overseas;

F. presidential only; and

G. mail.

Statutory Authority: *MS s 14.388; 201.061; 201.221; 203B.09*

History: *29 SR 155; 32 SR 2055*

8210.0100 PRESIDENTIAL ABSENTEE BALLOTS.

Subpart 1. **Procedure for voting.** A person who is qualified under United States Code, title 42, section 1973aa-1, to vote for the offices of president and vice-president or for electors for president and vice-president may vote by absentee ballot or in person at the auditor's office in the county where the person formerly resided. The certificate of eligibility on the back of the absentee ballot return envelope must be printed in the form shown in subpart 2.

Subp. 2. **Form of certificate of eligibility.**

Signature Envelope

Voter must complete this section please print clearly

Voter name _____

Voter former address in MN _____

_____ MN

ID number

(MN driver's license #,

MN ID card #,

or last four digits of SSN) _____

○ I do not have a MN-issued driver's license, MN-issued ID card,

or Social Security number.

Current phone number (optional):

_____

Current email address (optional):

_____

I certify that I

- will be at least 18 years old on election day;
- am a citizen of the United States;
- am not under guardianship of the person in which the court order revokes my right to vote;
- have not been found by a court to be legally incompetent to vote;
- have the right to vote because, if convicted of a felony, my felony sentence has expired (been completed) or I have been discharged from my sentence;
- previously lived in Minnesota at the address printed above;
- moved from Minnesota to another state within 30 days of the election; and
- am not eligible to vote in the state in which I now live.

Voter Signature X _____

Statutory Authority: *MS s 14.388; 201.061; 201.221; 203B.04; 203B.08; 203B.09; 203B.125; 204B.45*

History: *23 SR 459; 29 SR 155; 31 SR 350; 32 SR 2055; 34 SR 1561; 36 SR 1407*

8210.0200 PERMANENT ABSENTEE BALLOT APPLICATION.

Subpart 1. [Repealed, 32 SR 2055]

Subp. 1a. [Repealed, 32 SR 2055]

Subp. 1b. [Repealed, 29 SR 155]

Subp. 1c. [Repealed, 32 SR 2055]

Subp. 1d. [Repealed, 32 SR 2055]

Subp. 1e. [Repealed, 25 SR 616]

Subp. 1f. [Repealed, 25 SR 616]

Subp. 2. [Repealed, 32 SR 2055]

Subp. 3. [Repealed, 34 SR 1561]

Subp. 4. **Permanent application.** An eligible voter under Minnesota Statutes, section 203B.04, subdivision 5, may apply to the county auditor or municipal clerk to automatically receive an absentee ballot application for each election in which the voter is eligible to vote. The county auditor shall make available the form provided by the secretary of state for this purpose. The voter shall complete the form and return it to the county auditor or municipal clerk. A municipal clerk who receives a completed application shall forward it to the county auditor immediately. The voter's permanent application status must be indicated and permanently maintained on the voter's registration record on the statewide voter registration system.

The county auditor shall maintain a list of voters who have applied to automatically receive an absentee ballot application. At least 60 days before each election, the county auditor or municipal clerk shall send an absentee ballot application to each person on the list who is eligible to vote in the election.

Subp. 4a. [Repealed, 32 SR 2055]

Subp. 5. [Repealed, 25 SR 616]

Subp. 6. [Repealed, 32 SR 2055]

Statutory Authority: *MS s 14.388; 201.061; 201.221; 203B.04; 203B.08; 203B.09; 203B.125*

History: *10 SR 1690; 13 SR 259; 15 SR 1641; 17 SR 8; 20 SR 2787; 23 SR 459; 25 SR 616; 29 SR 155; 32 SR 2055; 34 SR 1561; 38 SR 1368*

8210.0225 APPLICATIONS FROM CHALLENGED VOTERS.

A voter registration application must be sent with the ballot to any challenged voter and to each voter whose voter registration application is incomplete under Minnesota Statutes, section 201.061, subdivision 1a, or 201.121, who applies for an absentee ballot. The absentee ballot process must be administered as if the voter was not registered to vote.

Statutory Authority: *MS s 14.388; 203B.04; 203B.08; 203B.09; 203B.125*

History: *23 SR 459; 29 SR 155*

8210.0250 [Repealed, 25 SR 616]

8210.0300 BALLOT ENVELOPE.

The ballot envelope shall be printed in the following manner. The envelope shall be tan in color with black ink. The envelope shall be of a size to fit inside the absentee ballot return envelope. The words "Ballot Envelope" and “Use this envelope first to keep your ballot secret. Put only your ballot in this envelope and seal it.” shall be printed on the front of the envelope.

Statutory Authority: *MS s 203B.08; 203B.09; 203B.125; 203B.14*

History: *8 SR 1348; 17 SR 351; 34 SR 1561*

8210.0400 TRANSMITTAL ENVELOPE.

A telephone number and an electronic mail address that voters can call or contact for help in absentee voting must be printed as part of the return address on the envelope in which the absentee balloting materials are transmitted to the voter or as part of the cover letter to voters, for those voters to whom ballots are transmitted electronically. The envelope in which the absentee balloting materials are transmitted to the voter must have the following printed on it: "Read and follow the enclosed instruction sheet to help ensure that your vote will count."

Statutory Authority: *MS s 203B.08; 203B.09; 203B.125; 204B.45*

History: *36 SR 1407*

8210.0500 INSTRUCTIONS TO ABSENT VOTER.

New language published electronically June 15, 2016

Subpart 1. **Required instructions.** Instructions to the absent voter shall be transmitted with the absentee ballot materials sent or delivered to the absent voter. The instructions shall be in the form in subparts 2, 3, or 4 or 5 and 6. The instruction headings with numbers must be in no smaller than 12-point type and the rest of the text must be in no smaller than 10-point type, except for the confidentiality notice, which may be in 7-point type. The instructions must explain how to correctly mark the ballot. The instructions must inform the voter of the effect of casting multiple votes for an office and, in the case of a partisan primary, the effect of voting for candidates of more than one party. The instructions must include information on how to correct a ballot before it is cast and counted, including instructions on how to request a replacement ballot if the voter is unable to change the ballot or correct an error. The instructions must include a graphic depiction of the absentee ballot materials and how they are to be completed and assembled by the voter. The instructions must also include a privacy notice that complies with Minnesota Statutes, section 13.04. The secretary of state must provide each county auditor with sample instructions with graphic depictions.

Subp. 2. **Instructions for registered voters.**

Instructions

How to vote by absentee ballot

for registered voters

You will need:

•Ballot*

•Tan ballot envelope*

•White signature envelope*

•Larger white return envelope*

•Pen with black ink

•Your ID number

Minnesota driver's license number, Minnesota ID card number, or the last four digits of your Social Security number.

See below if you do not have any of these numbers.

•Witness

Anyone registered to vote in Minnesota,

including your spouse or relative,

or a notary public,

or a person with the authority to administer oaths

*If any of these items are missing, please contact your local election official.

1 Vote!

•Show your witness your blank ballot, then mark your votes in private.

•Follow the instructions on the ballot.

•Do not write your name or ID number anywhere on the ballot.

•Do not vote for more candidates than allowed. *If you do, your votes for that office will not count.*

See the other side if you make a mistake on your ballot.

2 Seal your ballot in the tan ballot envelope

•Do not write on this envelope.

3 Put the tan ballot envelope into the white signature envelope

4 Fill out the white signature envelope completely

•If there is no label, print your name and Minnesota address.

•Print your Minnesota driver's license number, Minnesota ID card number, or the last four digits of your Social Security number.

Be sure to use one of the same numbers that you provided on your absentee ballot application.

If you do not have any of these numbers, check the box.

•Read and sign the oath.

•Ask your witness to print their name and Minnesota street address, including city (not a P. O. Box), and sign their name.

If your witness is an official or notary, they must print their title instead of an address.

Notaries must also affix their stamp.

•Seal the envelope.

5 Put the signature envelope into the larger white return envelope to protect your private information from view

•Seal the envelope.

6 Return your ballot by Election Day to the address on the return envelope

Ballots may not be delivered to your polling place.

You have three options:

•Send it so it arrives by Election Day, using U.S. mail or a package delivery service,

•Deliver it in person before election day or by 3:00 p.m. on Election Day, or

•Ask someone to deliver it by 3:00 p.m. on Election Day.

This person cannot deliver more than 3 ballots.

See the other side for special instructions if you have a disability.

To check the status of your absentee ballot, visit www.mnvotes.org.

Correcting a mistake

•If time allows, ask for a new ballot from your election office. Contact your election office at [e-mail] or [phone number], or

•Completely cross out the name of the candidate you accidentally marked and then mark your ballot for the candidate you prefer (do not initial your corrections).

If you have a disability:

If you have a disability or cannot mark your ballot, your witness may assist you by marking your ballot at your direction, assembling the materials, and filling out the forms for you.

When signing the envelope, Minnesota law says you may:

•Sign the return envelope yourself, or

•Make your mark, or

•Ask your witness to sign for you in your presence. (Have the witness sign their own name as well.)

•If you have adopted the use of a signature stamp for all purposes of signature, you may use your signature stamp or ask your witness to use your signature stamp in your presence.

Minnesota Statutes, section 645.44, subdivision 14

Please note: Voting is not covered by power of attorney. A person with power of attorney may only sign for you in your presence, as outlined above.

Subp. 3. **Instructions for unregistered voters.**

Instructions

How to vote by absentee ballot

You will need:

•Ballot*

•Tan ballot envelope*

•Voter registration application*

•White signature envelope*

•Larger white return envelope*

•Pen with black ink

•Minnesota driver's license with your address

or other authorized proof of where you live.

See other side for a list of options

•Your ID number

Minnesota driver's license number, Minnesota ID card number, or the last four digits of your Social Security number.

See below if you do not have any of these numbers.

•Witness

Anyone registered to vote in Minnesota,

including your spouse or relative,

or a notary public,

or a person with the authority to administer oaths

*If any of these items are missing, please contact your local election official.

Important: You must submit the voter registration application <u>with</u> your ballot (in the white signature envelope) for your vote to be counted.

1 Fill out the voter registration application and sign it

•Show your witness your driver's license or other authorized proof of where you live.

See the other side for a list of options.

2 Vote!

- Show your witness your blank ballot, then mark your votes in private.
- Follow the instructions on the ballot.
- Do not write your name or ID number anywhere on the ballot.
- Do not vote for more candidates than allowed. *If you do, your votes for that office will not count.*

See the other side if you make a mistake on your ballot.

3 Seal your ballot in the tan ballot envelope

- Do not write on this envelope.

4 Put the tan ballot envelope and the voter registration application in the white signature envelope

5 Fill out the white signature envelope completely

- If there is no label, print your name and Minnesota address.
- Print your Minnesota driver's license number, Minnesota ID card number, or the last four digits of your Social Security number.

Be sure to use one of the same numbers that you provided on your absentee ballot application.

If you do not have any of these numbers, check the box.

- Read and sign the oath.
- Ask your witness to print their name and Minnesota street address, including city (not a P. O. Box), indicate which proof you showed them, and sign their name.

If your witness is an official or notary, they must print their title instead of an address.

Notaries must also affix their stamp.

- Seal the envelope.

6 Put the signature envelope into the larger white return envelope to protect your private information from view

- Seal the envelope.

7 Return your ballot by Election Day to the address on the return envelope

Ballots may not be delivered to your polling place.

You have three options:

- Send it so it arrives by Election Day, using U.S. mail or a package delivery service,
- Deliver it in person before election day or by 3:00 p.m. on Election Day, or
- Ask someone to deliver it by 3:00 p.m. on Election Day.

This person cannot deliver more than 3 ballots.

To check the status of your absentee ballot, visit www.mnvotes.org.

Options for proof of where you live

A valid Minnesota driver's license, Minnesota ID card, or permit with your current address

or

A photo ID that does not have your current address along with a document that has your current address

•**Eligible photo IDs:** Minnesota or another state's driver's license, learner's permit, or ID card; U.S. passport; U.S. military or veteran ID card; Minnesota high school/college/university ID card; or tribal ID card with your signature, from a tribe recognized by the Bureau of Indian Affairs (BIA).

•**Eligible documents with your current address:** an original bill, including account statements and start-of-service notifications, dated within 30 days before or with a due date 30 days before or after the election; a current student fee statement; or a residential lease if valid through election day. Eligible bills are: gas, electric, solid waste, water, sewer, phone, cell phone, television, Internet provider, credit card, or banking services; or bills for rent or mortgage payments.

or one of the following:

•A yellow receipt for a valid Minnesota driver's license, Minnesota ID card, or permit with your current address

•Vouching: the signature of a registered voter who lives in your precinct and personally knows that you live in the precinct. If your witness is registered to vote in this precinct, your witness may vouch for you. *This person must complete and sign the voucher form on the back of the voter registration application.*

•A tribal ID card with your name, address, signature, and picture, from a tribe recognized by the BIA

•A "Notice of Late Registration" if you received one from the county auditor or city clerk

•If you have moved within your precinct or changed your name, a current registration in the precinct

•Vouching for residents of certain residential facilities: the signature of an employee of your residential facility, including nursing homes, group homes, battered women's shelters, homeless shelters, etc. If you are not sure if the residential facility where you live is eligible, call your local election official. *The employee must complete and sign the voucher form on the back of the voter registration application.*

Correcting a mistake

•If time allows, ask for a new ballot from your election office. Contact your election office at [e-mail] or [phone number], or

•Completely cross out the name of the candidate you accidentally marked and then mark your ballot for the candidate you prefer (do not initial your corrections).

If you have a disability:

If you have a disability or cannot mark your ballot, your witness may assist you by marking your ballot at your direction, assembling the materials, and filling out the forms for you.

When signing the envelope, Minnesota law says you may:

•Sign the return envelope yourself, or

•Make your mark, or

•Ask your witness to sign for you in your presence. (Have the witness sign their own name as well.)

•If you have adopted the use of a signature stamp for all purposes of signature, you may use your signature stamp or ask your witness to use your signature stamp in your presence.

Minnesota Statutes, section 645.44, subdivision 14

Please note: Voting is not covered by power of attorney. A person with power of attorney may only sign for you in your presence, as outlined above.

Subp. 4. **Instructions for military and overseas voters transmitted ballots by mail.**

Instructions

How to vote by absentee ballot for military and overseas voters

You will need:

•Ballot*

•Tan ballot envelope*

•White signature envelope*

•Larger white return envelope*

•Pen with black ink

•Your ID number

Minnesota driver's license number, Minnesota ID card number, U.S. passport number, or the last four digits of your Social Security number.

See below if you do not have any of these numbers.

*If any of these items are missing, please contact your local election official.

1 Vote!

•Mark your votes in private.

•Follow the instructions on the ballot.

•Do not write your name or ID number anywhere on the ballot.

•Do not vote for more candidates than allowed. *If you do, your votes for that office will not count.*

See the other side if you make a mistake on your ballot.

2 Seal your ballot in the tan ballot envelope

•Do not write on this envelope.

3 Put the tan ballot envelope into the white signature envelope

4 Fill out the white signature envelope completely

•If there is no label, print your name and Minnesota address (present or last).

•Print your e-mail address and phone number (optional).

•Print your Minnesota driver's license number, Minnesota ID card number, passport number, or the last four digits of your Social Security number.

Be sure to use one of the same numbers that you provided on your absentee ballot application.

If you do not have access to any of these documents, leave this space blank.

•Read and sign the oath.

•Seal the envelope.

5 Put the signature envelope into the larger white return envelope to protect your private information from view

•Seal the envelope.

6 Return your ballot <u>by Election Day to the address on the return envelope</u>

•Send it so it arrives by Election Day, using mail, a package delivery service, or the diplomatic pouch at a U.S. embassy or consulate.

•Postage is not required if the postal permit is on the envelope and it is sent using U.S. mail, U.S. military mail, or the diplomatic pouch. Postage may be required if you use a foreign mail service or a package delivery service.

See the other side for special instructions if you have a disability.

To check the status of your absentee ballot, visit http://www.mnvotes.org.

If you have any questions, contact your county elections office at [insert e-mail address] or [insert telephone number].

Correcting a mistake

•If time allows, ask for a new ballot from your election office. Contact your election office at [e-mail] or [phone number], or

•Completely cross out the name of the candidate you accidentally marked and then mark your ballot for the candidate you prefer (do <u>not</u> initial your corrections).

If you have a disability:

If you have a disability or cannot mark your ballot, another person may assist you by marking your ballot at your direction, assembling the materials, and filling in the forms for you.

When signing the envelope, Minnesota law says you may:

•Sign the return envelope yourself, or

•Make your mark, or

•Ask another person to sign for you in your presence. (Have this person sign their own name as well.)

•If you have adopted the use of a signature stamp for all purposes of signature, you may use your signature stamp or ask another person to use your signature stamp in your presence.

Minnesota Statutes, section 645.44, subdivision 14

Please note: Voting is not covered by power of attorney. A person with power of attorney may only sign for you in your presence as outlined above.

Subp. 5. **Cover letter for military and overseas voters transmitted ballots electronically.**

Dear Military/Overseas Absentee Voter:

Your absentee ballot and supporting materials for the election on [month day, year] are attached. Your absentee ballot is being sent to you electronically because you requested this delivery method on your application. Please print, fill out, and return these materials so they are received by your county by Election Day, [day of the week], [month day, year].

A paper ballot must be returned to Minnesota and received by Election Day to be counted.

You may use the domestic mail service of the country you are located in, an international package delivery service, or the military or state department's mail services. Be sure to vote and return this ballot as soon as possible to ensure timely return. Your ballot must be received by your county elections office by Election Day to be counted.

This communication contains:

•A ballot
•Voting instructions
•Ballot envelope template
•Certificate of Eligibility
•Mailing envelope template

Carefully follow the instructions to ensure proper return of your voted ballot.

□Print the materials
□Fill out your ballot
□Fold and seal your ballot and place it in your ballot envelope
□Fill out the Certificate of Eligibility
□Put the completed materials in your mailing envelope
□Send your ballot by mail or package delivery service so that it is received by Election Day

To check the status of your absentee ballot, visit http://www.mnvotes.org.

Contact your county elections office at [email] or [phone number] if you have any questions.

Please note: Each voter must submit an application and receive their own ballot. **Do not forward this ballot to other voters.** A ballot received from a voter who did not submit an application will not be counted. Refer other military or overseas voters who need to apply for a ballot to http://www.mnvotes.org.

Thank you.

Subp. 6. **Instructions for military and overseas voters transmitted ballots electronically.**

Instructions

How to vote by absentee ballot for military and overseas voters sent ballots electronically

Note: Your ballot must be printed out and physically returned. It cannot be returned electronically.

You will need:

•A printer
•A pen with black ink
•Two envelopes (you have 3 options):
• Address your own blank envelopes by hand
• Print the envelope templates directly onto envelopes (print the mailing envelope onto an envelope approximately 4 1/8 inches x 9 1/2 inches so that everything is positioned according to postal regulations)

• If you do not have access to any envelopes, create the envelopes by folding and taping or gluing the attachments.

•Your ID number

Minnesota driver's license number, Minnesota ID card number, U.S. passport number, or the last four digits of your Social Security number.

See below if you do not have access to any of these numbers.

1 Print the materials

•Print your ballot, the Certificate of Eligibility, and the envelope templates if you are using them.

•Please note that the ballot may take multiple pages.

•Your printer should automatically scale the document to fit on the printable area of the page. Just be sure that none of the words or ovals are cut off.

2 Vote!

•Mark your votes in private.

•Follow the instructions on the ballot.

•Do not write your name or ID number anywhere on the ballot.

•Do not vote for more candidates than allowed. *If you do, your votes for that office will not count.*

See below if you make a mistake on your ballot.

3 Use one of the envelopes as the ballot envelope

•Put your ballot in this envelope to keep your votes private.

•Seal the envelope.

•Do not write on this envelope.

4 Fill out the Certificate of Eligibility completely

•Print your name and your Minnesota street address, including city (present or last).

•Print your e-mail address and phone number (optional).

•Print your Minnesota driver's license number, Minnesota ID card number, passport number, or the last four digits of your Social Security number.

Be sure to use one of the same numbers that you provided on your absentee ballot application.

If you do not have access to any of these documents, leave this space blank.

•Read and sign the oath.

5 Put it all together

- Attach the Certificate of Eligibility to the ballot envelope.
- Your second envelope is the return (mailing) envelope.
- Put the ballot envelope and the Certificate of Eligibility into the return envelope.
- Seal the return envelope.
- Address the return envelope to:

Official Absentee Balloting Material
..... County
[Street address]
[City], MN [Zip Code]
USA

6 Return your ballot <u>by Election Day to the address above</u>

- Send it so it arrives by Election Day, using mail, a package delivery service, or the diplomatic pouch at a U.S. embassy or consulate.
- Postage is not required if the postal permit is on the envelope and it is sent using U.S. mail, U.S. military mail, or the diplomatic pouch. Postage may be required if you use a foreign mail service or a package delivery service.

To check the status of your absentee ballot, visit http://www.mnvotes.org.

If you need any help while voting, please contact your county elections office at [insert e-mail address] or [insert telephone number].

Correcting a mistake

- Print out a new ballot, or
- Ask for a new ballot from your election office, or
- Completely cross out the name of the candidate you accidentally marked and then mark your ballot for the candidate you prefer (do <u>not</u> initial your corrections).

If you have a disability:

If you have a disability or cannot mark your ballot, another person may assist you by marking your ballot at your direction, assembling the materials, and filling out the forms for you.

When signing the Certificate of Eligibility, Minnesota law says you may:

- Sign the Certificate yourself, or
- Make your mark, or
- Ask another person to sign for you in your presence. (Have this person sign their own name as well.)

•If you have adopted the use of a signature stamp for all purposes of signature, you may use your signature stamp or ask another person to use your signature stamp in your presence.

Minnesota Statutes, section 645.44, subdivision 14

Please note: Voting is not covered by power of attorney. A person with power of attorney may only sign for you in your presence as outlined above.

Subp. 7. **Additional instructions for use with partisan primaries.** The following instructions must also be sent along with all absentee ballots for partisan primary elections.

The top part of this ballot is for a partisan (party) primary election:

•Vote only for candidates of one party - stay in one column.

•If you vote for candidates of more than one party, your votes in that section of the ballot will not be counted.

For how to correct a mistake, see the back side of the absentee ballot instructions.

Statutory Authority: *MS s 14.388; 201.061; 201.221; 203B.04; 203B.08; 203B.09; 203B.125; 203B.14; 204B.45*

History: *17 SR 351; 23 SR 459; 25 SR 616; 29 SR 155; 31 SR 350; 32 SR 2055; 34 SR 1561; 36 SR 1407; 38 SR 1368; 40 SR 1553*

8210.0600 STATEMENT OF ABSENTEE VOTER.

Subpart 1. **Form.** The statement of absentee voter for persons voting under Minnesota Statutes, sections 203B.04 to 203B.15, must be printed in the forms shown in subparts 1a and 1b. The version found in subpart 1a must be provided only to absentee voters who are registered to vote at the time of application. All other absentee voters must be provided the version found in subpart 1b. The statements must be printed to the specifications of subpart 3.

Subp. 1a. **Statement of registered absentee voter form.**

Signature Envelope

Voter must complete this section please print clearly

Voter name _____

Voter MN address _____

_____MN

ID number

(MN driver's license #,

MN ID card #,

or last four digits of SSN) _____

○ I do not have a MN-issued driver's license, MN-issued ID card, or a Social Security Number.

I certify that on Election Day I will meet all the legal requirements to vote.

Voter Signature X _____

Witness must complete this section

Witness name _____

MN street address

(or title, if an

official or notary)

_____

Street Address

_____ MN

City

I certify that:

- the voter showed me the blank ballots before voting;
- the voter marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
- the voter enclosed and sealed the ballots in the ballot envelope; and
- I am or have been registered to vote in Minnesota, or am a notary, or am authorized to give oaths.

Witness Signature X_____

If notary, must affix stamp

Subp. 1b. **Statement of unregistered absentee voter form.**

Signature Envelope

Voter must complete this section please print clearly

Voter name _____

Voter MN address _____

_____MN

ID number

(MN driver's license #,

MN ID card #,

or last four digits of SSN) _____

○ I do not have a MN-issued driver's license, MN-issued ID card, or a Social Security Number.

I certify that on Election Day I will meet all the legal requirements to vote.

Voter Signature X _____

Witness must complete this section

Witness name _____

MN street address _____

(or title, if an

official or notary)

_____

Street Address

_____MN

City

Witness MUST CHECK ONE indicating proof of residence provided by voter: (See instructions)

- o MN driver's license, ID card, permit, or receipt
- o Bill, student fee statement, or residential lease plus photo ID
- o Registered voter in the precinct who vouched for voter's residence in the precinct (must complete the voucher form on the back of the Voter Registration Application)
- o Tribal ID card
- o Notice of late registration
- o Previous registration in the same precinct
- o An employee of a residential facility in the precinct who vouched for voter's residence at the facility (must complete the voucher form on the back of the Voter Registration Application)

I certify that:

- the voter showed me the blank ballots before voting;
- the voter marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
- the voter enclosed and sealed the ballots in the ballot envelope;
- the voter registered to vote by filling out and enclosing a voter registration application in this envelope;
- the voter provided proof of residence as indicated above; and
- I am or have been registered to vote in Minnesota, or am a notary, or am authorized to give oaths.

Witness Signature X_____

If notary, must affix stamp

Subp. 2 Repealed - published electronically June 15, 2016

[Repealed, 40 SR 1533] ~~Subp. 2. **First two lines.** The county auditor or municipal clerk may complete the first two lines of a statement of absentee voter before mailing it to the absent voter by printing the name and address of the absent voter or by attaching a mailing label. When placing the label, the official must place it over the space for the voter's name and address, but must not cover the instructions to the voter or the voter's oath.~~

Subp. 3. **Printing specifications.** The statement shall be printed on the back of the absentee ballot return envelope. The words "Voter must complete this section" and "Witness must complete this section" shall be printed in no smaller than 12-point bold type. The "X" on the signature lines must be in at least 20-point type. The remainder of the statement shall be printed in no smaller than 10-point medium type. The area for the voter's name and address must be no smaller than 1-1/4 inches by 3-1/4 inches. The voter's certificate must be at least 4-1/8 inches wide. County auditors and municipal clerks may use the existing stock of absentee ballot return envelopes on hand as of January 1, 2014, for absentee voting conducted in-person.

Subp. 4. [Repealed, 32 SR 2055]

Subp. 4a. [Repealed, 32 SR 2055]

Statutory Authority: *MS s 201.061; 201.221; 203B.04; 203B.08; 203B.09; 203B.125; 203B.14*; *204B.45*

History: *8 SR 1348; 17 SR 351; 23 SR 459; 25 SR 616; 32 SR 2055; 34 SR 1561; 36 SR 1407; 38 SR 1368; 40 SR 1553*

8210.0700 ABSENTEE BALLOT RETURN ENVELOPE AS PROVIDED BY MINNESOTA STATUTES, SECTIONS 203B.04 TO 203B.15.

Subpart 1. [Repealed, 34 SR 1561]

Subp. 2. [Repealed, 34 SR 1561]

Subp. 3. [Repealed, 34 SR 1561]

Subp. 4. [Repealed, 20 SR 2787]

Subp. 5. [Repealed, 20 SR 2787]

Subp. 6. [Repealed, 20 SR 2787]

Subp. 7. [Repealed, 34 SR 1561]

Subp. 8. [Repealed, 34 SR 1561]

Subp. 9. [Repealed, 34 SR 1561]

Subp. 10. [Repealed, 34 SR 1561]

8210.0710 FORMAT AND INSTRUCTIONS FOR ABSENTEE BALLOT RETURN ENVELOPES.

New language published electronically June 15, 2016

Subpart 1. **Sample envelope layout.** The secretary of state shall provide samples of the layout of the front and the back of the envelope.

Subp. 2. **Form.** Absentee ballot return envelopes must be printed according to the following specifications:

A. The envelope must be no smaller than 10-3/8 inches by 4-1/2 inches.

B. Envelopes prepared with the certificates prepared according to part 8210.0600 must be white in color with black ink. Envelopes with certificates prepared according to part 8210.0800 must be white in color with Pantone 194 U red ink or darker used for all printing.

C. The following must be printed at the bottom of the envelope on the same side as the voter's certificate:

For Official Use Only

( )Accepted ( )Rejected (reason:) _____

Subp. 3. **Envelope labeling.** The envelopes with the form printed according to part 8210.0600, subpart 1a, must have the words "Signature Envelope - Registered" printed in no smaller than 8-point type. The envelopes with the form printed according to part 8210.0600, subpart 1b, must have the words "Signature Envelope - Unregistered" printed in no smaller than 8-point type. The envelopes printed with the form printed according to part 8210.0800 must have the words "Signature Envelope - UOCAVA" printed in no smaller than 8-point type.

Subp. 4. **Additional instructions for registered and military and overseas voters.** The following words must be printed above the voter's certificate for envelopes with the form prepared under parts 8210.0600, subpart 1a, and 8210.0800:

"Put the Ballot Envelope

in here, then seal flap"

The words may appear on the reverse side of the envelope.

Subp. 5. **Additional instructions for unregistered voters.** The following words must be printed above the voter's certificate for envelopes with the form prepared under part 8210.0600, subpart 1b:

"Put the Ballot Envelope and the

Voter Registration Application

in here, then seal flap"

The words may appear on the reverse side of the envelope.

Subp. 6. **Checklist for registered voters.** Envelopes with the form printed according to part 8210.0600, subpart 1a, must have the following words printed on the exterior of the return envelope:

"Have you . . .

□ Sealed your ballot in the tan ballot envelope?

□ Put the ballot envelope in the white signature envelope?

□ Filled out the white signature envelope <u>completely</u> and signed it?

□ Asked your witness to complete their section and sign their name?

□ Put the white signature envelope into this envelope?

Return your ballot so it is received by Election Day."

Subp. 7. **Checklist for unregistered voters.** Envelopes with the form printed according to part 8210.0600, subpart 1b, must have the following words printed on the exterior of the return envelope:

"Have you . . .

□ Sealed your ballot in the tan ballot envelope?

□ Put the ballot envelope and your voter registration application in the white signature envelope?

□ Filled out the white signature envelope <u>completely</u> and signed it?

□ Asked your witness to complete their section and sign their name?

□ Put the white signature envelope into this envelope?

Return your ballot so it is received by Election Day."

Subp. 8.

Checklist for military and overseas voters.

Envelopes with the form printed according to part 8210.0800 must have the following words on the exterior of the return envelope:

"Have you . . .

□ Sealed your ballot in the tan ballot envelope?

□ Put the ballot envelope in the white signature envelope?

□ Filled out the white signature envelope completely and signed it?

□ Put the white signature envelope into this envelope?

Return your ballot so it is received by Election Day."

Statutory Authority: *MS s 203B.08; 203B.09; 203B.125; 204B.45*

History: *34 SR 1561; 36 SR 1407; 40 SR 1553*

8210.0720 MAILING INFORMATION ON ABSENTEE BALLOT RETURN ENVELOPES.

New language published electronically June 15, 2016

Subpart 1. **Sample envelope layout.** The secretary of state shall provide samples of the layout of the front and the back of the envelope.

Subp. 2. **Form.** The face of absentee ballot return envelopes must be printed according to this part.

Subp. 3. **Mailing address.** County auditors and municipal clerks shall print a mailing address on each envelope that they mail or deliver to an absent voter. The address block shall be located in the lower right one-quarter of the envelope. An envelope may be addressed to the county auditor or to the municipal clerk.

Subp. 4. **Marks approved by United States Postal Service.** Marks approved by the United States Postal Service to identify ballot materials must be printed on the envelope as specified in United States Postal Service instructions.

Subp. 5. **Official absentee balloting label.** The words "OFFICIAL ABSENTEE BALLOTING MATERIAL - FIRST CLASS MAIL" must be printed in 18-point bold type and inside a box.

Subp. 6. **Return address.** A county auditor or municipal clerk may affix the return address to the upper left-hand corner of the envelope.

Subp. 7. **Additional requirements for envelopes for military and overseas voters.** Envelopes for military and overseas voters must also meet the following additional requirements:

A. In the upper right-hand corner, a postage symbol and box shall be imprinted:

U.S. Postage Paid

39 USC 3406

B. The words "PAR AVION" must be printed in 12-point bold type in capital letters one-half inch below the postage box.

C. Facing identification marks (FIM) must be printed on the envelope and positioned as specified in United States Postal Service instructions.

D. The words "No Postage Necessary in the U.S. Mail - DMM703.8.0" must be printed immediately below the words required by subpart 5.

Statutory Authority: *MS s 203B.08; 203B.09*

History: *34 SR 1561; 40 SR 1553*

8210.0730 ~~ADDITIONAL REQUIREMENTS FOR THIRD ENVELOPE~~.

Subps. 1, 3 & 4 Repealed - published electronically June 15, 2016

[Repealed, 40 SR 1553] ~~Subpart 1. **Requirements.** In cases in which a county uses a third envelope instead of an envelope with a flap, the third envelope must include the additional features set forth in subparts 2 and 3.~~

Subp. 2. [Repealed, 36 SR 1407]

[Repealed, 40 SR 1553] ~~Subp. 3. **Checklist.** The following words must be printed on the exterior of the envelope:~~

~~A. For registered voters:~~

~~**"Have you…**~~

~~☐ Sealed your ballot in the tan ballot envelope?~~

~~☐ Put the ballot envelope in the white signature envelope?~~

~~☐ Filled out the white signature envelope completely and signed it?~~

~~☐ Asked your witness to complete their section and sign their name?~~

~~☐ Put the white signature envelope into this envelope?~~

~~**Then return your ballot so it is received by Election Day."**~~

~~B. For unregistered voters:~~

~~**"Have you…**~~

~~☐ Sealed your ballot in the tan ballot envelope?~~

~~☐ Put the ballot envelope and your voter registration application in the white signature envelope?~~

~~☐ Filled out the white signature envelope completely and signed it?~~

~~☐ Asked your witness to complete their section and sign their name?~~

~~☐ Put the white signature envelope into this envelope?~~

~~**Then return your ballot so it is received by Election Day"**~~

~~C. For military and overseas voters:~~

~~**"Have you…**~~

~~☐ Sealed your ballot in the tan ballot envelope?~~

~~☐ Put the ballot envelope in the white signature envelope?~~

~~☐ Filled out the white signature envelope completely and signed it?~~

~~☐ Put the white signature envelope into this envelope?~~

~~**Then return your ballot so it is received by Election Day."**~~

[Repealed, 40 SR 1553] ~~Subp. 4. **Use of existing stock.** Local election officials may consume the existing stock of third envelopes on hand as of January 1, 2012.~~

Statutory Authority: *MS s 203B.08; 203B.09; 203B.125; 204B.45*

History: *34 SR 1561; 36 SR 1407; 40 SR 1553*

8210.0800 ABSENTEE BALLOT SIGNATURE ENVELOPE AS PROVIDED BY MINNESOTA STATUTES, SECTIONS 203B.16 AND 203B.17. .

New language published electronically June 15, 2016

Subpart 1. [Repealed, 34 SR 1561]

Subp. 2. [Repealed, 34 SR 1561]

Subp. 3. **Certificate of eligibility.** On the back of the absentee signature envelope provided for in Minnesota Statutes, section 203B.21, a certificate of eligibility must be printed on the envelope in the form shown in subpart 3a. The county auditor must provide the Certificate of Eligibility as an electronic document to voters who requested electronic delivery of absentee ballots.

Subp. 3a. **Form of certificate of eligibility.**

Signature Envelope

Voter must complete this section please print clearly

Voter name _____

Voter MN address (present or last) _____

_____ MN

ID number

(MN driver's license #,

MN ID card #,

U.S. passport #,

or last four digits of SSN) _____

Email _____

Phone (optional) _____

I swear or affirm, under penalty of perjury, that I am (**check one**):

( ) a member of the uniformed services or merchant marine on active duty or an eligible spouse or dependent of such a member;

( ) a United States citizen temporarily residing outside the United States;

( ) other United States citizen residing outside the United States;

and

- I am a United States citizen,
- at least 18 years of age (or will be by the date of the election), and
- I am eligible to vote in the requested jurisdiction;
- I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and
- I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States except the jurisdiction cited in this voting form.
- In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under state or federal law. I have not been influenced.

The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction for perjury.

Voter Signature X _____

Subp. 4. **Sample envelope layout.** The secretary of state shall provide samples of the layout of the front and the back of the envelope.

Statutory Authority: *MS s 201.061; 201.221; 203B.04; 203B.08; 203B.09; 203B.125; 204B.45*

History: *8 SR 1348; 23 SR 459; 32 SR 2055; 34 SR 1561; 36 SR 1407; 38 SR 1368; 40 SR 1553*

8210.1000 EXPERIMENTAL FORMS.

The secretary of state may provide for the experimental use of alternate forms on a trial basis.

Statutory Authority: *MS s 203B.08; 203B.09*

History: *8 SR 1348*

8210.2000 VOTER'S INFORMATION.

New language published electronically June 15, 2016

If the absent voter's name, residential address, ward, and precinct number are not printed on a label affixed to the envelope, the official mailing or delivering absentee ballots to an absent voter shall, before doing so, fill in the absent voter's name, address, ward, and precinct number in the spaces provided on the signature envelope, unless the materials are transmitted to the voter electronically. When placing the label, the official must place it over the space for the voter's name and address, but must not cover the instructions to the voter or the voter's oath.

Statutory Authority: *MS s 203B.08; 203B.09*

History: *34 SR 1561; 40 SR 1553*

PROCEDURES

8210.2100 MAILING OR DELIVERING ABSENTEE BALLOT RETURN ENVELOPES.

Except as provided in Minnesota Statutes, section 203B.11, an absent voter who receives

absentee ballots by mail or in person may cause the absentee ballot return envelope to be returned by any of the following methods:

A. causing the envelope to be mailed to the address on it;

B. delivering the envelope in person to the county auditor or municipal clerk from whom the ballots were received; or

C. designating an agent who shall deliver in person the sealed envelope to the county auditor or municipal clerk from whom the ballots were received. An agent shall be at least 18 years old. No individual may be designated as the agent of more than three absent voters in any one election.

Statutory Authority: *MS s 203B.08; 203B.09*

History: *17 SR 1279*

8210.2200 DUTIES OF COUNTY AUDITOR OR MUNICIPAL CLERK UPON RECEIPT OF ABSENTEE BALLOT RETURN ENVELOPE.

New language published electronically June 15, 2016

Subpart 1. **Personal delivery.** Absentee ballot return envelopes that are delivered in person by an absent voter or an agent must be received by the county auditor or municipal clerk by 3:00 p.m. on election day. Ballots received by personal delivery after 3:00 p.m. on election day shall be marked as received late by the county auditor or municipal clerk, and must not be delivered to the ballot board.

Subp. 2. **Inspecting for seal.** Before accepting an absentee ballot return envelope that is hand delivered by an absent voter or an agent, the county auditor or municipal clerk shall inspect the envelope to verify that it is sealed and that the absent voter's certificate is properly completed.

When an absent voter hand delivers an envelope which is unsealed or has an improperly completed absent voter's certificate, the absent voter shall be allowed to seal the envelope and correct or complete the certificate.

When an agent hand delivers a sealed envelope with an improperly completed absent voter's certificate, the agent may return the envelope to the absent voter for correction or completion in compliance with the time requirements in subpart 1.

When an agent hand delivers an envelope that is not sealed or which the auditor or clerk has reason to believe has been tampered with, the envelope shall not be accepted. The auditor or clerk shall write "rejected" across the absentee ballot return envelope and shall write the reason for rejection on the envelope. The absentee ballot return envelope shall be retained by the auditor or clerk in the auditor's or clerk's office. A notice of nonacceptance shall be mailed to the absent voter promptly, stating the date of nonacceptance, the name and address of the agent, and the reason for nonacceptance. A replacement ballot notice may be sent in place of the notice of nonacceptance. The absent voter may apply for replacement absentee ballots.

Subp. 3. **Recording name and address.** When an absentee ballot return envelope is hand delivered to the county auditor or municipal clerk by an agent, the agent shall, on a record maintained by the auditor or clerk, print the agent's name and address, the name and address of the absent voter whose ballot the agent is delivering, and sign his or her name. The agent shall show to the auditor or clerk identification which contains the agent's name and signature.

Statutory Authority: *MS s 201.061; 201.221; 203B.04; 203B.08; 203B.09; 203B.125*

History: *8 SR 1348; 17 SR 1279; 23 SR 459; 25 SR 616; 32 SR 2055; 38 SR 1368; 40 SR 1553*

8210.2300 RETAINING BALLOTS.

A county auditor or municipal clerk who receives an absentee ballot return envelope in person from an absent voter or an agent must retain it in the office as provided in part 8210.2400.

Statutory Authority: *MS s 203B.08; 203B.09*

History: *17 SR 1279; 38 SR 1368*

8210.2400 SAFEGUARDING PROCEDURES.

The county auditor or municipal clerk shall establish measures for safeguarding absentee ballot return envelopes received prior to election day.

A. The auditor or clerk shall establish a record of absentee ballot return envelopes which are retained in the office. The record shall state the absent voter's name, address, and precinct number; the agent's name, if any; and the date the ballot was received by the auditor or clerk.

B. All retained envelopes shall be placed in a locked, secure location after being dated, stamped or initialed, and recorded. The envelopes shall not be removed from this location or handled, except as necessary in an emergency or to process ballots as provided in Minnesota Statutes, section 203B.121.

C. A part-time municipal clerk who receives return envelopes shall notify the auditor prior to each election of the safeguarding procedures which the clerk plans to follow, and the procedures shall be subject to the auditor's approval.

D. When the ballot board opens accepted return envelopes pursuant to Minnesota Statutes, section 203B.121, subdivision 4, all absentee ballot return envelopes retained by the county auditor or municipal clerk shall be removed from the place of safekeeping and compared with the record required by this rule to ensure that all envelopes are accounted for. Any discrepancy shall be reported to the secretary of state promptly.

Statutory Authority: *MS s 203B.04; 203B.08; 203B.09; 203B.125; 204B.45*

History: *17 SR 1279; 23 SR 459; 34 SR 1561; 36 SR 1407; 38 SR 1368*

8210.2450 DUTIES OF BALLOT BOARD MEMBERS WHEN EXAMINING RETURN ENVELOPES UNDER MINNESOTA STATUTES, SECTION 203B.121.

New language published electronically June 15, 2016

Subpart 1. **Review.** Two or more ballot board members from different major political parties must review the absentee ballots returned for the precinct under Minnesota Statutes, section 203B.121, unless they are deputy county auditors or deputy city clerks who have received training in the processing and counting of absentee ballots, or are exempt from that requirement under Minnesota Statutes, section 205.075, subdivision 4, or Minnesota Statutes, section 205A.10, subdivision 2.

Subp. 2. **Name, address, and signature review.** The voter's name and address on the absentee ballot application must match the voter's name and address on the signature envelope. Use of, or lack of, full names, nicknames, abbreviations, or initials on either document are not a reason for rejection.

Ballot board members must determine whether the signature envelope was signed by the voter. Use of, or lack of, full names, nicknames, abbreviations, or initials within either signature are not a reason for rejection. A signature is considered the voter's even if a voter uses a signature mark on either or both documents, or if a voter has another individual or different individuals sign the voter's name in their presence on either or both the application and the signature envelope in accordance with Minnesota Statutes, section 645.44, subdivision 14. A ballot must be rejected under this subpart on the basis of the signature if the name signed is clearly a different name than the name of the voter as printed on the signature envelope. This is the only circumstance under which a ballot may be rejected on the basis of signature under this subpart.

Subp. 3. **Identification number review.** Ballot board members must determine whether the identification number provided by the voter on the certificate is the same as the identification number provided by the voter on the absentee ballot application or the voter's record in the statewide voter registration system.

If the numbers do not match or the voter did not provide identification numbers on both documents, the ballot board members must compare the signatures on the absentee ballot application and on the signature envelope to determine whether the ballots were returned by the same person to whom they were transmitted. Use of, or lack of, full names, nicknames, abbreviations, or initials within either signature are not a reason for rejection. A signature is considered the voter's even if a voter uses a signature mark on either or both documents, or if a voter has another individual or different individuals sign the voter's name in their presence on either or both the application and the return envelope in accordance with Minnesota Statutes, section 645.44, subdivision 14.

Subp. 4. **Voter's registration status.**

A. Ballot board members must determine the voter is registered under the name and at the address on the signature envelope by using the statewide voter registration system, or a master list or polling place roster produced from the statewide voter registration system. A voter who is not registered, whose registration is inactive, or whose registration is challenged, must include a properly completed voter registration application within the absentee return envelope pursuant to Minnesota Statutes, section 203B.04, subdivision 4, or the ballot must be rejected. If the voter was sent nonregistered absentee materials and the voter is not registered to vote and a voter registration application is not found in the return envelope, the ballot board members shall open the signature and ballot envelope and, without examining or removing the ballot, remove any voter registration application from the signature and ballot envelope. The ballot board members must immediately reseal the ballot envelope with the ballot enclosed, initialing across the seal and noting on the ballot envelope the purpose for which it was opened.

B. A voter registration application returned separately from an absentee return envelope after the voter registration deadline in Minnesota Statutes, section 201.061, subdivision 1, is a late registration and may not be used as a registration for the current election pursuant to Minnesota Statutes, section 201.054, subdivision 1, clause (3).

Subp. 5. **Witness eligibility.** An absentee ballot may not be rejected for lack of an eligible witness, if a witness has signed the statement required from a witness by part 8210.0600, subpart 1a or 1b, and:

A. has provided a Minnesota address as part of the witness's certification on the return envelope;

B. has provided the title indicating that they are eligible to administer oaths; or

C. has affixed a notarial stamp.

Subp. 6. **Ballot already cast.** Ballot board members must use the statewide voter registration system or available polling place rosters to determine whether another ballot from the voter has been accepted. If a ballot is received before the close of business on the seventh day before the election, any ballot that has been previously received from that voter and has not been rejected is deemed spoiled and must not be counted. If a ballot is received after the close of business on the seventh day before the election and another absentee ballot has been accepted for that voter, the return envelope must be marked "rejected."

Statutory Authority: *MS s 203B.125*

History: *34 SR 1561; 38 SR 1368; 40 SR 1553*

8210.2500 MAIL PICKUP.

New language published electronically June 15, 2016

Each municipal clerk shall communicate with the United States postal service facility serving the municipality with regard to the handling of absentee ballot return envelopes received by the post office on election day. The municipal clerk shall take all reasonable steps to ensure that all return envelopes received by the post office before 4 p.m. on election day are delivered before the closing of the polls to the ballot board. Absentee ballots returned by mail delivery and received after election day shall be marked as received late by the county auditor or municipal clerk, and must not be delivered to the ballot board.

Statutory Authority: *MS s 203B.08; 203B.09*

History: *17 SR 1279; 38 SR 1368; 40 SR 1553*

8210.2600 REPLACEMENT BALLOTS.

Subpart 1. **Voter request.** The auditor or clerk must promptly provide a replacement ballot to a voter who requests one because the voter's ballot was lost, spoiled, or never received. The transmittal envelope must be labeled "REPLACEMENT BALLOT" in at least 18-point type. The auditor or clerk must record the following information on the voter's absentee ballot application: the date of the voter's request, the date that a replacement ballot was issued to the voter, and the reason that the voter requested a replacement. If a voter returns a spoiled ballot to the election official, the auditor or clerk must put the returned ballot in a spoiled ballot envelope.

Subp. 2 **Ballot rejected by absentee ballot board.** The auditor or clerk must send a replacement ballot to a voter whose absentee ballot is rejected more than five days before an election, along with an explanation of why the ballot was rejected. The secretary of state must provide election officials with a sample notice with a list of the possible reasons that a ballot could be rejected for use by absentee ballot boards. The transmittal envelope must be labeled "REPLACEMENT BALLOT" in at least 18-point type. The election official must record the following information on the voter's absentee ballot application: the date that the voter's ballot was rejected, the date that a replacement ballot was issued to

the voter, and the reason that the previous ballot was rejected. Rejected absentee ballots must be kept in a separate sealed container.

Statutory Authority: *MS s 203B.08; 203B.09; 203B.125; 204B.45*

History: *34 SR 1561; 36 SR 1407*

8210.2700 RECEIPT OF FEDERAL WRITE-IN ABSENTEE BALLOTS.

Subpart 1. **If Federal Post Card Application was received.** If a voter submits a Federal Write-in Absentee Ballot for which a Federal Post Card Application is received, the county auditor must accept or reject the ballot in accordance with Minnesota Statutes, section 203B.24 and 203B.25.

Subp. 2. **If Federal Post Card Application was not received.** If a voter submits a Federal Write-in Absentee Ballot for which a Federal Post Card Application was not received, the Federal Write-in Absentee ballot serves as a voter registration, for voters who are eligible to register, in lieu of the voter's Federal Post Card Application. The Federal Write-in Absentee Ballot also serves as an absentee ballot request for absentee ballots in subsequent elections during the period required by Minnesota Statutes, section 203B.17, subdivision1, paragraph (d). If the voter provided an e-mail address, then the county auditor must record e-mail as the voter's preferred method of delivery. The county auditor must not send a ballot to the voter for the election for which the voter submitted the Federal Write-in Absentee Ballot. If the voter has not already voted and the accompanying certificate is properly completed, the absentee ballot board must accept the Federal Write-in Absentee Ballot.

Statutory Authority: *MS s 203B.125; 204B.45*

History: *34 SR 1561*

MAIL BALLOTS

8210.3000 MAIL BALLOTING.

New language published electronically June 29, 2016

Subpart 1. **Scope.** This part applies to mail balloting conducted under Minnesota Statutes, sections 204B.45 and 204B.46. Except as otherwise provided in this part, parts 8210.0200 to 8210.2700 also apply to mail balloting. In unorganized territory, the county auditor shall perform the duties specified for the municipal clerk.

Subp. 2. **Authorization.** The municipal governing body, school board, or county board may authorize mail balloting by resolution adopted no later than 90 days prior to the first election at which mail balloting will be used. If mail balloting is adopted pursuant to Minnesota Statutes, section 204B.45, the resolution remains in effect for all subsequent state and county elections until revoked. Revocation of the resolution may occur no later than 90 days before the next affected election. Authorization to conduct a special election pursuant to Minnesota Statutes, section 204B.46, expires after completion of the election.

Subp. 3. **Notice.** The municipal clerk or school district clerk shall notify the county auditor of the adoption or discontinuance of mail balloting no later than two weeks after adoption or revocation of the resolution. The county auditor shall send a similar notice to the secretary of state for elections authorized pursuant to Minnesota Statutes, section 204B.45. The county auditor, municipal clerk, or school district clerk shall post notice of mail ballot procedures at least six weeks before each election. Notice of mail ballot procedures must include:

A. the name or description of the municipality or unorganized territory;

B. the date of the election and the dates that ballots will be mailed;

C. a statement that each voter registered by the 21st day before the election will be mailed a ballot;

D. the times, places, and manner in which voted ballots can be returned;

E. an explanation of how an eligible voter who is not registered may apply for a ballot and how a registered voter who will be absent from the precinct may apply to receive the ballot at a temporary address;

F. the place and time for counting of ballots; and

G. the name and address or telephone number of the official or office where additional information can be obtained.

Before the first election at which mail balloting will be used or discontinued, notice must also be given by one or more of the following means: publication in a newspaper of general circulation, posting of notice at public locations within each precinct, dissemination of information through the media or at public meetings, or mailed notice to registered voters.

Subp. 4. **Mailing ballots.** The county auditor, municipal clerk, or school district clerk shall mail ballots to the voters registered in the municipality or unorganized territory. A ballot mailing must be sent to each registered voter no earlier than 46 or later than 14 days prior to the election if mail balloting in the voter's precinct is proceeding pursuant to Minnesota Statutes, section 204B.45. No later than 14 days before the election, the auditor must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election.

A ballot mailing must be sent no earlier than 46 or later than 14 days prior to the election if a mail election is being conducted in the jurisdiction pursuant to Minnesota Statutes, section 204B.46. No later than 14 days before the election, the auditor or clerk must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election.

No ballot may be mailed to a challenged voter. A notice must be transmitted to challenged voters with an explanation of the challenge and with instructions on how they may apply for an absentee ballot if they believe their registration was challenged in error.

The mail balloting process for voters whose registrations are incomplete under Minnesota Statutes, section 201.061, subdivision 1a, or 201.121, must be administered as if the voter were not registered to vote. A notice must be transmitted to voters with incomplete registrations with instructions on how they may apply for an absentee ballot.

Ballots must be sent by nonforwardable mail. Ballots for eligible voters who reside in health care facilities may be delivered as provided in Minnesota Statutes, section 203B.11. The ballot mailing must be addressed to the voter at the voter's residence address as shown on the registration file unless the voter completes an absentee ballot request as provided in Minnesota Statutes, section 203B.04 or 203B.16.

A return envelope, a ballot secrecy envelope, and instructions for marking and returning mail ballots must be included with the ballots. The instructions must include a telephone number or electronic mail address which voters can call or write for help in mail voting. The instructions must also include a privacy notice that complies with Minnesota Statutes, section 13.04. At the request of the secretary of state, a survey card that the voter can return to the secretary of state must also be included. The ballot return envelope must be printed with the mail voter's certificate. The ballot return envelope must be addressed for return to the county auditor, municipal clerk, or school district clerk that is conducting the election. First class postage must be affixed to the return envelope.

Subp. 4a. **Form of instructions to mail voters.**

Instructions

How to vote by mail ballot

You will need:

- Ballot*
- Tan ballot envelope*
- White signature envelope*
- Pen with black ink
- Witness

Anyone registered to vote in Minnesota,

including your spouse or relative,

or a notary public,

or a person with the authority to administer oaths

*If any of these items are missing, please contact your local election official.

1 Vote!

- Show your witness your blank ballot, then mark your votes in private.
- Follow the instructions on the ballot.
- Do not write your name or ID number anywhere on the ballot.
- Do not vote for more candidates than allowed. *If you do, your votes for that office will not count.*

See the other side if you make a mistake on your ballot.

2 Seal your ballot in the tan ballot envelope

- Do not write on this envelope.

3 Put the tan ballot envelope into the white signature envelope

4 Fill out the white signature envelope completely

- If there is no label, print your name and Minnesota address.
- Read and sign the oath.
- Ask your witness to print their name and Minnesota street address, including city (not a P. O. Box), and sign their name.

If your witness is an official or notary, they must print their title instead of an address.

Notaries must also affix their stamp.

- Seal the envelope.

5 Return your ballot by Election Day to the address on the signature envelope

You have three options:

- Send it so it arrives by Election Day, using U.S. mail or a package delivery service,
- Deliver it in person by 8:00 p.m. on Election Day, or
- Ask someone to deliver it by 8:00 p.m. on Election Day.

This person cannot deliver more than 3 ballots.

If you have questions, please call (...) ...-.... .

See other side for special instructions if you have a disability

Correcting a mistake

- If time allows, ask for a new ballot from your election office. Contact your election office at [e-mail] or [phone number], or
- Completely cross out the name of the candidate you accidentally marked and then mark your ballot for the candidate you prefer (do not initial your corrections).

If you have a disability:

If you have a disability or cannot mark your ballot, your witness may assist you by marking your ballot at your direction, assembling the materials, and filling out the forms for you.

When signing the envelope, Minnesota law says you may:

Sign the return envelope yourself, or

Make your mark, or

Ask your witness to sign for you in your presence. (Have your witness sign their own name as well.)

If you have adopted the use of a signature stamp for all purposes of signature, you may use your signature stamp or ask your witness to use your signature stamp in your presence.

Minnesota Statutes, section 645.44, subdivision 14

Please note: Voting is not covered by power of attorney. A person with power of attorney may only sign for you in your presence as outlined above.

Subp. 4b. **Form of mail voter's certificate.**

Signature Envelope

Voter must complete this section please print clearly

Voter name_____

Voter MN Address_____

_____

MN

I certify that on Election Day I will meet all the legal requirements to vote.

Voter Signature X_____

Witness must complete this section

Witness name_____

MN street address

(or title, if an

official or notary)

_____

Street Address

_____

MN

City

I certify that:

- the voter showed me the blank ballots before voting;
- the voter marked the ballots in secrecy or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
- the voter enclosed and sealed the ballots in the ballot envelope; and
- I am or have been registered to vote in Minnesota, or am a notary, or am authorized to give oaths.

Witness Signature X_____

If notary, must affix stamp

Subp. 4c. [Repealed, 25 SR 616]

Subp. 5. **Nonregistered eligible voters.** An eligible voter who was not registered on the 21st day prior to the election may apply for and receive an absentee ballot. Absentee voting in precincts using mail balloting must be conducted under Minnesota Statutes, chapter 203B, except that the time for applying for, receiving, and returning absentee ballots is extended until 8:00 p.m. on the day of the election. The instructions to absentee voters must be those specified in part 8210.0500, subpart 3. The statement of absentee voter must be that specified in part 8210.0600, subpart 1b, or 8210.0800, subpart 3a. The absentee ballot return envelope must be as specified in parts 8210.0710 and 8210.0720.

Subp. 6. **Replacement ballots.** The election official must maintain a record of all replacement ballots issued. The transmittal envelope must be labeled "REPLACEMENT BALLOT" in at least 18-point type.

Subp. 6a. [Repealed, 34 SR 1561]

Subp. 7. **Undeliverable ballots.** Ballots returned by the post office as undeliverable to the voter at the address of registration must be securely retained. If the auditor, municipal clerk, or school district clerk is able to verify the voter's residence at that address, the ballot may be reissued. A ballot undeliverable to the voter at the address of registration must be considered a returned notice of verification and the voter's registration must be treated as provided in Minnesota Statutes, section 201.12. The official conducting the election shall maintain a record of all undeliverable ballots.

If the ballot is returned by the post office prior to 20 days before the election with notification of the voter's new address within a jurisdiction holding a mail election, the auditor or clerk shall resend a ballot to the voter along with a return envelope. If the ballot is returned by the post office within 20 days before the election with notification of the voter's new address within a jurisdiction holding a mail election, the auditor or clerk shall transmit instructions on how the voter may apply for an absentee ballot.

If the ballot is returned by the post office within 20 days before the election with notification of the voter's new address within a jurisdiction holding a nonmail election, the auditor or clerk must transmit a notice via nonforwardable mail to the voter of how to register and vote at the proper polling location. This notice must be treated as a notice of late registration under part 8200.5100, subpart 1.

The auditor or clerk shall keep a list of individuals who are sent the second mailing after the rosters are printed and must provide a copy of that list to the ballot board for use in processing the returned ballots.

Subp. 7a. **Voter registration applications after ballots have been mailed.** When a voter registration application is processed on a voter record where a ballot has been previously mailed, the original mail ballot record must be marked as "Spoiled" and the voter must be notified that the original mail ballot cannot be counted.

If the application is processed prior to 20 days before an election, a voter in a jurisdiction holding a mail election must also be provided a replacement ballot.

If the application is processed within 20 days prior to the election, a voter in a jurisdiction holding a mail election must be sent a notice of late registration that includes a notification that the original mail ballot cannot be counted and instructions on how the voter may apply for an absentee ballot.

If the application is processed within 20 days before an election, the notice of late registration sent to a voter in a jurisdiction holding a nonmail election must be notified that the original mail ballot cannot be counted and how to register and vote at the proper polling location.

Subp. 8. **Returning ballots.** Mail ballots may be returned to the official conducting the election by mail, in person, or by designated agent. The official conducting the election must accept ballots returned in person, or by designated agent, until 8:00 p.m. on the day of the election. Ballots received after 8:00 p.m. on election day shall be marked as received late by the official conducting the election. An individual shall not be the designated agent of more than three absentee or mail voters in one election.

Subp. 9. **Polling place and election judges.** The only polling place required for mail balloting is the office of the election official conducting the election. The number of voting stations set up in the office of the official conducting the election must be sufficient to accommodate the number of voters expected to vote in person on election day. On election day, the official conducting the election shall provide one or more secure drop boxes where voters can deposit return envelopes containing ballots. The governing body of the jurisdiction conducting the election shall designate a suitable location where the election judges can meet on election day to receive and count ballots. The location must be open for public observation of the counting of ballots. The governing body of the jurisdiction conducting the election shall appoint election judges as provided in Minnesota Statutes, sections 204B.19 to 204B.21. For state elections, the county auditor shall appoint election judges for mail ballot precincts and shall apportion the cost of the election judges among the precincts voting by mail in that election. The county auditor may delegate the authority to appoint election judges for precincts voting by mail in state elections to the municipal clerk. During the day of the election at least two election judges must be present at the office of the official conducting the election to accept mail ballots delivered in person and to process persons registering on election day. Additional judges may be appointed as needed. If the ballots are to be counted by hand and there are more than two questions or one office to be voted on, at least one judge must be appointed for the counting of ballots for every 500 persons from whom ballots are expected to be returned.

Subp. 10. **Receiving and counting ballots.** On or before election day, the ballot board shall receive from the county auditor, municipal clerk, or school district clerk, returned ballots and applications for absentee ballots, records of replacement ballots, and the list of voters sent a second mailing of the ballot. The ballot board shall arrange to receive from the election official any additional ballots received in the mail or returned by a voter prior to 8:00 p.m. on election day. Ballots must be transported to the location where ballot processing and counting will occur in a sealed transfer case by two or more election judges of different major political parties unless the election judges are municipal clerks or deputy clerks, or the judges are exempt from this requirement pursuant to Minnesota Statutes, section 205.075, subdivision 4, or 205A.10, subdivision 2. During the receiving and counting of ballots, the ballots must at all times remain in the custody of two or more election judges of different major political parties, unless the election judges are municipal clerks or deputy clerks, or the election is exempt from this requirement pursuant to Minnesota Statutes, section 205.075, subdivision 4, or 205A.10, subdivision 2.

The secretary of state must provide a sample notice with a list of the possible reasons that a mail ballot may be rejected. The election official must keep a record of the date that the voter's ballot was rejected, the date the replacement ballot was issued to the voter, and the reason that the previous ballot was rejected. Rejected envelopes must be kept in a separate sealed container.

Subp. 11. **Challenges.** Challengers appointed under Minnesota Statutes, section 204C.07 may be present while the election judges are examining and accepting or rejecting the return envelopes. Challenges must be made and determined as provided in Minnesota Statutes, section 204C.13, subdivision 6.

Subp. 12. **Costs.** The governing body authorizing mail balloting shall pay the costs of the mailing. Costs of mailing include postage costs and the costs of printing required envelopes, instructions, affidavits, and mailing labels. Other expenses must be paid as provided in Minnesota Statutes, section 204B.32.

Subp. 13. **Alternate forms.** The secretary of state may authorize the alternate use of envelopes and other forms related to mail elections.

Subp. 6a. [Repealed, 34 SR 1561]

Subp. 7. **Undeliverable ballots.** Ballots returned by the post office as undeliverable to the voter at the address of registration must be securely retained. If the auditor, municipal clerk, or school district clerk is able to verify the voter's residence at that address, the ballot may be reissued. A ballot undeliverable to the voter at the address of registration must be considered a returned notice of verification and the voter's registration must be treated as provided in Minnesota Statutes, section 201.12. The official conducting the election shall maintain a record of all undeliverable ballots.

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and count ballots. The location must be open for public observation of the counting of ballots. The governing body of the jurisdiction conducting the election shall appoint election judges as provided in Minnesota Statutes, sections 204B.19 to 204B.21. For state elections, the county auditor shall appoint election judges for mail ballot precincts and shall apportion the cost of the election judges among the precincts voting by mail in that election. The county auditor may delegate the authority to appoint election judges for precincts voting by mail in state elections to the municipal clerk. During the day of the election at least two election judges must be present at the office of the official conducting the election to accept mail ballots delivered in person and to process persons registering on election day. Additional judges may be appointed as needed. If the ballots are to be counted by hand and there are more than two questions or one office to be voted on, at least one judge must be appointed for the counting of ballots for every 500 persons from whom ballots are expected to be returned.

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Subp. 11. **Challenges.** Challengers appointed under Minnesota Statutes, section 204C.07 may be present while the election judges are examining and accepting or rejecting the return envelopes. Challenges must be made and determined as provided in Minnesota Statutes, section 204C.13, subdivision 6.

Subp. 12. **Costs.** The governing body authorizing mail balloting shall pay the costs of the mailing. Costs of mailing include postage costs and the costs of printing required envelopes, instructions, affidavits, and mailing labels. Other expenses must be paid as provided in Minnesota Statutes, section 204B.32.

Subp. 13. **Alternate forms.** The secretary of state may authorize the alternate use of envelopes and other forms related to mail elections.

Statutory Authority: *MS s 14.388; 203B.08; 203B.09; 203B.125; 203B.14; 204B.*45

History: *12 SR 2142; 17 SR 8; 17 SR 351; 19 SR 593; 20 SR 2787; 23 SR 459; 25 SR 616; 29 SR 155; 34 SR 1561; 36 SR 1407; 40 SR 1553*

8210.3005 [Repealed, 23 SR 459]

8210.3010 [Repealed, 23 SR 459]

8210.3015 [Repealed, 23 SR 459]

8210.9910 [Repealed, 23 SR 459]

8210.9915 [Repealed, 23 SR 459]

8210.9916 [Repealed, 23 SR 459]

8210.9917 [Repealed, 23 SR 459]

8210.9918 [Repealed, 23 SR 459]

8210.9920 [Repealed, 23 SR 459]

8210.9925 [Repealed, 23 SR 459]

8210.9930 [Repealed, 23 SR 459]

8210.9935 [Repealed, 23 SR 459]

8210.9940 [Repealed, 19 SR 593]

8210.9945 [Repealed, 23 SR 459]

8210.9950 [Repealed, 23 SR 459]

8210.9955 [Repealed, 23 SR 459]

CHAPTER 8220 - VOTING SYSTEM TESTING

SCOPE AND STANDARDS TESTING

8220.0050 CONDUCT OF ELECTIONS.

Except as provided in chapters 8220 and 8230 or in Minnesota Statutes, elections shall be conducted in the manner prescribed for precincts using paper ballots in the Minnesota election law.

Statutory Authority: *MS s 204D.11; 206.57; 206.81*

History: *10 SR 1690; 20 SR 2787; 23 SR 459; 25 SR 616*

8220.0100 [Repealed, 10 SR 1690]

8220.0150 MINIMUM STANDARDS.

Chapters 8220 and 8230 set minimum standards for procedures in the use of electronic voting systems. An election jurisdiction may by resolution require additional procedures.

Statutory Authority: *MS s 206.57; 206.81; 206.82*

History: *10 SR 1690; 20 SR 2787; 23 SR 459; 25 SR 616*

8220.0200 [Repealed, 10 SR 1690]

8220.0250 DEFINITIONS.

Subpart 1. **Scope.** As used in chapters 8220 and 8230, terms defined in Minnesota Statutes, section 206.56, have the meanings given them in that section, and the following terms defined in this part have the meanings given them.

Subp. 1a. **Audit trail.** "Audit trail" means any documentation of changes made to voting system programming, the incident report, and the report generated by an electronic voting system on election day.

Subp. 2. [Repealed, 25 SR 616]

Subp. 2a. [Repealed, 25 SR 616]

Subp. 3. [Repealed, 23 SR 459]

Subp. 3a. **Ballot counter.** "Ballot counter" means an automatic tabulator that is capable of counting votes on ballots as they are deposited into the tabulator.

Subp. 3b. **Ballot secrecy cover.** "Ballot secrecy cover" means a cover to be used by the voter to conceal the votes marked on the ballot.

Subp. 4. [Repealed, 23 SR 459]

Subp. 4a. **Ballot style.** "Ballot style" means a unique ballot format prepared for use in one or more precincts in which all ballot information is identical.

Subp. 5. [Repealed, 23 SR 459]

Subp. 5a. **Central count voting system.** "Central count voting system" means an electronic voting system designed for and certified by the secretary of state for use in a central counting center.

Subp. 5b. **Central counting center.** "Central counting center" means a place selected by the governing body of an election jurisdiction where an electronic voting system is used to count ballots from more than one precinct after voting hours have ended.

Subp. 6. [Repealed, 23 SR 459]

Subp. 7. [Repealed, 25 SR 616]

Subp. 8. [Repealed, 23 SR 459]

Subp. 9. [Repealed, 23 SR 459]

Subp. 10. [Repealed, 25 SR 616]

Subp. 11. **Demonstration ballot.** "Demonstration ballot" means a ballot of a distinctive color used to instruct voters in the use of the voting system.

Subp. 12. [Repealed, 23 SR 459]

Subp. 13. [Repealed, 23 SR 459]

Subp. 14. **Duplicate ballot.** "Duplicate ballot" means a ballot on which the word "DUPLICATE" is printed, stamped, or written to which election judges transfer a voter's selections from the original ballot when necessary.

Subp. 15. **Edit listing.** "Edit listing" means a computer-generated listing showing, in the order that they appear in the computer program for each precinct, the offices and questions to be voted on and the candidates' names.

Subp. 16. **Election jurisdiction.** "Election jurisdiction" means any municipality, school district, county, or special election district having responsibility for operating electronic voting systems to be used at an election.

Subp. 17. [Repealed, 25 SR 616]

Subp. 18. **Header card.** "Header card" means a special ballot used to initiate voting, end voting, or enable tabulation of absentee ballots.

Subp. 18a. **Incident report.** "Incident report" means a record made by election judges in the polling place on election day of unusual events that occurred in that polling place on election day.

Subp. 19. [Repealed, 23 SR 459]

Subp. 20. [Repealed, 25 SR 616]

Subp. 21. **Overvote.** "Overvote" means a condition of a voted ballot in which more votes have been cast for an issue or office than the number of votes that the voter is lawfully entitled to cast.

Subp. 22. [Repealed, 23 SR 459]

Subp. 22a. **Precinct counting center.** "Precinct counting center" means a precinct where a precinct count voting system is used to count votes on ballots at the precinct polling place as voters deposit the ballots into the ballot box.

Subp. 22b. **Precinct count voting system.** "Precinct count voting system" means an electronic voting system designed to store ballot configurations and vote totals on a removable memory unit and to tabulate ballots at the precinct polling place as voters deposit the ballots into the ballot box.

Subp. 23. [Repealed, 25 SR 616]

Subp. 24. **Public accuracy test.** "Public accuracy test" means a public test conducted prior to election day for the purpose of demonstrating the accuracy of the computer program and voting system which will be used to count the ballots and to demonstrate and explain the testing procedures being used to determine the accuracy.

Subp. 25. [Repealed, 23 SR 459]

Subp. 25a. [Repealed, 25 SR 616]

Subp. 26. **Self-contained voting station.** "Self-contained voting station" means a unit that when assembled creates a private space enclosed beneath and on three sides and with adequate lighting in which a voter may mark a ballot.

Subp. 27. [Repealed, 25 SR 616]

Subp. 28. [Repealed, 23 SR 459]

Subp. 28a. **Summary statement.** "Summary statement" means the certification supplied by the election jurisdiction to each precinct on which to record the information required by *Minnesota Statutes*, section 204C.24, subdivision 1, and any other information requested by the election jurisdiction or the secretary of state.

Subp. 29. [Repealed, 23 SR 459]

Subp. 30. **Test deck.** "Test deck" means a set of preaudited mock voted ballots used to determine that the voting system and software to be used in the election accurately count and process the votes.

Subp. 31. [Repealed, 25 SR 616]

Subp. 32. [Repealed, 25 SR 616]

Subp. 33. **Undervote.** "Undervote" means a condition of a voted ballot in which fewer votes have been cast for an issue or office than permitted by law.

Subp. 34. [Repealed, 25 SR 616]

Subp. 35. **Vendor.** "Vendor" means an individual or organization other than an election jurisdiction supplying any element of an electronic voting system, including but not limited to hardware, software, and programming services.

Subp. 36. [Repealed, 25 SR 616]

Subp. 37. [Repealed, 23 SR 459]

Subp. 38. [Repealed, 25 SR 616]

Statutory Authority: *MS s 206.57; 206.81; 206.82*

History: *10 SR 1690; 20 SR 2787; 23 SR 459; 25 SR 616*

8220.0300 [Repealed, 10 SR 1690]

EXAMINATION AND CERTIFICATION

8220.0325 TIMING.

All applications for examination and initial certification of electronic voting systems and must be submitted to the secretary of state between December 1 of an even-numbered year and December 1 of the following odd-numbered year. Applications for reexamination and recertification of electronic voting systems hardware or software may be submitted to the secretary of state at any time except between June 1 and December 1 of an even-numbered year.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459; 34 SR 1561*

8220.0350 APPLICATION.

An application by a vendor pursuant to Minnesota Statutes, section 206.57, for examination of an electronic voting system must be accompanied by the following:

A. a signed agreement that the vendor will pay all costs incurred by the secretary of state, the vendor, and any designees of the secretary of state in accomplishing the examination;

B. complete specifications of all hardware, firmware, and software;

C. all technical manuals and documentation related to the system;

D. complete instructional materials necessary for the operation of the equipment by election jurisdictions and a description of any training available to users and purchasers;

E. a list of all state election authorities that have tested and approved the system for use;

F. a list of all election jurisdictions where the system has been used for elections;

G. a description of any support services offered by the vendor and of all peripheral equipment that can be used in conjunction with the system;

H. recommended procedures for use of the system at Minnesota elections including procedures necessary to protect the integrity of the election;

I. specifications for materials and supplies required to be used with the system;

J. specifications for stickers for write-in votes that can be used with the system;

K. explanation of the level of technical expertise required to program or prepare the system for use at an election; and

L. certification by an independent testing authority approved by the secretary of state of conformance to standards for voting equipment issued by the Federal Election Commission.

The vendor may submit additional material including test reports and evaluations by other states, election jurisdictions, and independent testing agencies. The secretary of state shall make a preliminary review of the application. If the secretary of state determines from the preliminary review that the system obviously does not meet provisions of Minnesota election laws, the vendor may withdraw the application.

Statutory Authority: *MS s 206.57; 206.81; 206.82*

History: *10 SR 1690; 23 SR 459; 25 SR 616*

8220.0400 [Repealed, 10 SR 1690]

8220.0450 ACCEPTANCE DEMONSTRATION.

The vendor shall train a designee of the secretary of state in the preparation and operation of the system. The training must be at least as extensive as the training required for an election jurisdiction to be able to prepare and use the system at Minnesota elections.

The acceptance demonstration must be provided by the vendor and attended by designees of the secretary of state. The vendor is responsible for demonstrating that the system can meet all requirements of chapters 8220 and 8230 and Minnesota election law. In the acceptance demonstration, the vendor of the system must demonstrate the following concerning the system:

A. its storage requirements;

B. its speed of operation under conditions that simulate the scope and length of actual election ballots;

C. full audit capability, with an audit trail, which includes a printout of overvotes and undervotes for each office and issue, and with the undervotes recorded directly from the ballots and not determined by subtraction of totals from ballots that were not overvoted;

D. all features that can be programmed;

E. all design specifications;

F. maximum numbers of precincts, offices and issues, and candidates per office which can be handled;

G. the production of reports which include vote totals and all statistics and other information required by the secretary of state;

H. simulation of vote counting involving a configuration of the largest number of voters, precincts, offices, and candidates with which the system is expected to be used, which vote counting includes ballots showing overvotes, undervotes, and invalid votes as well as those with no overvotes or stray marks, in many different combinations, and demonstrates rotation sequences and the ability to count votes cast on the partisan, nonpartisan, and proposal sections of the ballot independently;

I. accuracy of vote counting and procedures or process for testing accuracy;

J. provisions for maintaining the security and integrity of elections; and

K. provisions for write-in votes.

The vendor shall identify all hardware configurations with which software is intended to operate and shall provide an acceptance demonstration for every hardware and software configuration for which certification for use in Minnesota is requested. The secretary of state may provide additional ballots or test decks for the acceptance demonstration.

The acceptance demonstration and training of the secretary of state's designee may be accomplished either at the vendor's site or at the office of the secretary of state.

Statutory Authority: *MS s 206.57; 206.81; 206.82*

History: *10 SR 1690; 23 SR 459; 25 SR 616*

8220.0500 [Repealed, 10 SR 1690]

8220.0550 TESTING AND EXAMINATION.

The secretary of state shall investigate and evaluate the experience of other states and election jurisdictions using the system. The secretary of state shall review the results of the acceptance demonstration and perform additional tests as the secretary deems necessary. The additional tests may include field testing at simulated or actual elections, technical evaluation of the hardware and software by a designee of the secretary of state, and experimental use as provided in Minnesota Statutes, section 206.81. In determining the need for and extent of additional examination, the secretary of state shall consider the record of use in other states and the extent and experience of use in Minnesota of similar systems.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8220.0650 APPROVAL OF SYSTEMS.

Subpart 1. **Certification.** If, from the reports of the demonstration and testing, the secretary of state determines that the system complies with chapters 8220 and 8230 and Minnesota Statutes and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the 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 system. No certification may be issued until the vendor has:

A. paid all costs of the examination required under the agreement submitted with the application;

B. certified that the vendor and any agent acting on behalf of the vendor will offer the system for use or sale only according to chapters 8220 and 8230 and Minnesota Statutes and any stipulations of the certification;

C. certified that the vendor will immediately notify the secretary of state of any modifications to the system and will not offer for sale or provide for use in Minnesota any modified 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 system be reexamined;

D. deposited with an escrow agent a copy of all programs, documentation, and source codes; and

E. deposited with the secretary of state a bond in the amount specified in Minnesota Statutes, section 206.57, subdivision 4, conditioned on the vendor offering the system for sale in the manner required by chapters 8220 and 8230 and any conditions under which the 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 system or program is discontinued in Minnesota.

Subp. 2. **Decertification.** If a voting system no longer meets the standards of chapters 8220 and 8230 or Minnesota Statutes, the secretary of state may withdraw certification of the voting 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 system in a manner other than that required by chapters 8220 and 8230 or any conditions under which the 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 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 $50,000. 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; 206.81; 206.82*

History: *10 SR 1690; 12 SR 1712; 12 SR 2426; 23 SR 459; 25 SR 616*

8220.0700 REEXAMINATION AND RECERTIFICATION OF HARDWARE AND SOFTWARE.

After an electronic voting system has been certified by the secretary of state, the hardware and software necessary to operate the voting system, tabulate votes, and prepare ballot styles must be reexamined and recertified under part 8220.0650, subpart 1, by the secretary of state at any time that, in the opinion of the secretary of state, changes in Minnesota election law require reexamination of the voting system to determine continued compliance.

A modification to hardware or software of an electronic voting system which has been certified by the secretary of state must be submitted for reexamination and be recertified under part 8220.0650 unless the modification has been determined to be de minimis by an independent testing authority.

The vendor must notify the secretary of state of all de minimis modifications, provide the de minimis determination from an independent testing authority and receive a letter of acceptance of the de minimis modifications from the secretary of state before the modified electronic voting system may be used in an election.

Statutory Authority: *MS s 206.57; 206.81; 206.82*

History: *23 SR 459; 25 SR 616; 34 SR 1561*

PREPARATION AND TESTING OF ELECTION PROGRAMS

8220.0750 PREPARATION OF COMPUTER PROGRAMS.

Computer programs must be prepared so as to tabulate accurately each voter's choices for all candidates, offices, and measures for which the voter is lawfully entitled to vote in conformity with chapters 8220 and 8230 and the laws of Minnesota.

Computer programs must require an electronically readable precinct identifier or ballot style indicator on all ballots.

The vote tabulation portion of the computer program must be prepared as follows:

A. The computer program must reflect the rotation sequence of the candidates' names as they appear on the ballots in the various precincts.

B. The computer program must reflect the offices and questions to be voted on in the order that they appear on the ballots in the various precincts.

C. The computer program must count valid votes cast by a voter for candidates for an office.

D. The computer program must count valid votes cast by a voter for or against any question.

E. The computer program must not count the votes cast by a voter for an office or question if the number of votes cast exceeds the number which the voter is entitled to vote for on that office or question, but it must record that there is an overvote condition as referred to in part 8220.0450, item C.

F. The computer program must ignore stray marks on a ballot; these marks must have no effect on any portion of the ballot.

G. For the purpose of programming, the partisan, nonpartisan, and proposal sections of the ballot are independent ballots; no action of a voter on one section of the ballot may affect the voter's action on another section of the ballot.

H. In partisan primary elections, the computer program must count the votes recorded by a voter for candidates in one political party only and reject all of the partisan section of the ballot if votes are cast for candidates of more than one political party, but count valid votes in the nonpartisan section of the ballot.

I. In partisan primary elections the computer program must check for the situation of a voter casting votes for candidates of more than one political party prior to checking for overvote conditions.

J. If the counting equipment can examine and return a ballot to the voter before counting it, the computer program must check for and reject without counting any ballot with an overvote or, at a partisan primary, with votes cast for candidates of more than one party. When the ballot is returned to a voter, an error message must indicate the type of defect and may indicate the specific office or question where the defective condition was found. The error message must print on a paper tape or display electronically.

K. A mark indicating a write-in is a vote for the purpose of determining if an overvote condition exists. Except where an overvote condition for the office exists, the computer program must record that a write-in has been indicated. The program must count and record valid votes on the ballot for all other offices and questions before a ballot with a write-in recorded is separated from ballots with no write-ins recorded. The program must report, by office, the total number of write-ins recorded.

Statutory Authority: *MS s 206.57; 206.81; 206.82*

History: *10 SR 1690; 11 SR 454; 23 SR 459; 25 SR 616*

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 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 chapters 8220 and 8230 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; 206.81; 206.82*

History: *12 SR 2426; 23 SR 459; 25 SR 616*

8220.0825 CANDIDATE ROTATION ALGORITHM.

Subpart 1. **Base rotation.** The secretary of state shall determine the base rotation of candidates' names for partisan offices voted on at the state primary election. The county auditor shall determine the base rotation of candidates' names for all other offices for which rotation is required. The county auditor may delegate the authority to determine the base rotation of candidates' names for municipal and school district offices to the municipal and school district clerks, respectively. The base rotation must be determined by assigning the initial order of the candidates' names by lot.

Subp. 2. **Base number of registered voters.** For purposes of the rotation algorithm, the county auditor shall determine the number of registered voters in each precinct as of 8:00 a.m. on May 1 of the election year.

Subp. 3. **Algorithm.** The algorithm in items A to F must be used to determine the rotation sequence for each race for which rotation is required.

A. Determine the base rotation.

B. Determine which precincts belong to the race being rotated.

C. Arrange the precincts in order of the number of registered voters, from largest number to smallest.

D. Calculate the number of rotations needed by determining the number of candidates for the office.

E. Starting with the largest precinct, assign a precinct to each rotation. If there are more candidates than precincts, stop after the last precinct has been assigned and go on to item F. If there are more precincts than candidates, keep a running subtotal of the total registered voters assigned to each rotation. After each rotation has been assigned one precinct, assign the next largest precinct to the rotation with the lowest subtotal. Continue assigning the next largest precinct to the rotation with the lowest subtotal until all precincts for that race have been assigned.

F. Print a report by race showing rotation subtotals.

Statutory Authority: *MS s 205.17; 206.57; 206.81; 206.84; 447.32*

History: *23 SR 459; 34 SR 1561*

8220.0850 SCHEDULE FOR COMPLETING PROGRAMS.

No later than five days after candidates' names are certified by the secretary of state, the election jurisdiction responsible for requesting the computer program must supply any information such as candidates' names and base rotation and the order of offices and questions to be voted on to the individuals designated to prepare the computer program. The official conducting the election also shall supply the programmers with the rotation algorithm in part 8220.0825 or other instructions regarding the proper rotation sequence for the ballots.

The computer program for any election and an exact duplicate of the program for use as backup must be completed and delivered to the election jurisdiction or the county auditor in charge of a common central counting center at least 21 days prior to the election.

Statutory Authority: *MS s 206.57; 206.81; 206.82*

History: *10 SR 1690; 20 SR 2787; 23 SR 459*

8220.0950 [Repealed, 34 SR 1561]

8220.1000 [Repealed, 10 SR 1690]

8220.1050 PREPARATION OF TEST DECK.

The election jurisdiction requesting the computer program must prepare a test deck of ballots to be used to determine that the voting system and the computer program will correctly mark or count the votes cast for all offices and all proposals in compliance with the Minnesota election law.

The test deck must conform to part 8220.1150. A test deck must be prepared specifically for each election.

The test deck prepared must consist of a preaudited configuration of ballots to record a predetermined number of valid votes for each candidate and issue.

Statutory Authority: *MS s 206.57; 206.81; 206.82*

History: *10 SR 1690; 23 SR 459; 25 SR 616; 34 SR 1561*

8220.1100 [Repealed, 10 SR 1690]

8220.1150 TEST BALLOTS.

All test ballots must be marked "TEST."

Ballots must be prepared having votes in excess of the number allowed by law for each office and proposal appearing on the ballot.

For district offices in which the number of candidates appearing on the ballot for that office varies by district, test ballots must be prepared with the number of votes allowed by law for that office in that district.

In partisan primary elections test ballots must be prepared to check the program for splitting tickets. Test ballots must be prepared with votes appearing in the same ballot for candidates of opposite political parties, nonpartisan candidates, and proposals. At least one ballot must be prepared with votes for one party and including votes for a nonpartisan office in excess of the number permitted by law.

In preparing the test deck, a number of the ballots must be voted to include valid votes in the partisan, nonpartisan, and proposal sections of the ballot. The test deck must include ballots involving no overvotes or marks in unassigned locations, valid votes for each candidate and ballot question, overvotes, undervotes, and invalid votes in many different combinations.

At least one test ballot must be prepared in which marks appear in the precinct identifier or ballot style indicator.

Blank ballots in which no positions have been voted must be included in the test deck.

When required to be used in an election pursuant to Minnesota Statutes, section 206.57, subdivision 5, the test deck must include a number of ballots marked by an electronic ballot marker sufficient to have marked all vote targets on the ballot in every precinct.

Statutory Authority: *MS s 206.57; 206.81* ; 206.82

History: *10 SR 1690; 17 SR 8; 23 SR 459; 34 SR 1561*

8220.1200 [Repealed, 10 SR 1690]

8220.1250 [Repealed, 23 SR 459]

8220.1300 [Repealed, 10 SR 1690]

8220.1350 PRELIMINARY TESTING OF COMPUTER PROGRAMS.

Prior to the public accuracy test, the election jurisdiction providing the computer programs shall test the voting systems and programs to ascertain that they will correctly mark or count the votes for all offices and measures. The computer programs must be tested on all precincts.

The election jurisdiction shall compare the zero tape with the ballots of all precincts to ascertain that the appropriate ballots are in each precinct and that the offices and questions to be voted on and the candidates' names are in the order that they appear on the ballots for each precinct. Each election jurisdiction shall make a certificate as to the above matters and file it with the county auditor.

The test must be conducted using the test deck prepared under the direction of the election jurisdiction, and the results must be compared against the predetermined results of the test deck.

Statutory Authority: *MS s 206.57; 206.81; 206.82; 206.882*

History: *10 SR 1690; 11 SR 454; 23 SR 459; 25 SR 616; 34 SR 1561*

8220.1400 [Repealed, 10 SR 1690]

8220.1450 DUTIES UPON COMPLETION.

After an errorless count has been made on all precincts, the election jurisdiction providing the computer program must:

A. secure all computer programs, all support software used except the operating system, test decks, test results, and predetermined results of the test decks in a sealed container stored in a secured area;

B. secure all memory units containing the election program;

C. secure a duplicate copy of all computer programs, including support software and application programs, in a location separate from the working copy; and

D. prepare a certificate that all precincts have been tested using the test deck prepared under the direction of the election jurisdiction and that the results agree with the predetermined results of the test deck. The certificate must contain the numbers of any seals used to seal the container or memory units and may be combined with the certificate required in part 8220.1750.

Statutory Authority: *MS s 206.57; 206.81; 206.82*

History: *10 SR 1690; 20 SR 2787; 23 SR 459; 25 SR 616*

8220.1550 PUBLIC ACCURACY TEST.

The election jurisdiction must hold a public accuracy test within 14 days prior to the election for the purpose of demonstrating the accuracy of the computer programs and voting systems to be used at the election. The public accuracy test must be conducted according to Minnesota Statutes, section 206.83.

The time and place of the public accuracy test must be designated by the election jurisdiction providing the computer program, which must give at least 48 hours' public notice of the time and place of the test by publication in official newspapers and by posting a notice in the office of the county auditor and each local election official conducting the test.

The test must be open to the public. At least two election judges of different political parties must witness the test. The chief election official of the election jurisdiction shall explain the methods and test procedures used to determine the accuracy of the computer programs. This will include submitting as public record the certificate prepared in accordance with part 8220.1450 that all precincts have been tested using the test deck prepared under the direction of the election jurisdiction.

The sealed container containing the computer programs, test deck, and predetermined results must be opened and the computer programs tested to determine their accuracy on the voting systems on which they are to be used on election day. The testing of the voting systems and programs must be with the test deck prepared under the direction of the election jurisdiction. In election jurisdictions with three or fewer precincts, all the precincts must be tested. In election jurisdictions with more than three precincts, a minimum of three precincts must be tested. One precinct from each congressional district, legislative district, county commissioner district, ward, and school district on the ballot must be tested. The official conducting the election shall select the precincts to be tested.

If an error is detected in any part of the testing, the cause must be ascertained, the error corrected, and an errorless count must be made on all precincts. At the discretion of the election jurisdiction, the meeting may be adjourned to a time and date certain.

Statutory Authority: *MS s 206.57; 206.81; 206.82*

History: *10 SR 1690; 20 SR 2787; 23 SR 459; 25 SR 616*

8220.1650 ADDITIONAL TEST DECKS.

Upon request, the secretary of state must be provided a set of blank ballots to be used as a test deck for any state, county, municipal, special district, or school district election computer program. The secretary's request shall indicate the number of blank ballots to be delivered for the test deck. The use of test decks provided by the secretary of state does not substitute for the requirement for an election jurisdiction to prepare and use a test deck in accordance with parts 8220.1050 and 8220.1150.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 17 SR 8; 23 SR 459*

8220.1750 CERTIFICATE OF PUBLIC ACCURACY TEST.

After the completion of the public accuracy test and an errorless count has been made, the election jurisdiction must certify the results of the test conducted. The certificate must be signed by the witnesses. The certificate may be combined with the certificate required in part 8220.1450, item D.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8220.1850 SECURING COMPUTER PROGRAMS.

Immediately after certifying the results of the public accuracy test, the election jurisdiction must secure all computer programs, software utilized, test decks, certified computer results of the test, and the predetermined results in a container which must be sealed in a manner so that the container cannot be opened without breaking the seal. If a precinct count voting system is used to count ballots, it must be sealed with the memory pack containing the election programs inside. Attached to or inside the container must be a certificate describing its contents. The certificate must be signed by the witnesses.

All computer programs, test decks, and other related materials must be clearly identified to the voting system on which they were tested and must be used on no other voting system until tested in accordance with parts 8220.1550 to 8220.1850.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8220.1950 [Repealed, 20 SR 2787]

8220.2000 [Repealed, 10 SR 1690]

SECURITY OF VOTING SYSTEMS AND PROGRAMS

8220.2050 ISOLATION OF CENTRAL COUNT VOTING SYSTEM AND PRECINCT COUNT VOTING SYSTEM.

The central count voting system or precinct count voting system must be set up so that the vote-tallying procedures will function in isolation while being tested or operated on election day. No physical connection must exist between a central count voting system or precinct count voting system and any other computer during hours that voting is occurring in that precinct on election day or while the central count voting system or precinct count voting system is tabulating results for a precinct.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459; 25 SR 616*

8220.2100 [Repealed, 10 SR 1690]

8220.2150 [Repealed, 23 SR 459]

8220.2200 [Repealed, 10 SR 1690]

8220.2250 SUPPORT SOFTWARE.

All the support software used with the vote-tallying computer programs must be maintained on media under the control of the election administration.

Statutory Authority: *MS s 206.57*

History: *10 SR 1690*

8220.2300 [Repealed, 10 SR 1690]

8220.2350 [Repealed, 23 SR 459]

8220.2400 [Repealed, 10 SR 1690]

8220.2450 [Repealed, 23 SR 459]

8220.2500 [Repealed, 10 SR 1690]

8220.2550 [Repealed, 23 SR 459]

8220.2600 [Repealed, 10 SR 1690]

8220.2650 [Repealed, 23 SR 459]

8220.2700 [Repealed, 10 SR 1690]

8220.2750 [Repealed, 20 SR 2787]

8220.2800 [Repealed, 10 SR 1690]

8220.2850 CONTROL OF COMPUTER PROGRAM CHANGES.

After completion of the public accuracy test, every change to a computer program used for vote tallying and under control of the election jurisdiction must be authorized, approved, and documented by the responsible authority of the election jurisdiction. The documentation must include the time and date of each action.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8220.2860 INSTRUCTIONS FOR BALLOT MARKING DEVICES CERTIFIED BEFORE JANUARY 1, 2010.

Subpart 1. **Text instructions.** The instructions on the screen must read as follows:

A. Before a ballot is inserted: "Please insert your ballot"

B. On the voting instructions screen:

"[Month, Day, Year] [Primary or General or Special Primary or Special] Election"

Official Ballot

You are voting ballot……

Voting instructions

To use this ballot marking device to mark your ballot:

1. You may touch the NEXT button in the lower right corner of the screen or the right arrow button to move on to the next screen at anytime.
2. To select a candidate, touch the name of the candidate. For ballot questions, touch YES or NO to make your selection.
3. Your choice will be highlighted in yellow and the oval will be filled in.

4. In general elections, you are allowed to write in the name of a candidate who is not on the ballot. You will be presented with a keyboard on the screen to type in the name of the person you want to write in.
5. Use the BACK arrow button in the lower left corner of the screen or the left arrow button to return to the previous screen at anytime.
6. When you have completed making your choices, summary screen will display your selections.
7. Review your selections carefully.
8. On the next screen, press the MARK BALLOT button to mark your ballot.
9. Remove your ballot and deposit it in the ballot counter or ballot box."

C. If a voter tries to make a selection without having viewed the names of all of the candidates: "You did not view all candidates. Do you want to view the rest of the choices?"

D. If a voter tries to vote for more than the number of candidates allowed in a multiseat race: "You have tried to select more candidates than are allowed in this race. Deselect at least one of the candidates you have selected before selecting another."

E. If a voter tries to move on to the next race without selecting the maximum number of candidates allowed: "You are allowed to vote for more candidates in this race than you have selected. You can return to the race to vote for more candidates, or you can continue on to the next race."

F. On the summary screen, before the ballot has been marked:

Summary Screen

Your selections for each race are listed below. To change your selections, touch the box for that race. To mark your ballot with these selections, touch "NEXT" at the bottom of the screen."

G. Marking ballot instructions:

"To mark your votes on your ballot:

1. Press the MARK BALLOT button below.
2. Your votes will be marked on your ballot and your ballot will be returned to you.
3. Put your ballot in the ballot counter or ballot box."

H. While the ballot is being printed: "Your votes are being marked on your ballot."

I. Thank you: "Thank you for using this ballot marking device. Please remove your ballot. Put it into the ballot counter or ballot box to have it counted."

J. If the ballot is not readable: "The ballot marking device cannot read your ballot. Please try again or contact an election judge for assistance."

K. If there is a paper jam: "there is a paper jam. Please contact an election judge."

L. If the voter tries to exit before the ballot is marked: "Exit now and your votes will not be marked on your ballot. Are you sure you want to exit?"

M. If the voter exits without having the ballot marked: "Thank you for using this ballot marking device. Please remove your blank ballot."

N. In Partisan primary elections, the following instructions shall appear after the voter instruction screen:

"SELECT A POLITICAL PARTY

Instructions to Voters

You are only allowed to vote for the candidates of one political party for partisan offices in a primary election. Please select a political party below. No record will be made of your political party choice. Your selection will only be used to direct you to the proper ballot information. You will only see the names of candidates who are with the political party you choose. To see the names of candidates in other political

parties, use the back button or left arrow button. At the screen called "Select a Political Party," choose a different political party."

O. When a voter inserts a ballot on which votes have already been marked: "Votes have already been marked on your ballot. If you thought you were using a blank ballot, please press EXIT to eject your ballot. Then contact an election judge for a new ballot. To review the selections on this ballot, press the NEXT arrow button to view a summary page. Note: you cannot use this ballot marking device to change any of these selections."

P. On the summary screen after the ballot has been marked:

"Summary Screen

Your selections for each race are listed below. Your ballot has already been marked. It cannot be changed by this ballot marking device. When you have reviewed your selections, press the RETURN BALLOT button below to eject your ballot. To change a selection, you will need to request a new ballot from an election judge."

Subp. 2. **Audio instructions.** The instructions must be as follows:

A. Before a ballot is inserted: "Please insert your ballot. It may take up to 30 seconds for the ballot to be scanned. Please wait. The audio will be silent while scanning."

B. The presentation of the voting instructions:

"[Month, Day, Year] [Primary or General or Special Primary or Special] Election. Official Ballot.

You are voting ballot …….

Voting Instructions.

This ballot marking device will guide you through choosing candidates in each race on the ballot. This ballot marking device can be controlled in several ways, including a small keypad that is located to the right of the screen. The buttons are labeled in Braille. At the far right, there are four buttons in a vertical line. The bottom button adjusts the volume when pushed left or right. The button above it adjusts the speed of the audio when pressed left or right. The round button repeats the last set of instructions. The top diamond button turns the display screen on or off for privacy. The instructions will begin again from the beginning if you use any of the top three buttons. To the left of these buttons, you will find a square center button with four arrow buttons surrounding it. Press the right arrow button at any time to skip to the next screen. Press the down arrow button to hear the name of the next candidate in the race. Press the up arrow button to hear the name of the previous candidate in the race. When you hear the name of the candidate you want to vote for, press the square select button in the center to select the candidate. Press the right arrow button to move to the next race on the ballot. Press the left arrow button to move to the previous race on the ballot. If you need help, please talk to an election judge. When you have completed your ballot, you will hear a summary of your selections. Listen to the summary carefully before completing the final step of marking your ballot. Remove your ballot and deposit it in the ballot counter or ballot box. To exit without marking votes on your ballot, press the diamond-shaped screen button four times in a row. Press the right arrow button now to begin voting. Press the round repeat button to hear these instructions again.

C. If a voter tries to make a selection without having heard the names of all of the candidates: "Warning. You did not hear all candidates in this race. To hear the rest, press the left arrow key. To continue on to the next race, press the right arrow key."

D. If a voter tries to vote for more than the number of candidates allowed in a multiseat race: "You have selected more candidates than are allowed in this race. Deselect at least one of the candidates you have selected before selecting another. Press the square select key or the left arrow to return to the race."

E. If a voter tries to move on to the next race without selecting the maximum number of candidates allowed: "Warning. You are allowed to vote for more candidates in this race than you have selected. To return to this race to select more candidates, please press the left arrow key. To continue on to the next race, press the right arrow key."

F. With the summary screen, before the ballot has been marked: "this is the summary screen. Use the up and down arrow keys to scroll through each race and hear your selections. If you want to change a selection, use the square select key to return to that race. If you like your selections, press the right arrow key."

G. Marking ballot instructions: "To mark your votes on your ballot: 1. Press the square select key. 2. Your votes will be marked on your ballot and your ballot will be returned to you. 3. Put your ballot in the ballot counter or ballot box. To change a selection, use the left arrow key to return to the summary screen. To exit without marking your votes on your ballot, use the left arrow key until you hear the exit message. Follow the instructions. Your blank ballot will be returned to you.

H. Write-in instructions: "You have chosen to input a write-in candidate. Use the up and down arrows to scroll through the letters. Use the select key to select a letter. The hyphen, space, and backspace appear after the Z. use backspace to remove a letter. At any time, you can press the round repeat key to hear the letters you have selected so far. When you are finished typing, press the right arrow key to return to the list of candidates in this race. Then select this write-in candidate. To cancel and return to the race without typing in a name of a write-in candidate, press the left arrow key. Press the down arrow now to begin moving through the alphabet. To repeat these instructions, press the round repeat key"

I. While the ballot is being printed: "Your votes are being marked on your ballot. Please wait. It should take about 15 seconds. Your ballot will then be returned to you. Put your ballot into the ballot counter or ballot box."

J. Thank you: "Thank you for using the ballot marking device. Please remove your ballot. Put it into the ballot counter or ballot box to have it counted. If you need help, please talk to an election judge."

K. If the ballot is not readable: "This ballot marking device cannot read your ballot. Please try again or contact an election judge for assistance."

L. If there is a paper jam: "There is a paper jam. Please contact an election judge."

M. If the voter tries to exit before the ballot is marked: "Exit now and your votes will not be marked on your ballot. Press the left arrow key to return to voting. Press the right arrow key to exit and receive your blank ballot."

N. If the voter exits without having the ballot marked: "Thank you for using this ballot marking device please remove your blank ballot."

O. In partisan primary elections, the following instructions shall appear after the voter instruction screen:

"SELECT A POLITICAL PARTY.

Instructions to Voters.

You are only allowed to vote for the candidates of one political party for partisan offices in a primary election. On this screen you will select a political party. No record will be made of your political party choice. Your selection will only be used to direct you to the proper ballot information. You will only hear the names of candidates who are with the political party you choose. To hear the names of candidates in other political parties, use the left arrow button until you get to a screen called "Select a Political Party." Then choose a different political party."

P. When a voter inserts a ballot on which votes have already been marked: "Votes have already been marked on your ballot. If you thought you were using a blank ballot, please press the left arrow key twice to eject your ballot. Then contact an election judge for a new ballot. To review the selections on

this ballot, press, press the right arrow key to view a summary page. Note: you cannot use this ballot marking device to change any of these selections."

Q. With the summary screen after the ballot has been marked: "This is the Verification Screen. Use the up and down arrow keys to scroll through each race and hear your selections. When you are finished, press the right arrow key to eject your ballot. If you want to change your selections, you will need to request a new ballot from an election judge."

Subp. 3. **Brand name.** The brand name of the ballot marking device may be substituted for the words "the ballot marking device" and "this ballot marking device" throughout the instructions.

Statutory Authority: *MS s 206.84*

History: *34 SR 1561*

8220.2865 INSTRUCTIONS FOR BALLOT MARKING DEVICES ORIGINALLY CERTIFIED ON OR AFTER JANUARY 1, 2010

Each ballot marking device originally certified by the secretary of state on or after January 1, 2010, must deliver substantially the same text and audio instructions as required in part 8220.2860. At the time of any certification after January 1, 2010, the secretary of state must approve any alternate text and audio instructions conforming with part 8220.2860 to the extent practicable, which are necessary to accommodate the navigational method and presentation of the ballot to the voter which are unique to the device being certified. Alternate instructions approved during the certification process must be used for all following elections at which the device is used.

Statutory Authority: *MS s 206.84*

History: *34 SR 1561*

8220.2900 [Repealed, 10 SR 1690]

8220.2950 [Repealed, 23 SR 459]

8220.3000 [Repealed, 10 SR 1690]

8220.3050 [Repealed, 23 SR 459]

8220.3100 [Repealed, 10 SR 1690]

8220.3150 [Repealed, 23 SR 459]

8220.3200 [Repealed, 10 SR 1690]

8220.3250 [Repealed, 23 SR 459]

8220.3350 [Repealed, 23 SR 459]

8220.3450 [Repealed, 23 SR 459]

8220.3550 [Repealed, 23 SR 459]

8220.3650 [Repealed, 23 SR 459]

8220.3750 [Repealed, 23 SR 459]

8220.3850 [Repealed, 23 SR 459]

8220.3950 [Repealed, 23 SR 459]

8220.4000 [Repealed, 10 SR 1690]

8220.4050 [Repealed, 23 SR 459]

8220.4100 [Repealed, 10 SR 1690]

8220.4150 [Repealed, 23 SR 459]

8220.4200 [Repealed, 10 SR 1690]

8220.4250 [Repealed, 23 SR 459]

8220.4300 [Repealed, 10 SR 1690]
8220.4400 [Repealed, 10 SR 1690]
8220.4500 [Repealed, 10 SR 1690]
8220.4600 [Repealed, 10 SR 1690]
8220.4700 [Repealed, 10 SR 1690]
8220.4800 [Repealed, 10 SR 1690]
8220.5000 [Repealed, 10 SR 1690]
8220.5100 [Repealed, 10 SR 1690]
8220.5200 [Repealed, 10 SR 1690]
8220.5300 [Repealed, 10 SR 1690]
8220.5400 [Repealed, 10 SR 1690]
8220.5500 [Repealed, 10 SR 1690]
8220.5600 [Repealed, 10 SR 1690]
8220.5700 [Repealed, 10 SR 1690]
8220.5800 [Repealed, 10 SR 1690]
8220.5900 [Repealed, 10 SR 1690]
8220.6000 [Repealed, 10 SR 1690]
8220.6100 [Repealed, 10 SR 1690]
8220.6200 [Repealed, 10 SR 1690]
8220.6300 [Repealed, 10 SR 1690]
8220.6400 [Repealed, 10 SR 1690]

CHAPTER 8230 - OPTICAL SCAN VOTING SYSTEMS

NOTE: ***See part 8220.0250 for definitions applicable to this chapter.***

BALLOTS AND VOTING

8230.0050 APPLICABILITY.

Chapters 8220 and 8230 apply to optical scan voting systems.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459; 25 SR 616*

8230.0150 PROCEDURES.

Unless otherwise provided for in chapters 8220 and 8230 or in Minnesota law, paper ballot procedures as provided in Minnesota election law must be followed to the extent possible.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459; 25 SR 616*

8230.0200 [Repealed, 10 SR 1690]

8230.0250 ARRANGEMENT OF VOTING STATIONS.

Election jurisdictions may provide self-contained voting stations for use by voters in casting their ballots. If a voter claims that the arrangement of the stations does not afford the opportunity to vote in secrecy, the judges shall rearrange the stations to provide for increased secrecy.

Statutory Authority: *MS s 206.57; 206.81; 206.84*

History: *10 SR 1690; 17 SR 8; 20 SR 2787; 23 SR 459; 25 SR 616*

8230.0300 [Repealed, 10 SR 1690]

8230.0350 [Repealed, 23 SR 459]

8230.0400 [Repealed, 10 SR 1690]

8230.0450 [Repealed, 23 SR 459]

8230.0500 [Repealed, 10 SR 1690]

8230.0550 [Repealed, 23 SR 459]

8230.0560 BALLOTS.

Ballots must meet or exceed the specifications the equipment manufacturer has filed with the secretary of state. The election official responsible for preparing the ballots must supply to the ballot printer the equipment manufacturer's recommended standards and specifications for ballot printing.

The ballots must be stored in a manner to protect against moisture.

The local election official must certify to the county auditor the number of ballots received for each ballot style. The local election official or county auditor shall package the ballots for each precinct in groups of 25, 50, or 100 and seal or place the ballots into a package or transfer case. The package or transfer case must contain a certificate stating the number of ballots it contains. All ballots not issued to a precinct or assigned for absentee voting must be secured and accounted for by the official conducting the election. The official conducting the election must maintain a record of the number of ballots issued to each precinct. The ballots must be delivered to the chief election judge of each precinct.

Statutory Authority: *MS s 206.84*

History: *23 SR 459; 25 SR 616; 34 SR 1561*

8230.0570 BALLOT SECRECY COVERS.

The ballot secrecy cover must be of sufficient size and construction so that when the ballot is inserted in it all portions indicating voting marks are hidden from view.

Statutory Authority: *MS s 206.84*

History: *23 SR 459; 25 SR 616*

8230.0580 SUPPLIES.

A ballot box must be provided to each precinct for the deposit of voted ballots.

The following items must be included in the precinct supplies:

A. the sample ballot for the precinct;

B. ballot secrecy covers;

C. envelopes marked "spoiled ballots," "write-in ballots," and "ballots for which duplicates were or are to be made";

D. a form to record write-in votes if needed; and

E. a set of instructions for operating the precinct on election day.

In election jurisdictions using central count voting systems, an envelope marked "defective ballots" also must be provided to each precinct.

Statutory Authority: *MS s 206.57; 206.84*

History: *23 SR 459; 25 SR 616*

8230.0650 VOTING PROCEDURE.

Every voter at the polling place must be offered a demonstration of how to mark the ballot and use the voting system.

The election judge shall not deliver a ballot to a voter until the judge has received a voter receipt. The voter receipt may contain an example of the target used on the ballot. The election judge must state or demonstrate how to complete the target as the ballot is handed to the voter. A writing instrument without an eraser that will produce marks that can be accurately read by the ballot counter must be provided to each voter.

Upon being issued a ballot and offered a ballot secrecy cover, the voter shall go to an unoccupied voting station and vote.

Upon leaving the voting station, the voter shall insert the ballot into the ballot counter or ballot box. The voter may choose to hand the ballot to an election judge who shall insert the ballot into the ballot counter or ballot box.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459; 25 SR 616*

8230.0750 [Repealed, 23 SR 459]

8230.0850 SPOILED BALLOTS.

If a voter spoils a ballot by inadvertently defacing it or requests a new ballot, the voter shall hand the ballot to the election judge. The election judge may look at the ballot if necessary to determine what style of replacement ballot to give the voter. The election judge shall place the ballot in the spoiled ballot envelope and give the voter another ballot.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8230.0950 [Repealed, 23 SR 459]

8230.1000 [Repealed, 10 SR 1690]

8230.1050 BALLOTS FOUND IN VOTING STATIONS.

Any ballot found in a voting station must be marked "found in voting station." The ballot must be placed in the spoiled ballot envelope. In no case may that ballot be placed with the properly cast ballots. A note of the occurrence must be made in the remarks section of the precinct incident report.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8230.1100 [Repealed, 10 SR 1690]

8230.1130 EXAMINING AND PROCESSING ABSENTEE BALLOTS.

New language published electronically June 15, 2016

The election judges shall examine the absentee ballots as they are removed from the secrecy envelopes. Ballots requiring duplication must be duplicated as provided in part 8230.3850.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459; 40 SR 1553*

8230.1150 PROCEDURES FOLLOWING CLOSE OF POLLS.

Subpart 1. **Ballots not issued, secured.** All ballots which are not issued to voters must be secured for return to the official in charge of the election for the election jurisdiction.

Subp. 2. [Repealed, 23 SR 459]

Subp. 3. **Total number of voters.** The total number of voters, determined pursuant to Minnesota Statutes, section 204C.20, subdivision 1, must be entered on the summary statement.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8230.1200 [Repealed, 10 SR 1690]

8230.1250 [Repealed, 23 SR 459]

8230.1300 [Repealed, 10 SR 1690]

8230.1350 WRITE-IN VOTES.

At a general election, each ballot must be examined either electronically or manually for write-in votes.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8230.1400 [Repealed, 10 SR 1690]

8230.1450 USE OF STICKERS PROHIBITED.

A sticker may not be affixed to a ballot that will be placed into a ballot box or ballot counter for any reason.

Statutory Authority: *MS s 206.57; 206.81; 206.84*

History: *10 SR 1690; 23 SR 459; 34 SR 1561*

8230.1500 [Repealed, 10 SR 1690]

8230.1550 [Repealed, 23 SR 459]

8230.1600 [Repealed, 10 SR 1690]

8230.1650 [Repealed, 23 SR 459]

8230.1700 [Repealed, 10 SR 1690]

8230.1750 [Repealed, 23 SR 459]

8230.1800 [Repealed, 10 SR 1690]

8230.1850 DEFECTIVE BALLOT.

If a ballot has been damaged, the election judges may duplicate and count it. The damaged ballot must be placed in the duplicate ballot envelope. If it is clearly evident from examination of the ballot that the ballot has been damaged or marked for the purpose of distinguishing it, then the ballot is defective and may not be counted. The ballot must be placed in the defective ballot envelope and returned to the official in charge of the election for the election jurisdiction.

Statutory Authority: *MS s 206.57; 206.81; 206.85*

History: *10 SR 1690; 23 SR 459; 25 SR 616*

8230.1860 EXPERIMENTAL PROCEDURES.

The secretary of state may authorize the experimental use of alternate procedures for optical scan voting systems.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459*

8230.1900 [Repealed, 10 SR 1690]

8230.1950 [Repealed, 23 SR 459]

8230.2000 [Repealed, 10 SR 1690]

PROCEDURES FOR CENTRAL COUNT OPTICAL SCAN VOTING SYSTEMS

8230.2010 APPLICABILITY.

Parts 8230.2010 to 8230.4150 apply to central count optical scan voting systems used in central counting centers.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459*

8230.2020 ELECTION JUDGE DUTIES.

The vote totals for central count optical scan voting systems may be certified by either the election judges who served in the precinct or a set of election judges specifically appointed to serve at the central counting center. When the polling place closes, the election judges designated by the official conducting the election shall complete the steps in parts 8230.2030 to 8230.4150. If the vote totals are to be certified by the central counting center election judges, all processing of the ballots and certification of the returns at the central counting center must be done by the central counting center judges.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459*

8230.2030 POLLING PLACE PROCEDURES.

A. At the polling place after voting hours have ended, the election judges shall open the ballot box, remove the ballots, and determine the total number of ballots in the box. If the number of ballots is greater than the number of persons voting and it is impossible to reconcile the numbers, the ballots must be replaced in the ballot box and one of the election judges shall publicly draw out a number of ballots equal to the excess. The excess ballots must be marked “excess” and placed in an envelope. The envelope then must be sealed. The judges shall write “excess ballots” on the outside of the envelope and put it in the transfer case. A notation of the pertinent facts must be made on the incident report. If the number of ballots counted is less than the number of persons voting, the reason for the discrepancy must be noted in the incident report. If the judges are unable to explain the discrepancy, they shall so state in the incident report.

B. The election judges must identify ballots that will need to be duplicated at the central counting center or process ballots requiring duplication prior to transporting them to the central counting center. Ballots requiring duplication must be duplicated as provided in part 8230.3850.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459*

8230.2040 RECORDING VALID WRITE-IN VOTES.

If a valid write-in vote exists, the election judges shall determine whether the write-in vote has caused an overvote. If the write-in vote has caused an overvote, the ballot is defective for that office only.

If the write-in vote does not cause an overvote for that office, the election judges shall enter the candidate's name and the office on the write-in vote tally sheet. The ballot must be placed with the other valid ballots for tabulation.

If the write-in vote causes an overvote for that office and the target next to the write-in vote is not completed, the election judges shall place the ballot in the envelope marked "ballots for which duplicates were or are to be made." The manner of duplication is prescribed in part 8230.3850.

At the discretion of the county auditor, the processing of write-in ballots may be done at the central counting center or at the office of the local election official or county auditor rather than at the precinct polling place.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459*

8230.2050 ITEMS IN TRANSFER CASE.

Subpart 1. **Content.** The election judges shall place in the transfer case for delivery to the official conducting the election or central counting center all of the following items:

A. valid voted ballots;

B. envelope containing spoiled ballots;

C. envelope containing defective ballots;

D. envelope containing ballots for which duplicates were or are to be made for any reason;

E. envelopes with notations concerning any other issued ballots contained which are not to be counted;

F. certificate signed by the judges indicating number of ballots received, issued, and used;

G. summary statement or part of the summary statement provided to the election judges at the polling place;

H. incident report; and

I. write-in vote tally sheet if write-in votes were counted at the polling place.

Subp. 2. **Second transfer case.** If space in the transfer case is inadequate, then a second ballot box, transfer case, or container of a type approved by the election jurisdiction for storage of ballots must be used and the sealing and security handled in the same manner as the transfer case.

Subp. 3. **Other containers.** Any materials not listed in subpart 1 that the official conducting the election has designated for return to the official conducting the election or the central counting center must be placed in a separate container for delivery.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8230.2100 [Repealed, 10 SR 1690]

8230.2150 CERTIFICATE OF ELECTION JUDGES.

The election judges shall sign a "certificate of election judges." The certificate must state:

A. the number of persons voting as shown on the summary statement;

B. that the order of the offices and questions to be voted on and the candidates' names on the ballots were the same as on the sample ballot;

C. the number of ballots being submitted for tabulation;

D. that the ballots have been counted and agree with the number of names as shown on the summary statement;

E. the number of excess ballots, if any;

F. that all ballots requiring duplication are in the proper envelope;

G. that all write-in votes have been properly recorded, if this process was done on election night;

H. that all ballots used in the election and all ballots that have been or need to be duplicated have been placed in the transfer case and that the case was securely sealed in such a manner as to render it impossible to open the case without breaking the seal; and

I. the numbers of any seals used to seal the transfer case or cases.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8230.2200 [Repealed, 10 SR 1690]

8230.2250 DELIVERY OF TRANSFER CASE.

Subpart 1. **Seal and certificate.** The transfer case must be sealed with a seal so that it is impossible to open the case or insert or remove ballots without breaking the seal. Within or attached to the transfer case must be a certificate signed by the judges indicating its content, the precinct name, and the number of any seal used to seal the case.

Subp. 2. **Delivery by two election judges.** The transfer case containing the required items as identified in part 8230.2050 must be delivered to the official conducting the election, central counting center, or collection point for transportation to the official conducting the election or central counting center by two election judges, not of the same political party.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 20 SR 2787; 23 SR 459*

8230.2300 [Repealed, 10 SR 1690]

8230.2350 [Repealed, 23 SR 459]

8230.2400 [Repealed, 10 SR 1690]

8230.2450 RETENTION OF BALLOTS.

Ballots which are not issued to voters must be returned to the official conducting the election who shall retain them by precinct until the time for contest has expired.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8230.2500 [Repealed, 10 SR 1690]

8230.2600 [Repealed, 10 SR 1690]

8230.2610 [Repealed, 10 SR 1690]

8230.2700 [Repealed, 10 SR 1690]

8230.2800 [Repealed, 10 SR 1690]

8230.2900 [Repealed, 10 SR 1690]

8230.3000 [Repealed, 10 SR 1690]

8230.3050 [Repealed, 23 SR 459]

8230.3150 [Repealed, 23 SR 459]

8230.3250 [Repealed, 23 SR 459]

8230.3300 [Repealed, 10 SR 1690]

8230.3350 [Repealed, 23 SR 459]

8230.3450 PRELIMINARY PROCEDURES.

The operators of the central count voting system shall take and subscribe to the election judges' oath.

The state chair of a major political party or a designee may appoint by written certificate one person to be present in the immediate area of the central count voting system during all activities and operations of the center. The major political party representative may observe all procedures but may not interfere in any way and may not touch any voting system or ballot materials.

Persons assigned to administer the central counting center shall compare the seal number on the container containing the official test deck and predetermined results with that recorded in the certificate of the public accuracy test to see that they agree.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 17 SR 1279; 23 SR 459*

8230.3500 [Repealed, 10 SR 1690]

8230.3550 TEST OF PROGRAM BEFORE AND DURING TABULATION.

Prior to the tabulation of ballots, the central counting center personnel shall test the voting system as to its accuracy and certify the results. The accuracy test must be conducted with the test deck designated in parts 8220.1050 and 8220.1150. A copy of each test certificate must accompany the results of the tabulation of the ballots and be filed with the county auditor in the county where the precincts are located.

Before tabulating the ballots, central counting center personnel shall run a zero report to verify that the initial counts for each precinct are zero.

Authorized central counting center personnel may at their discretion test the program using the official test deck periodically throughout the tabulation of ballots to verify that the voting system is operating accurately.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8230.3560 USE OF PRECINCT COUNT VOTING SYSTEMS AT CENTRAL COUNTING CENTERS.

New language published electronically June 15, 2016

A. Central count voting systems must be used in central counting centers. One precinct count voting system and one memory unit may be used at a central counting center.

B. Results must be produced for each precinct by either (1) printing a separate summary statement for each precinct, or (2) producing segregated results for each precinct that can be identified and attached individually as part of a complete summary statement for each precinct.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459; 40 SR 1553*

8230.3600 [Repealed, 10 SR 1690]

8230.3650 [Repealed, 23 SR 459]

8230.3700 [Repealed, 10 SR 1690]

8230.3750 PROCEDURES FOR TRANSFER CASES.

Subpart 1. **Identifying case.** Upon receipt of the transfer case from the election judges of a precinct, authorized central counting center personnel shall check the identification on the transfer case to see that it matches the identification on the judges' certificate. The transfer case must then be opened and checked to see that it contains the ballots and all other material required by parts 8230.0050 to 8230.4150. Authorized central counting center personnel must then sign a certificate acknowledging receipt of all materials delivered by the election judges.

Subp. 2. **Delivery to central counting center.** The transfer case containing the ballots must then be delivered to the proper central counting center personnel for preparation for tabulation. The election official in charge of the central counting center shall provide adequate security at the central counting center.

Subp. 3. [Repealed, 23 SR 459]

Subp. 4. **Sealing after count.** Immediately upon the completion of the counting of a precinct, all ballots for the precinct must be returned to the transfer case or other suitable container and sealed as to make it impossible to open the case without breaking the seal. The number of any seal used on a container must be written on the summary statement.

Subp. 5. **Verifying number of ballots.** The election official in charge of the central counting center shall determine whether the number of ballots tabulated by the central count voting system agrees with the number of ballots submitted by the election judges at the precinct. If a discrepancy exists, authorized central counting center personnel shall correct it. In the event the discrepancy cannot be resolved, a notation must be made of the pertinent facts on the statement of returns.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8230.3800 [Repealed, 10 SR 1690]

8230.3850 DUPLICATION OF BALLOTS.

Any ballots requiring duplication at the polling place or central counting center must be duplicated in the following manner:

A. Whenever a ballot is required to be duplicated, the duplication process must be performed by two election judges not of the same political party.

B. Whenever it is necessary to duplicate a ballot, the duplicate ballot and the original ballot must be identified with a single number written on both ballots. The number on the duplicate ballot must be the same number as on the original. When more than one ballot is being duplicated in a precinct, the numbering must be serial.

C. The reason for duplication must be written on the duplicate ballot. The election judges duplicating the ballot shall initial the duplicated ballot and the original ballot.

D. When duplicating a ballot, one election judge shall call from the original ballot the valid selections of the voter; another election judge shall prepare the duplicate ballot with the voter's valid selections. The duplicate ballot must be compared against the original ballot to ensure it has been accurately duplicated.

E. All original ballots which require duplication must be placed in an envelope marked "ballots for which duplicates were or are to be made." The duplicate ballot must be placed with the other valid ballots to be tabulated.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8230.3900 [Repealed, 10 SR 1690]

8230.3950 SUMMARY STATEMENTS.

New language published electronically June 15, 2016

The election official in charge of the central counting center must prepare one or more summary statements. The summary statement must state the name of the county; the name of the municipality, school district, or special district; precinct name and code; offices; names of candidates; number of persons registered at 7:00 a.m. on election day; number of ballots counted; vote totals; and any other data required by the secretary of state. Authorized personnel in the central counting center shall enter this data into the election reporting system established by the secretary of state for the purpose of state reporting of election results. The summary statement may be a computer printout as well as any forms designated by the secretary of state.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 17 SR 8; 23 SR 459; 25 SR 616; 40 SR 1553*

8230.4000 [Repealed, 10 SR 1690]

8230.4050 DISTRIBUTION OF SUMMARY STATEMENTS.

New language published electronically June 15, 2016

The summary statements referred to in part 8230.3950 must be certified to the official conducting the election. The official conducting the election shall prepare one summary statement for each jurisdiction canvassing the results of the election. The official conducting the election may authorize the printing of copies of the summary statement for public information purposes. The official conducting the election shall prepare copies of any additional forms required by the secretary of state.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 17 SR 8; 23 SR 459; 25 SR 616; 38 SR 1368; 40 SR 1553*

8230.4100 [Repealed, 10 SR 1690]

8230.4150 RETENTION OF BALLOTS.

After the last precinct has been counted, the election official in charge of the central counting center shall retain ballots and related documents for one year for local elections and 22 months for federal elections unless otherwise ordered by a court order or recount procedure pursuant to Minnesota election laws.

Statutory Authority: *MS s 206.57; 206.81*

History: *10 SR 1690; 23 SR 459*

8230.4200 [Repealed, 10 SR 1690]

8230.4250 [Repealed, 23 SR 459]

8230.4300 [Repealed, 10 SR 1690]

PROCEDURES FOR PRECINCT COUNT
OPTICAL SCAN VOTING SYSTEMS

8230.4325 APPLICABILITY.

Parts 8230.4325 to 8230.4395 apply to precinct count optical scan voting systems used in precinct counting centers.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459*

8230.4350 [Repealed, 23 SR 459]

8230.4355 BALLOT BOXES FOR PRECINCT COUNTING CENTERS.

Ballot boxes used with precinct count voting systems may be separate or part of the ballot counting equipment provided that the ballot is fed directly into a locked or sealed ballot box. The ballot box may contain a compartment that receives ballots on which all votes have been counted except those for offices for which the write-in target has been completed. An auxiliary ballot box, that may be separate or an additional compartment, must be supplied to be used if the voting system fails to function or for ballots that cannot be read by the ballot counter.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459*; *38 SR 1368*

8230.4360 ~~DUPLICATION OF BALLOTS~~.

Repealed - published electronically June 15, 2016

[Repealed, 40 SR 1553] ~~Any ballots requiring duplication at the polling place must be duplicated in the manner described in part 8230.3850.~~

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459; 25 SR 616; 40 SR 1553*

8230.4365 PRECINCT COUNT VOTING SYSTEM EQUIPMENT AND PROCEDURES.

New language published electronically June 15, 2016

Subpart 1. **Number of ballot counters and memory units.**

A. At least one precinct count voting system and at least one memory unit must be used in each precinct. One precinct count voting system and one memory unit may be used to count ballots for combined precincts.

B. Results must be produced for each precinct by either (1) printing a separate summary statement for each precinct, or (2) producing segregated results for each precinct that can be identified and attached individually as part of a complete summary statement for each precinct. The voted ballots must be separated and sealed by precinct.

Subp. 2. **Procedure before polls open.** Each ballot counter must be tested to ensure that the components are operating properly. The election judges shall verify that the ballot counter at the precinct polling place has the correct seal number and certify the seal number on the summary statement.

Before opening the polls, the election judges shall initialize the ballot counter in accordance with the manufacturer's instructions. The judges shall verify that the initial counts are zero, that the public counter is set at zero, and that the order of the offices and questions to be voted on and the candidates' names on the zero tape is the same as their order on the ballot for that precinct.

Subp. 3. **Procedures during voting hours.** Ballot counters must be programmed to return to the voter a ballot having an overvote or votes for candidates of more than one political party in a partisan primary election. Ballot counters must be programmed to print a message describing the error on a paper tape or to display the

error message electronically. If the voting system is capable of emitting an audible signal while electronically displaying the error message, it must do so. The election judges shall read the error message to the voter and may explain the conditions that cause a ballot to be rejected, but the judges shall not examine the voted ballot unless the voter requests assistance or it is necessary to determine what style of replacement ballot must be given to the voter.

If the voter wants to change the rejected ballot, the election judge shall treat the rejected ballot as a spoiled ballot, place the rejected ballot in the spoiled ballot envelope, and issue the voter a new ballot.

If the voter does not want to change the rejected ballot, the election judge shall override the rejection of the ballot. No means of overriding the rejection of a ballot having defects may be used that does not meet the conditions in items A to C.

A. The override must be protected against being inadvertently activated.

B. The override must not allow more than one ballot to be processed each time it is operated.

C. An override message must be printed on the results tape, or be displayed electronically while the voting system emits an audible signal, each time the override is operated.

Subp. 4. **Error messages.** The following messages are sufficient for optical scan voting systems to print or display for the described errors or actions:

A. overvote for (voting system will supply and print the name of the overvoted office);

B. overvote for multiple offices;

C. crossover vote; and

D. ballot overridden.

Subp. 5. **Opening ballot box during voting hours.** Two election judges of different political parties may open the ballot boxes on election day to straighten or remove the voted ballots but they shall not count or inspect the ballots. If removing ballots, the election judges shall put the ballots taken from the ballot box's main compartment into containers and seal them. If the ballot box contains a compartment for write-in ballots, the judges shall put the ballots taken from the ballot box's write-in compartment into containers separate from the other ballots and seal them. The judges shall label the ballot containers and store them in a secure location. The judges shall note on the incident report the fact that the ballot box was opened, the time the box was opened, and, if applicable, the numbers of any seals used to seal the ballot containers.

Subp. 6. **Procedures after voting has ended.** As soon as voting has ended, the election judges shall process any ballots in the auxiliary ballot box and then secure the ballot counter against receiving any more ballots. The election judges must inspect the seals on each ballot counter to ensure that they have not been altered and are intact and that the seal numbers agree with the numbers as verified at the opening of the polls. Any discrepancy must be noted in the incident report.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459; 25 SR 616; 34 SR 1561; 38 SR 1368; 40 SR 1553*

8230.4370 COUNTING BALLOTS.

The election judges shall open the ballot box and any overflow containers, remove the ballots, and determine the total number of ballots. If the election judges determine that the total number of ballots is greater than the number of persons voting and that it is impossible to reconcile the numbers, the judges shall follow the procedures in Minnesota Statutes, section 206.86.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459*

8230.4375 WRITE-IN VOTES.

A. At a general election, after the ballot counter has been secured against receiving additional ballots, election judges shall determine if a write-in vote exists.

B. If a valid write-in vote exists, the election judges shall determine whether the write-in vote has caused an overvote. If the write-in vote has caused an overvote, the ballot is defective for that office only.

C. If a write-in vote is determined to be valid and no overvote condition exists, the election judges shall enter the candidate's name and the office on the write-in vote tally sheet.

D. At the discretion of the county auditor, the processing described in items B and C may be done at the office of the local election official or county auditor rather than at the precinct polling place.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459; 38 SR 1368*

8230.4380 SUMMARY STATEMENT.

New language published electronically June 15, 2016

One unbroken tape that includes the zero report at the opening of the polls, messages printed during the hours of voting, and the first printout of results must be certified to the official conducting the election. In the event of equipment or power failure, the election judges and any technicians working on the equipment shall make entries on the tape of initials and time of occurrence to indicate the points at which the equipment failed and was returned to service. If the tape has been broken, the election judges shall seal the parts together and sign over the seal so that it cannot be broken without disturbing the continuity of the signatures. The election judges shall prepare the number of summary statements directed by the official conducting the election. The official conducting the election may authorize the printing of copies of the summary statement for public information purposes. The official conducting the election shall prepare copies of any additional forms required by the secretary of state.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459; 38 SR 1368; 40 SR 1553*

8230.4385 TRANSFER CASE PROCEDURES.

Subpart 1. **Content.** The election judges shall place in the transfer case for delivery to the official conducting the election all of the following items:

A. valid voted ballots;

B. envelope containing spoiled ballots;

C. envelope containing ballots for which duplicates were made; and

D. envelopes with notations concerning any other issued ballots contained which are not to be counted.

Subp. 2. **Second transfer case.** If space in the transfer case is inadequate, then a second ballot box, transfer case, or container of a type approved by the election jurisdiction for storage of ballots must be used and the sealing and security handled in the same manner as the transfer case.

Subp. 3. **Other containers.** The summary statement, incident report, write-in vote tally sheet if write-in votes were counted at the polling place, and any materials not listed in subpart 1 that the official conducting the election has designated for return to the official must be placed in a separate container or containers for delivery.

Subp. 4. **Sealing transfer case.** A transfer case must be sealed with a seal so that it is impossible to open the case or to insert or remove ballots without breaking the seal. Within or attached to the transfer case must be a certificate signed by the judges indicating its contents, the precinct name, and the number of any seals used to seal the case or cases.

Subp. 5. **Delivery of transfer case.** The transfer case containing the required items as identified in this part must be delivered by one or more election judges to the official conducting the election or to the collection point for transportation to the official.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459; 38 SR 1368*

8230.4390 CERTIFICATE OF ELECTION JUDGES.

The election judges shall sign a "certificate of election judges." The certificate must state:

A. the number of persons voting as shown on the summary statement;

B. that the order of the offices and questions to be voted on and the candidates' names on the ballots was the same on the zero tape and the sample ballot;

C. the number of ballots in the transfer case;

D. that the ballots have been counted and agree with the number of names as shown on the summary statement or that any discrepancy has been noted on the incident report;

E. the number of excess ballots, if any;

F. that all ballots requiring duplication were duplicated and are in the proper envelope;

G. that the number of write-in votes for each office has been properly recorded, if this process was done at the polling place;

H. that all ballots used in the election and all ballots that have been duplicated have been placed in the transfer case and the case was securely sealed with an official seal in such a manner as to render it impossible to open the case without breaking the seal; and

I. the numbers of any seals used to seal the transfer cases.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459; 25 SR 616*

8230.4395 RETENTION OF BALLOTS.

Ballots which are not issued to voters must be returned to the official conducting the election who shall retain them by precinct until the time for contest has expired.

Statutory Authority: *MS s 206.57; 206.81*

History: *23 SR 459*

8230.4400 [Repealed, 10 SR 1690]

8230.5000 [Repealed, 10 SR 1690]

8230.5100 [Repealed, 10 SR 1690]

8230.5200 [Repealed, 10 SR 1690]

8230.5300 [Repealed, 10 SR 1690]

8230.5400 [Repealed, 10 SR 1690]

8230.5500 [Repealed, 10 SR 1690]

8230.5600 [Repealed, 10 SR 1690]

8230.5700 [Repealed, 10 SR 1690]

8230.5800 [Repealed, 10 SR 1690]

CHAPTER 8235 - RECOUNTS

8235.0200 RECOUNTS.

This chapter establishes procedures for the conduct of all publicly funded and discretionary recounts provided for in Minnesota Statutes, sections 204C.35 and 204C.36. The secretary of state or secretary of state's designee is the recount official for recounts conducted by the State Canvassing Board. The county auditor or auditor's designee is the recount official for recounts conducted by the county canvassing board. The county auditor or auditor's designee shall conduct recounts for county offices. The municipal clerk or clerk's designee is the recount official for recounts conducted by the municipal governing body. The school district clerk or clerk's designee is the recount official for recounts conducted by the school board, or by a school district canvassing board as provided in Minnesota Statutes, section 205A.10, subdivision 5. A recount official may delegate the duty to conduct a recount to a county auditor or municipal clerk by mutual consent. When the person who would otherwise serve as recount official is a candidate or is the spouse, child, parent, grandparent, grandchild, stepparent, stepchild, sibling, half-sibling, or stepsibling of a candidate for the office to be recounted, the appropriate canvassing board shall select a county auditor or municipal clerk from another jurisdiction to conduct the recount. "Legal adviser" means counsel to the recount official and the canvassing board for the office being recounted. The scope of a publicly funded or discretionary recount is limited to the recount of the ballots cast and the declaration of the person nominated or elected. The ballots in the envelope labeled "Original ballots from which duplicates are to be or were made" are not within the scope of the recount and this envelope must not be opened during the recount.

Statutory Authority: *MS s 204C.361*

History: *8 SR 1348; 12 SR 2215; 17 SR 8; 34 SR 1561; 38 SR 1368*

8235.0300 NOTICE.

Within 24 hours after determining that an automatic recount is required or within 48 hours of receipt of a written request for a recount and filing of a security deposit if one is required, the official in charge of the recount shall send notice to the candidates for the office to be recounted and the county auditor of each county wholly or partially within the election district. The notice must include the date, starting time, and location of the recount, the office to be recounted, and the name of the official performing the recount. The notice must state that the recount is open to the public, and in case of an automatic recount, that the losing candidate may waive the recount.

Statutory Authority: *MS s 204C.361*

History: *8 SR 1348; 19 SR 593; 38 SR 1368*

8235.0400 SECURING BALLOTS AND MATERIALS.

The official who has custody of the voted ballots is responsible for keeping secure all election materials. Registration cards of voters who registered on election day may be processed as required by part 8200.2700. All other election materials must be kept secure by precinct as returned by the election judges until all recounts have been completed and until the time for contest of election has expired.

Statutory Authority: *MS s 204C.361*

History: *8 SR 1348; 34 SR 1561*

8235.0500 [Repealed, 34 SR 1561]

8235.0600 FACILITIES AND EQUIPMENT.

All recounts must be accessible to the public. In a multicounty recount the secretary of state may locate the recount in one or more of the election jurisdictions or at the site of the canvassing board. Each election jurisdiction where a recount is conducted shall make available without charge to the recount official or body conducting the recount adequate accessible space and all necessary equipment and facilities.

Statutory Authority: *MS s 204C.361*

History: *8 SR 1348; 34 SR 1561*

8235.0700 GENERAL PROCEDURES.

At the opening of a recount the recount official or legal adviser shall present the procedures contained in this rule for the recount. The custodian of the ballots shall make available to the recount official the precinct summary statements, the precinct boxes or the sealed containers of voted ballots, and any other election materials requested by the recount official. If the recount official needs to leave the room for any reason, the recount official must designate a deputy recount official to preside during the recount official's absence. A recount official must be in the room at all times. The containers of voted ballots must be unsealed and resealed within public view. No ballots or election materials may be handled by candidates, their representatives, or members of the public. There must be an area of the room from which the public may observe the recount. Cell phones and video cameras may be used in this public viewing area, as long as their use is not disruptive. The recount official shall arrange the counting of the ballots so that the candidates and their representatives may observe the ballots as they are recounted. Candidates may each have one representative observe the sorting of each precinct. One additional representative per candidate may observe the ballots when they have been sorted and are being counted pursuant to part 8235.0800, subpart 2. Candidates may have additional representatives in the public viewing area of the room. If other election materials are handled or examined by the recount officials, the candidates and their representatives may observe them. The recount official shall ensure that public observation does not interfere with the counting of the ballots. The recount official shall prepare a summary of the recount vote by precinct.

Statutory Authority: *MS s 204C.361*

History: *8 SR 1348; 34 SR 1561*

8235.0800 COUNTING AND CHALLENGING BALLOTS.

Subpart 1. **Breaks in counting process.** Recount officials may not take a break for a meal or for the day prior to the completion of the sorting, counting, review, and labeling of challenges, and secure storage of the ballots for ay precinct. All challenged ballots must be stored securely during breaks in the counting process.

Subp.2. **Sorting ballots.** Ballots must be recounted by precinct. The recount official shall open the sealed container of ballots and recount them in accordance with Minnesota Statutes, section 204C.22. The recount official must review each ballot and sort the ballots into piles based upon the recount official's determination as to which candidate, if any, the voter intended to vote for: one pile for each candidate that is the subject of the recount and one pile for all other ballots (those for other candidates, overvotes, undervotes, etc.). During the sorting, a candidate or candidate's representative may challenge the ballot if he or she disagrees with the recount official's determination of for whom the ballot should be counted and whether there are identifying marks on the ballot. At a recount of a ballot question, the manner in which a ballot is counted may be challenged by the person who requested the recount or that person's representative. Challenges may not be automatic or frivolous and the challenger must state the basis for the challenge pursuant to Minnesota Statutes, section 204C.22. Challenged ballots must be placed into separate piles, one for ballots challenged by each candidate. A challenge is frivolous if it is based upon an alleged identifying mark other than a signature or an identification number written anywhere on the ballot or a name written on the ballot completely outside of the space for the name of a write-in candidate.

Subp. 3. **Counting ballots.** Once ballots have been sorted, the recount officials must count the piles using the stacking method described in Minnesota Statutes, section 204C.21. A candidate or candidate's representative may immediately request to have a pile of 25 counted a second time if there is not agreement as to the number of votes in the pile.

Subp. 4. **Reviewing and labeling challenged ballots.** After the ballots from a precinct have been counted, the recount official may review the challenged ballots with the candidate or the candidate representative. The candidate representative may choose to withdraw any challenges previously made. The precinct name, the reason for the challenge, and the name of the person challenging the ballot (or the candidate that person represents), and a sequential number must be marked on the back of each remaining challenged ballot before it is placed in an envelope marked "Challenged Ballots." After the count of votes for the precinct has been determined, all ballots except the challenged ballots must be resealed in the ballot envelopes and returned with the other election materials to the custodian of the ballots. The recount official may make copies of the challenged ballots. After the count of votes for all precincts has been determined during that day of counting, the challenged ballot envelope must be sealed and kept secure for presentation to the canvassing board.

Statutory Authority: *MS s 204C.361*

History: *8 SR 1348; 17 SR 8; 34 SR 1561*

8235.0900 [Repealed, 23 SR 459]

8235.1000 [Repealed, 34 SR 1561]

8235.1100 CANVASSING BOARD.

The recount official shall present the summary statement of the recount and any challenged ballots to the canvassing board. The candidate or candidate representative who made the challenge may present the basis for the challenge to the canvassing board. The canvassing board shall rule on the challenged ballots and incorporate the results into the summary statement. The canvassing board shall certify the results of the recount. Challenged ballots must be returned to the election official who has custody of the ballots.

Statutory Authority: *MS s 204C.361*

History: *8 SR 1348*

8235.1200 SECURITY DEPOSIT.

When a bond, cash, or surety for recount expenses is required by Minnesota Statutes, section 204C.35 or 204C.36, the governing body or recount official shall set the amount of security deposit at an amount which will cover expected recount expenses. In multicounty districts, the secretary of state shall set the amount taking into consideration the expenses of the election jurisdictions in the district and the expenses of the secretary of state. The security deposit must be filed during the period for requesting a discretionary recount. In determining the expenses of the recount, only the actual recount expenditures incurred by the recount official and the election jurisdiction in conducting the recount may be included. General office and operating costs may not be taken into account.

Statutory Authority: *MS s 204C.361*

History: *8 SR 1348; 38 SR 1368*

CHAPTER 8240 - ELECTION JUDGE TRAINING PROGRAM

8240.0100 DEFINITIONS.

Subpart 1. **Scope.** Terms used in this chapter have the meanings given them.

Subp. 2. **Election cycle.** "Election cycle" means the period from January 1 of an even-numbered year until December 31 of an odd-numbered year.

Subp. 3. **Home county.** "Home county" means the county where the administrative offices of a municipality or school district are located.

Subp. 4. **Municipal clerk.** "Municipal clerk" means the person authorized or required to administer elections in a municipality.

Subp. 5. **School district clerk.** "School district clerk" means the person authorized or required to administer the school district election.

Subp. 6. **Training authority.** "Training authority" means a county auditor and designees or the municipal election official to whom the county auditor has delegated election judge training duties.

Subp. 7. **Training program.** "Training program" means a system of instruction to promote the competence of election officials by supplying necessary information to improve election-related skills.

Statutory Authority: *MS s 204B.25*

History: *20 SR 2787; 25 SR 112*

8240.0200 SCOPE.

Subpart 1. **Election judge training.** Parts 8240.1100 and 8240.1300 to 8240.2500 establish the program for training election judges required by *Minnesota Statutes*, section 204B.25.

Subp. 2. **Municipal clerk training.** Part 8240.2700 establishes the program for training municipal clerks required by *Minnesota Statutes*, section 204B.25, subdivision 4.

Subp. 3. **School district clerk training.** Part 8240.2800 establishes the program for training school district clerks required by *Minnesota Statutes*, section 204B.25, subdivision 4.

Subp. 4. **County auditor certification.** Part 8240.2900 establishes the program for certifying county auditors in election administration required by *Minnesota Statutes*, section 204B.27, subdivision 10.

Subp. 5. **Minimum standards.**

A. This chapter is the minimum standard required for training conducted under *Minnesota Statutes*, sections 204B.25 and 204B.27, subdivision 10.

B. When a part in this chapter establishes a specific length of time for a training course, the length of the course must be the shorter of the length specified or the length of time necessary to cover the content required for that course.

C. Nothing in this chapter restricts training authorities from implementing training programs more comprehensive than are required by this chapter.

Statutory Authority: *MS s 204B.25*

History: *20 SR 2787; 25 SR 112*

8240.0300 PROFICIENCY DEMONSTRATION.

To successfully complete a course required by this chapter, a person must take the entire course and demonstrate proficiency to the person teaching the course. A person may demonstrate proficiency through completion of self-administered worksheets, hands-on demonstrations, or other methods approved by the secretary of state. A person may consult the training materials provided during a training course while demonstrating proficiency for that course. The secretary of state must not require the use of graded or pass/fail tests to determine proficiency.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

8240.1000 [Repealed, 20 SR 2787]

8240.1050 ELECTION CONFERENCE.

An auditor shall attend an election conference given by the secretary of state once every election cycle.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

8240.1100 "TRAIN THE TRAINER" SESSION.

Before each state primary election, each training authority shall attend training on adult education methods (i.e. "Train the Trainer" classes) conducted by the secretary of state. If a county auditor delegates the duty to train election judges to a municipal election official and an election is to take place in that municipality before the next training conference held by the secretary of state, the county auditor shall train the municipal election official in administration of a training program.

"Train the trainer" classes given by an individual other than a county auditor or the secretary of state may fulfill the requirements of this part if the person taking the class submits a course description to the secretary of state and the secretary determines, based upon that course description, that the training covers adult education methods.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

8240.1200 TRAINING PROGRAM.

A training program consists of a basic training course; a head election judge training course; an emergency training course for election judges and head election judges; in municipalities conducting absentee voting pursuant to *Minnesota Statutes*, section 203B.11, a health care facility absentee voting course; any other election judge training course required by the training authority; a course on adult education methods; a municipal clerk election administration training course; a school district clerk election administration training course; and a county auditor election administration course. The person responsible for training may design the courses to meet the election conditions peculiar to the jurisdiction, but the courses must meet at least the minimum standards in parts 8240.1600 to 8240.2900.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

8240.1300 ELECTION JUDGE BASIC TRAINING REQUIREMENT.

Subpart 1. **Election judge basic training course.** To serve as an election judge, a person must successfully complete a basic training course that meets the requirements of part 8240.1600.

Subp. 2. **Certification of training.** A training authority must issue a certification of election judge basic training to a person who successfully completes a basic training course.

Subp. 3. **Maintaining certification.** A person must successfully complete the basic training course once every 24 months to remain qualified to serve as an election judge.

Subp. 4. **Timing.** The basic training course must be conducted not more than 60 days before the state primary election or fewer than three days before the state general election.

Subp. 5. **Training between primary and general elections.** An election judge who successfully completes the training required by parts 8240.0100 to 8240.2500 for a state primary election is not required to complete additional training for the succeeding general election.

Statutory Authority: *MS s 204B.25*

History: *17 SR 8; 20 SR 2787; 25 SR 112*

8240.1350 HEAD ELECTION JUDGE TRAINING REQUIREMENT.

Subpart 1. **Head election judge training**. Before serving as a head election judge, a person must successfully complete a basic election judge training course that meets the requirements of part 8240.1600 and a head election judge training course that meets the requirements of part 8240.1750.

Subp. 2. **Certification of training.** A training authority must issue a certification of head election judge training to a person who successfully completes a head election judge training course.

Subp. 3. **Maintaining certification.** A person must successfully complete the head election judge training course every 24 months to remain eligible to serve as a head election judge.

Subp. 4. **Supplemental head election judge training.** A training authority may require head election judges to attend a supplemental head election judge training course for an election. A head election judge must attend the supplemental training course to be eligible to serve as a head election judge for that election.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

8240.1400 HEALTH CARE FACILITY ABSENTEE VOTING REQUIREMENT.

Subpart 1. **Health care facility absentee voting course.** Each election judge who conducts absentee voting in health care facilities under *Minnesota Statutes*, section 203B.11, shall successfully complete a course for health care facility absentee voting that meets the requirements of part 8240.1800 in addition to the election judge basic training course.

Subp. 2. **Certification of training.** A training authority must issue a certification of health care facility absentee voting training to a person who successfully completes a health care facility absentee voting training course.

Subp. 3. **Maintaining certification.** A person must successfully complete the health care facility absentee voting course every 24 months to remain eligible to conduct absentee voting in a health care facility.

Statutory Authority: *MS s 204B.25*

History: *17 SR 1279; 25 SR 112*

8240.1500 EMERGENCY TRAINING REQUIREMENT.

Subpart 1. **Emergency election judge training.** An election judge who is appointed after the training period ends and who has not successfully completed the basic training course conducted for that election must complete the emergency training course as provided in part 8240.1900 before serving as an election judge.

Subp. 2. **Emergency head election judge training.** A head election judge who is appointed after the training period ends and who has not successfully completed a head election judge training course must complete the emergency head election judge training course as provided in part 8240.1950 before serving as a head election judge.

Statutory Authority: *MS s 204B.25*

History: *17 SR 1279; 25 SR 112*

8240.1600 ELECTION JUDGE BASIC TRAINING COURSE.

Subpart 1. **Length.** The election judge basic training course must be at least two hours long.

Subp. 2. **Materials.** The training authority shall provide examples of all forms which election judges must complete in the course of their duties; with examples of forms of identification acceptable for purposes of election day registration, including any forms of student identification issued by educational institutions in the area; and with the materials contemplated in the training plan. Additional materials may be provided by the training authority as the authority considers useful.

Subp. 3. **Use of equipment.** An electronic voting system or specimen paper ballot and ballot box must be used at each training session to familiarize each election judge with the voting procedures for the method of voting employed in the precinct where the judge will serve.

Subp. 4. **Course content.** A basic training course must include necessary information and skill development in the following areas:

A. how to use the training materials to find answers to questions arising in the polling place on election day;

B. preparations on election day before polls open;

C. judges' duties during voting hours:

(1) election day voter registration;

(2) persons allowed in polling place;

(3) challenge process;

(4) voting process;

(5) spoiled ballots;

(6) assistance to disabled voters; and

(7) absentee ballots;

D. basic election judges' duties after polls close;

E. new laws, rules, forms, and procedures;

F. major problems at prior elections; and

G. how to follow instructions from the head election judge.

Statutory Authority: *MS s 204B.25*

History: *17 SR 1279; 23 SR 459; 25 SR 112*

8240.1650 [Repealed, 25 SR 112]

8240.1655 QUALIFICATIONS FOR TRAINEE ELECTION JUDGES.

Subpart 1. **Requirement.** Trainee election judges appointed under *Minnesota Statutes*, section 204B.19, must meet the requirements of this part.

Subp. 2. **Training.** A trainee election judge must successfully complete the basic election judge training course as defined in part 8240.1650 before serving in a special, primary, or general election.

Subp. 3. **Qualifications.** A trainee election judge must be a United States citizen, must be at least 16 years of age, and must meet any residency requirement specified in Minnesota Statutes, section 204B.19, subdivision 6. Trainee election judges must provide certification from their school that they are enrolled in a Minnesota high school and are performing at an academic level acceptable to the principal of the trainee's high school. A trainee election judge who is home-schooled must provide certification from the trainee's parent that the trainee is performing at an academic level acceptable to serve as a trainee election judge.

Subp. 4. **Appointment.** Trainee election judges may be appointed by the municipality or school district conducting the election if:

A. the trainee election judge is appointed without party affiliation;

B. the trainee election judge has submitted a written request, approved and signed by the trainee's parent or guardian, to be absent from school to the principal of the trainee's high school;

C. a certificate from the appointing authority is submitted with the request stating the date and hours the student will serve as a trainee election judge;

D. the request and certificate are submitted to the student's principal at least ten days before the election; and

E. the appointment will not require the trainee election judge to serve past 10:00 p.m.

Subp. 5. [Repealed, 25 SR 112]

Subp. 6. **Number of trainee election judges allowed per precinct.** No more than one-third of the election judges at a precinct may be trainees. The appointment of trainee election judges may count toward meeting the minimum number of election judges required by *Minnesota Statutes*, section 204B.22.

Statutory Authority: *MS s 204B.25*

History: *17 SR 8; 25 SR 112*

8240.1700 [Repealed, 25 SR 112]

8240.1750 HEAD ELECTION JUDGE TRAINING.

Subpart 1. **Length.** A head election judge training course must be at least one hour long.

Subp. 2. **Course content.** The head election judge training course must include information on the following topics:

A. head election judges' duties before election day;

B. head election judges' duties to open the polling place on election day;

C. how to use the voting equipment;

D. how to provide emergency election judge training;

E. how to use the training materials to find answers to questions arising in the polling place on election day;

F. how to help election judges work together in the polling place;

G. head election judges' duties at the polling place after the polls close; and

H. how to return election materials to the local election official after the ballots have been counted.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

8240.1800 COURSE FOR HEALTH CARE FACILITY ABSENTEE VOTING.

Subpart 1. **Length.** The health care facility absentee voting course must be at least one hour long.

Subp. 2. **Course content.** The course content must include information on the following topics:

A. who is eligible to vote absentee from health care facilities;

B. application process;

C. registration process, including methods for providing proof of residence;

D. assistance to voters;

E. voting procedures;

F. procedures for transporting voted ballots;

G. names and addresses of eligible health care facilities;

H. name of contact person at each facility; and

I. particular problems encountered in previous elections.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

8240.1900 EMERGENCY ELECTION JUDGE TRAINING COURSE.

Subpart 1. **At the polls.** The head election judge shall conduct emergency training if needed at the polling place. The training authority shall provide an outline of emergency training procedures and otherwise ensure that the head election judge is prepared to conduct emergency training, if necessary.

Subp. 2. **Course content.** The head election judge shall review with a replacement judge all procedures and duties that are assigned to the replacement judge.

Subp. 3. **Ongoing instruction.** The head election judge shall provide additional instruction to the replacement judge as necessary throughout election day.

Statutory Authority: *MS s 204B.25*

History: *17 SR 1279; 25 SR 112*

8240.1950 EMERGENCY HEAD ELECTION JUDGE TRAINING.

The training authority shall conduct emergency head election judge training if needed. The county auditor shall provide each training authority with an outline of emergency training procedures and a checklist of head election judge duties.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

8240.2000 TRAINING MATERIALS.

The secretary of state shall provide the county auditor with Minnesota Election Judge Guides and training materials concerning changes in election laws, rules, forms, and procedures. The county auditor shall transmit these materials to training authorities in the county. The training authority shall provide election judges with copies of the Minnesota Election Judge Guide to use at training sessions, with at least one copy for each head election judge. The municipal clerk or, for school district elections not held on the same day as another election, the school district clerk shall ensure that a Minnesota Election Judge Guide is available at each polling place on election day for use by the election judges.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

8240.2100 TRAINING RECORD.

Each municipal clerk, and county auditor in unorganized territory, shall maintain a record of all election judges who receive training. The record must contain the election judge's name; precinct of residence; party affiliation, if any; dates of training; type of course completed on each date; and dates of election judge service. The record must be kept current for each election judge in the county or municipality.

Statutory Authority: *MS s 204B.25*

History: *17 SR 1279; 25 SR 112*

8240.2200 REMOVING ELECTION JUDGE FROM RECORD.

An election judge may be removed from the training record who has not received election judge basic training during the preceding two years.

History: *17 SR 1279; 25 SR 112*

8240.2300 CERTIFICATION OF TRAINING.

A certification of training issued for completing an election judge training course must include the election judge's name, municipality, date of training, course completed, and the signature of the training authority.

Statutory Authority: *MS s 204B.25*

History: *17 SR 1279; 25 SR 112*

8240.2400 TRAINING PLAN.

Subpart 1. **Content.** Each training authority shall prepare a training plan.

The training plan must include the names of persons conducting training; number of sessions planned; projected attendance at each session; training materials to be used; training methods employed; and an outline of the content of each election judge training course.

Copies of all materials that will be distributed at the training sessions must be included with the training plan.

Subp. 2. **Inspection.** The training plan must be available for public inspection.

Statutory Authority: *MS s 204B.25*

History: *12 SR 2215; 20 SR 2787; 25 SR 112*

8240.2500 IN-SERVICE REVIEW.

After each primary election and before each ensuing general, special, or municipal election, the training authority shall confer or correspond with the head election judge of each precinct to review problems or questions encountered at the primary. The training authority shall analyze problems indicated by the election returns, incorrect registrations, election judge comments, or voter complaints and shall answer questions of the head judges.

Statutory Authority: *MS s 204B.25*

History: *17 SR 1279; 25 SR 112*

8240.2600 [Repealed, 20 SR 2787]

8240.2700 MUNICIPAL CLERK TRAINING REQUIREMENT.

Subpart 1. **Certification required.** To administer an election, a municipal clerk must successfully complete an initial municipal clerk election administration training course and must remain certified in election administration under this part.

Subp. 2. **Length of initial training.** An initial municipal clerk election administration training course consists of five hours of training given by a county auditor or the secretary of state. The five hours of training must be completed within one election cycle.

Subp. 3. **Initial certification.** The home county auditor must issue the initial certification of election administration to a municipal clerk who successfully completes the municipal clerk election administration training course. The initial certification of election administration is valid until the end of the election cycle after the election cycle in which the certification was issued.

Subp. 4. **Biennial certification maintenance requirement.** To remain certified in election administration after receiving the initial certification, a municipal clerk must successfully complete four hours of election administration training during each election cycle. The certification maintenance training must be given by a county auditor or the secretary of state and must be completed before the expiration date of the clerk's certification. The clerk must provide the home county auditor with proof that the clerk has completed certification maintenance training before the expiration date of the clerk's certification. At the beginning of each election cycle, the home county auditor shall issue a new certification of election administration to a municipal clerk who has completed the biennial certification maintenance requirement. The new certification of election administration is valid until the end of the election cycle in which the new certification was issued.

Subp. 5. **Training content.** An election administration training course for municipal clerks must include training on:

A. candidate filings;

B. campaign practices;

C. campaign finance requirements;

D. the election calendar;

E. ballot preparation;

F. election judge recruitment and duties;

G. notice requirements;

H. voting systems, if used in the municipality;

I. mail elections;

J. absentee voting; and

K. post-election duties.

Subp. 6. **Alternative training.** Election administration training given by an individual other than a county auditor or the secretary of state may fulfill up to four hours of the initial certification requirement or three hours of the biennial certification maintenance requirement if the training covers topics listed in subpart 5. The municipal clerk must provide the home county auditor with a description of the course to receive credit for the alternative training. The home county auditor must review the course description to determine whether the alternative training covers topics listed in subpart 5.

Subp. 7. **Credit for election judge training.** Time spent attending the adult education training methods course required by part 8240.1100 must not be counted toward fulfillment of a clerk's initial certification requirement or biennial certification maintenance requirement. Time spent teaching the first session of each type of election judge training or attending any type of election judge training may be counted toward fulfillment of a clerk's initial certification requirement or biennial certification maintenance requirement.

Subp. 8. **Record.** The home county auditor must keep a record of all municipal clerks who receive election administration training. The record must contain the clerk's name, the clerk's municipality, the name and date of any completed training course, the date certification was completed, the name and date of any completed post-certification courses, and the date the clerk's certification expires. The auditor may remove a clerk's name from the record if the clerk's certification has been expired for at least two years.

Subp. 9. **Emergency training.** A municipal clerk who has taken office less than six months before an election may administer that election after completing two hours of emergency training given by the home county auditor or secretary of state.

Subp. 10. **Certification for municipal staff.** Municipal employees designated by the municipal clerk may attend municipal clerk election administration training courses. The home county auditor shall issue a certification of election administration to a municipal designee who successfully completes a municipal clerk election administration training course.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

8240.2800 SCHOOL DISTRICT CLERK TRAINING REQUIREMENT.

Subpart 1. **Certification required.** To administer an election, a school district clerk must successfully complete an initial school district clerk election administration training course and must remain certified in election administration under this part.

Subp. 2. **Length of initial training.** An initial school district clerk election administration training course consists of five hours of training given by a county auditor or the secretary of state. The five hours of training must be completed within one election cycle.

Subp. 3. **Initial certification.** The home county auditor must issue the initial certification of election administration to a school district clerk who successfully completes the school district clerk election administration training course. The initial certification of election administration is valid until the end of the election cycle after the cycle in which the certification was issued.

Subp. 4. **Biennial certification maintenance requirement.** To remain certified in election administration after receiving the initial certification, a school district clerk must successfully complete four hours of election administration training during each election cycle. The certification maintenance training must be given by a county auditor or the secretary of state and must be completed before the expiration date of the clerk's certification. The clerk must provide the home county auditor with proof that the clerk has completed certification maintenance training before the expiration date of the clerk's certification. At the beginning of an election cycle, the home county auditor shall issue a new certification of election administration to a school district clerk who has completed the biennial certification maintenance requirement. The new certification of election administration is valid until the end of the election cycle in which the new certification was issued.

Subp. 5. **Training content.** An election administration training course for school district clerks must include training on:

A. candidate filings;

B. campaign practices;

C. campaign finance requirements;

D. the election calendar;

E. ballot preparation;

F. election judge duties;

G. notice requirement;

H. voting systems, if used in the school district;

I. mail elections;

J. absentee voting; and

K. post-election duties.

Subp. 6. **Alternative training.** Election administration training given by an individual other than a county auditor or the secretary of state may fulfill up to four hours of the initial election administration training course or three hours of the biennial certification maintenance requirement if the training covers topics listed in subpart 5. The school district clerk must provide the home county auditor with a description of the course to receive credit for the alternative training. The home county auditor must review the course description to determine whether the alternative training covers topics listed in subpart 5.

Subp. 7. **Credit for election judge training.** Time spent attending any type of election judge training may be counted toward fulfillment of a clerk's initial certification requirement or biennial certification maintenance requirement.

Subp. 8. **Record.** The home county auditor must keep a record of all school district clerks who receive election administration training. The record must contain the clerk's name, the clerk's school district, the name and date of any completed training course, the date certification was completed, the name and date of any completed post-certification courses, and the date the clerk's certification expires. The auditor may remove a clerk's name from the record if the clerk's certification has been expired for at least two years.

Subp. 9. **Emergency training.** A school district clerk who has taken office less than six months before an election may administer that election after completing two hours of emergency training given by the home county auditor or secretary of state.

Subp. 10. **Certification for school district staff.** School district employees designated by the school district clerk may attend school district clerk election administration training courses. The home county auditor shall issue a certification of election administration to a school district designee who successfully completes a school district clerk election administration training course.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

8240.2850 [Repealed, 38 SR 1368]

8240.2900 COUNTY AUDITOR ELECTION ADMINISTRATION CERTIFICATION.

Subpart 1. **Length of initial training.** To be certified in election administration by the secretary of state, a county auditor must successfully complete a county auditor election administration training course. A county auditor election administration training course consists of 15 hours of training given by the secretary of state. The 15 hours of training must be completed within one election cycle.

Subp. 2. **Initial certification.** The secretary of state must issue the initial certification of election administration to a county auditor who successfully completes the county auditor election administration training course. The initial certification of election administration is valid until December 31 of the calendar year after the election cycle in which the certification was issued.

Subp. 3. **Annual certification maintenance requirement.** To remain certified in election administration after receiving the initial certification, a county auditor must successfully complete two hours of election administration training during each calendar year. The certification maintenance training must be given by the secretary of state and must be completed before the expiration date of the auditor's certification. The auditor must provide the secretary of state with proof that the auditor has completed certification maintenance training before the expiration date of the auditor's certification. The secretary of state shall issue a new certification of election administration to a county auditor who has completed the annual certification maintenance requirement. The new certification of election administration is valid until December 31 of the year in which the new certification was issued.

Subp. 4. **Training content.** An election administration training course for county auditors must include training on:

A. the voter registration system;

B. candidate filings;

C. campaign practices;

D. campaign finance requirements;

E. the election calendar;

F. ballot preparation;

G. election judge recruitment and duties;

H. mail elections;

I. absentee voting;

J. the election night reporting system;

K. post-election duties; and

L. the duties performed by municipal and school district clerks.

Subp. 5. **Alternative training.** Election administration training given by an individual other than the secretary of state may fulfill up to 13 hours of the initial certification requirement or one hour of the annual certification maintenance requirement if the training covers topics listed in subpart 4. The county auditor must provide the secretary of state with a description of the course to receive credit for the alternative training. The secretary must review the course description to determine whether the alternative training covers topics listed in subpart 4.

Subp. 6. **Credit for election judge training.** Time spent attending the adult education training methods course required by part 8240.1100 must not be counted toward fulfillment of an auditor's initial certification requirement or annual certification maintenance requirement. Time spent teaching the first session of each type of election judge training or attending any type of election judge training may be counted toward fulfillment of an auditor's initial certification requirement or annual certification maintenance requirement.

Subp. 7. **Record.** The secretary of state must keep a record of all county auditors who receive election administration training. The record must contain the auditor's name, the auditor's county, the name and date of any completed training course, the date certification was completed, the name and date of any completed post-certification courses, and the date the auditor's certification expires. The secretary of state may remove an auditor's name from the record if the auditor's certification has been expired for at least two years.

Subp. 8. **Emergency training.** The secretary of state shall conduct emergency election administration training for a county auditor who has taken office less than two months before an election.

Subp. 9. **Certification for county election staff.** County employees designated by the county auditor may attend county auditor election administration training courses. The secretary of state shall issue a certification of election administration to a county designee who successfully completes a county auditor election administration training course.

Statutory Authority: *MS s 204B.25*

History: *25 SR 112*

CHAPTER 8250 - BALLOT PREPARATION

PREPARING BALLOTS

8250.0100 [Repealed, 38 SR 1368]

8250.0200 AUDITOR'S DUTIES.

The state general election ballot shall be prepared under the direction of the county auditors in a sufficient number to enable the clerks to comply with Minnesota Statutes, section 204B.29. The county auditors shall prepare and print the state general election ballot as soon as practicable, but in no event less than 46 days before the election. At least 46 days before the general election the auditor shall file sample copies of the state general election ballot for each precinct in the auditor's office for public inspection and transmit electronic copies of these sample ballots to the secretary of state. Ballots for distribution in the polling place must be packaged in quantities of 25, 50, or 100.

Statutory Authority: *MS s 204D.11; 206.57*

History: *8 SR 1348; 10 SR 1690; 25 SR 616; 38 SR 1368*

8250.0300 [Repealed, 38 SR 1368]

8250.0350 [Repealed, 38 SR 1368]

8250.0360 [Repealed, 25 SR 616]

8250.0365 [Repealed, 38 SR 1368]

8250.0370 [Repealed, 38 SR 1368]

8250.0375 FORM OF JUDICIAL BALLOT.

New language published electronically June 15, 2016

Subpart 1. **General form.** The judicial ballot must only be used when it is not possible to place all offices on a single ballot for the state general election as provided in Minnesota Statutes, section 204D.11, subdivision 6. The ballot for judicial nonpartisan offices must be prepared in the same manner as the state general election ballot, except the ballot heading provided in part 8250.1810, subpart 3, must instead use the words "Judicial Nonpartisan General Election Ballot."

Subp. 2. [Repealed, 38 SR 1368].

Statutory Authority: *MS s 204D.11*

History: *19 SR 593; 23 SR 459; 38 SR 1368; 40 SR 1553*

8250.0385 FORM OF TOWN ELECTION BALLOT.

New language published electronically June 15, 2016

Subpart 1. **General form.** A town election ballot must be prepared in the same manner as the state general election ballot as provided in part 8250.1810, except towns conducting an election under the limited exemption under Minnesota Statutes, section 206.57, subdivision 5a, may prepare ballots as provided in this part.

Subp. 1a. **Ballot heading.** The words "Town Election Ballot" must be printed at the top of the ballot.

Subp. 2. **Ballot order.**

Town offices and questions must be listed in the following order and must be identified as follows:

Town Supervisor

Town Clerk

Town Treasurer

Town Question

The name and/or number of the district that the person elected will represent must be printed directly under the title of the office.

If two of the offices listed in this subpart have been combined into one office, the combined office must take the place of the first office listed in this subpart. The title of a vacant township office being filled at an annual town election may be followed by the number of years remaining in the term. Town offices not listed in this subpart must follow the last office listed above and must be listed in the order determined by the town clerk.

Subp. 3. **Names of candidates.** The full name of each candidate shall be printed at right angles to the length of the town election ballot. Below the name of the last candidate for each office shall be placed as many blank lines as there are offices of that kind to be filled, and on the blank lines the voter may write the names of persons not printed on the ballot for whom the voter desires to vote. When no person has filed for an office to be filled, the title and identification of the office shall be printed on the town election ballot with as many blank lines below as there are offices to be filled; the voter's choice may be written in the blanks. On the left side of the ballot and on a line with the names of candidates and the blank lines, there shall be placed squares or similar target shapes, and each square or similar target shape must be of the same size, in which the voter may designate the choice by a mark (X). The name of a candidate may not appear on a ballot in any way which gives the candidate an advantage over an opponent except as provided by law.

Subp. 4. **Town questions.** The following words must be printed directly under the ballot heading, municipality name, election type, and election date. "To vote for a question, put an (X) in the square next to the word "Yes" on that question. To vote against a question, put an (X) in the square next to the word "No" on that question." When a target shape other than a square is used on the ballot, then the word "square" must be replaced with the applicable target shape word. When more than one town question is on the ballot, each town ballot question must be designated by a number and must be preceded by the words "Town Question" and the number assigned to the question. The town clerk or town governing body shall provide a title for each town question printed on the town election ballot. The title must not contain more than ten words. The municipality's attorney shall review the title to determine whether it accurately describes the question asked. The title must not be used on the ballot until it has been approved by the municipality's attorney. The title must be printed above the question to which it refers. The body of the question must be printed in upper and lower case letters.

Subp. 5. **Back of ballot.** On the back of the town election ballot shall be printed the words "Official Ballot," the date of the election, and lines for the initials of two judges. The printing shall be placed as to be visible when the ballot is properly folded for deposit.

Subp. 6. **Type styles and sizes.** The words "Put an (X) in the square opposite the name of each candidate you wish to vote for" must be printed in upper and lower case in as large as practicable but no smaller than 8-point bold type. When a target shape other than a square is used on the ballot, then the word "square" must be replaced with the applicable target shape word.

The words "Town Election Ballot" must be printed in as large as practicable but not smaller than 18-point type.

The office and its identification must be printed in as large as practicable but no smaller than 10-point bold type.

The words "Vote For One" must be printed in as large as practicable but no smaller than 8-point bold type.

The names of the candidates must be printed in as large as practicable but no smaller than 8-point bold type.

The words "Official Ballot" on the back of the ballot must be printed no smaller than 8-point bold type, the date in upper case in as large as practicable but no smaller than 8-point type, and the word "Judge" in upper and lower case in as large as practicable but no smaller than 10-point type.

Subp. 7. **Town clerk's duties.** The town clerk shall prepare and print the town election ballot as soon as practicable, but in no event less than 30 days before the election. Two weeks before the election, the town clerk shall file sample copies in the town clerk's office for public inspection. The town election ballot shall be printed with black ink on white paper as close as practicable to 30 pound. The ballot shall be no less than four inches wide and printed so as to be easily legible, with suitable lines for division between candidates, office, instructions, and other matter proper to be printed on the ballot. The town clerk shall prepare the ballots in such a manner as to enable the voter to understand what candidates have been nominated and how many are to be elected to each office and to designate the voter's choice easily and accurately.

Statutory Authority: *MS s 205.17*

History: *23 SR 459; 25 SR 616*; *35 SR 1368; 40 SR 1553*

8250.0390 [Repealed, 38 SR 1368]

8250.0395 [Repealed, 38 SR 1368]

8250.0397 [Repealed, 38 SR 1368]

8250.0398 [Repealed, 38 SR 1368]

8250.0400 [Repealed, 38 SR 1368]

8250.0500 [Repealed, 38 SR 1368]

8250.0600 [Repealed, 38 SR 1368]

8250.0700 NUMBER OF CANDIDATES.

New language published electronically June 15, 2016

Directly underneath the title and identification of each office shall be printed the words "Vote For One" or more, according to the number to be elected.

Statutory Authority: *MS s 204D.11*

History: *40 SR 1553*

8250.0800 [Repealed, 38 SR 1368]

8250.0900 [Repealed, 38 SR 1368]

8250.1000 [Repealed, 38 SR 1368]

8250.1100 [Repealed, 38 SR 1368]

8250.1200 [Repealed, 38 SR 1368]

8250.1300 [Repealed, 8 SR 1348]

8250.1400 [Repealed, L 2001 1 Sp10 art 18 s 44]

8250.1500 [Repealed, 20 SR 2787]

8250.1550 [Repealed, 25 SR 616]

BALLOTS FOR ELECTRONIC VOTING SYSTEMS

8250.1600 APPLICABILITY.

New language published electronically June 15, 2016

Part 8250.1810 applies to electronic voting systems, as defined in Minnesota Statutes, section 206.56, subdivision 8.

Statutory Authority: *MS s 204D.11; 206.57; 206.84*

History: *13 SR 347; 20 SR 2787; 34 SR 1561; 40 SR 1553*

8250.1700 [Repealed, 23 SR 459]

8250.1800 [Repealed, 34 SR 1561]

8250.1810 FORMAT OF BALLOTS FOR OPTICAL SCAN SYSTEMS.

New language published electronically June 15, 2016

Subpart 1. **Ballot form.** The optical scan ballot shall be prepared in a sufficient number to enable the clerks to comply with Minnesota Statutes, section 204B.29. The ballot shall be prepared and printed as soon as practicable, but in no event less than 46 days before an election unless otherwise specified in statute. Ballots for distribution in the polling place must be shrink-wrapped in quantities of 25, 50, or 100.

The ballot shall be printed with black ink on white paper. The ballot shall be printed so as to be easily legible and in mixed upper and lower case, with suitable lines for divisions between candidates, offices, instructions, and other matter proper to be printed on the ballot.

Each ballot must have printed on it both the name of the precinct and an electronically readable precinct identifier or ballot style indicator. A ballot style used in more than one precinct may have the names of all precincts in which it is used printed on the ballot. If multiple ballots styles are to be used in the same precinct for precincts split by school districts, each ballot style must include the precinct name and applicable school district number. Only the electronically readable precinct identifier or ballot style indicator is required on a presidential only or federal only absentee ballot.

Subp. 2. **Primary ballot form.** Items A to E apply to primary ballots.

A. On the partisan primary ballot, the names of the political parties that head the political party columns must be printed in as large as practicable but no smaller than 14-point bold type and must be shaded with a screen of at least ten percent. When a party does not have candidates within a given precinct, the party headings are to remain on top of each column, regardless of whether the party has a contest on the given ballot.

B. If a partisan primary ballot also includes a nonpartisan primary section, the ballot must contain a demarcation indicating the beginning of the nonpartisan section of the ballot.

C. Pursuant to Minnesota Statutes, section 206.90, subdivision 6, the instructions in Minnesota Statutes, section 204D.08, do not apply to optical scan partisan primary ballots.

D. If a partisan primary ballot has political party columns on both sides of the ballot, the instruction in subpart 13 for two-sided ballots must not be used on the ballot.

E. If a primary ballot or special primary ballot contains only a partisan primary, the instructions to the voter must include a statement that reads substantially as follows: "This is a partisan primary ballot. You are permitted to vote for candidates of one political party only." If a partisan primary ballot contains both a partisan ballot and a nonpartisan ballot, the instructions to voters must include a statement that reads substantially as follows: "This ballot card contains a partisan ballot and a nonpartisan ballot. On the partisan ballot you are permitted to vote for candidates of one political party only." If a primary ballot contains political party columns on both sides of the ballot, the instructions to voters must include a statement that reads substantially as follows: "Additional political parties are printed on the other side of this ballot. Vote for one political party only." At the bottom of each political party column on the primary ballot, the ballot must contain a statement that reads substantially as follows: "Continue voting on the nonpartisan ballot." These statements must be printed in as large as practicable but no smaller than 10-point type.

F. The names of candidates for nomination of the major political party that received the smallest average vote at the last state general election must be placed in the first column on the left side of the ballot. The names of candidates for nomination of the major political party that received the next smallest average vote at the last state general election must be placed in the second column and so on. The average vote shall be computed in the manner provided in Minnesota Statutes, section 204D.13, subdivision 2. If there are only two major political parties to be listed, one party must occupy the left hand column, the other party must occupy the right hand column, and the center column must contain the following statement: "Do not vote for candidates of more than one party."

Subp. 3. **Ballot heading.** At the top of a ballot containing both partisan and nonpartisan offices, the applicable words "State General Election Ballot" or "State Partisan Primary Ballot" and "State and County Nonpartisan Primary Ballot" shall be printed. At the top of a special election ballot for state office containing only a vacancy for a partisan office, the words "Special Election Ballot" shall be printed. At the top of a primary ballot containing only partisan offices, the words "State Primary Ballot" shall be printed. At the top of a special primary ballot for state office containing only a vacancy for a partisan office, the words "Special Primary Ballot" shall be printed. At the top of a ballot containing only nonpartisan offices, the words "General Election Ballot" or "Primary Election Ballot" shall be printed, except for first-class cities which may use an optional heading. At the top of a ballot containing questions only, the words "Special Election Ballot" shall be printed.

When a county, municipal, school district, or hospital district election is held other than in conjunction with a federal or state office, the applicable words "County Election Ballot," "City Election Ballot," "Town Election Ballot," "School District Ballot," or "Hospital District Ballot" shall be printed.

The name of the jurisdiction preparing the ballot may be added within the heading in no smaller than 8-point type. The date of the election must be printed within the heading in no smaller than 8-point type.

The ballot heading must be printed no smaller than 10-point type.

On the front of the ballot the words "Official Ballot" must be printed in as large as practicable but no smaller than 8-point bold type and the word "Judge" in as large as practicable but no smaller than 8-point type with lines for initials of at least two election judges.

Subp. 4. **Instructions to voters.** Under the heading at the top of each side of the ballot, the words "Instructions to Voters:" must be printed in bold and in as large as practicable but no smaller than 12-point bold type. The words "To vote, completely fill in the oval(s) next to your choice(s) like this: (R)." or a similar wording or mark if a different target shape is used by the electronic voting equipment must follow and be printed in as large as practicable but no smaller than 8-point bold type. The county may include an image demonstrating the instruction if approved by the secretary of state.

Immediately under each office title and district identified, one of the following instructions must be printed in bold type in as large as practicable but no smaller than 8-point type:

Vote for One Team

Vote for One

Vote for Up to ..... followed by the number of candidates to be elected.

Subp. 5. **Order and form of office types.** When more than one of the following types of offices is on the ballot, the offices must appear on the ballot in the following order and must be identified as follows:

Federal Offices

State Offices

Constitutional Amendments

County Offices

County Questions

City Offices

City Questions

Town Offices

Town Questions

School District Offices

School District Questions

Special District Offices

Special District Questions

Judicial Offices

The name or the number of the appropriate municipality, school district, or special district may be added directly under the office types listed in this subpart.

Subp. 6. **Order and form of offices.** The offices must appear on the ballot in the following order and must be identified as follows in as large as practicable but no smaller than 10-point bold type. The office titles must be shaded with a screen of at least ten percent:

President and Vice-President

United States Senator

United States Representative

State Senator

State Representative

Governor and Lieutenant Governor

Secretary of State

State Auditor

Attorney General

County Commissioner

County Auditor

County Treasurer

County Auditor-Treasurer

County Recorder

County Sheriff

County Attorney

County Surveyor

County Coroner

County Park Commissioner

Soil and Water Conservation District Supervisor

Conservation District Supervisor

County Questions

Mayor

Council Member

City Clerk

City Treasurer

City Questions

Town Supervisor

Town Clerk

Town Treasurer

Town Questions

School Board Member

School District Questions

Hospital District Board Member

Hospital District Questions

Judicial offices must follow special district offices and appear in the following order:

Chief Justice - Supreme Court

Associate Justice - Supreme Court

Judge - Court of Appeals

Judge - District Court

"United States" may be abbreviated as "U.S." Directly underneath the titles of the offices of United States representative and state senator and representative must be printed the district numbers (for example: "District 6") that the person elected will represent. A single vote must be cast for president and vice-president and for governor and lieutenant governor.

If on the same ballot with other offices of the same type, offices elected at large must include "At Large" following the office identification and must be listed before other offices of the same type elected by district.

Where nonjudicial offices are designated by number, those offices must be listed in numerical order and must be printed directly under the title of the office. Where judicial offices are designated by number, the seats must be listed in numerical order, except that for judicial offices for a specific court for which there is only one candidate filed must appear after all other judicial offices for that same court.

If an office is not to be filled at a general election, the office must not appear on the ballot. If two of the offices have been combined into one office, the combined office must take the place of the first office listed in this subpart.

Any county offices not listed must follow the office of soil and water conservation district supervisor on the ballot and must be listed in the order determined by the county auditor.

Subp. 7. **Order and form of candidate names.** The name of each candidate as filed on the affidavit of candidacy shall be printed at right angles to the length of the ballot. On state primary ballots for nomination to a partisan or nonpartisan office, and on state general election ballots and judicial nonpartisan general election ballots, the names of each candidate shall be rotated with the names of the other candidates pursuant to part 8220.0825. If the number of candidates for an office is equal to or less than the number to be elected, no rotation of candidate names is required and the official preparing the ballot shall determine the position of the candidates by lot. The candidate names must be printed in as large as practicable but no smaller than 10-point type. The name of the candidate must be aligned as close to the vote target as possible. Below the name of each candidate for a partisan office must appear in the designation in not more than three words of the party or principle the candidate represents. Words used in the name of a major political party as defined in Minnesota Statutes, section 200.02, subdivision 7, may not be used to identify the party of a candidate of any other party. This prohibition does not apply to the word "independent," if it is used in the name of a major political party. The word "nonpartisan" may not be used in the designation of any candidate for a partisan office. The party or principle designation, if applicable, must be printed under the candidate name in as large as practicable but no smaller than 8-point type.

Subp. 8. **Order and form of write-in candidate lines.** On general election ballots, below the name of the last candidate for each office shall be placed as many blank lines as there are offices of that kind to be filled, and on the blank lines the voter may write the name of persons not printed on the ballot for whom the voter desires to vote. When no person has filed for an office to be filled, the title and identification of the office shall be printed on the ballot with as many blank lines below as there are offices to be filled. Above or below each write-in line the words "write-in, if any" must appear in as large as practicable but no smaller than 6-point type and must be aligned next to the vote target.

Subp. 9. **Order of candidates for partisan office in general election.** At the same time that the secretary of state certifies the names of nominees under Minnesota Statutes, section 204C.32, subdivision 2, the secretary of state shall certify to the county auditors the order in which the names of the candidates representing the political parties as defined in Minnesota Statutes, section 200.02, subdivision 7, must appear for every partisan

office on the ballot. Candidates nominated by petition must appear on the ballot beneath the names of the candidates of the political parties as defined in Minnesota Statutes, section 200.02, subdivision 7, and in the order determined by lot by the secretary of state. The secretary of state shall draw lots once by political party or principle. To draw the lot, a candidate who has used the word "independent" to designate the candidate's party or principle must be identified by the word "independent" followed by the candidate's surname. If more than one candidate is nominated by petition for the same office within the same political party or principle, the secretary of state shall draw a supplementary lot within that party or principle by candidate surname to determine the order of those candidates. The order of political parties or principles determined by the drawing of lots applies to all partisan offices on the ballot.

Subp. 10. **Order and form of ballot questions.** Ballot questions must be printed after offices of the same jurisdiction. Directly after the office type required in subpart 2, the following words must be printed in upper and lower case and no smaller than 8-point type: "To vote for a question, fill in the oval next to the word 'Yes' on that question. To vote against a question, fill in the oval next to the word 'No' on that question." or if a target shape other than an oval is used on the ballot, then the word "oval" must be replaced with the applicable target shape word. When more than one question is on the ballot for a given jurisdiction, each ballot question must be designated by a number and must be preceded by the words "County Question," "City Question," "Town Question," "School District Question," "Hospital District Question," and the number assigned to the question in as large as practicable but no smaller than 10-point bold type. The name and/or number of the jurisdiction that the question will represent may be printed directly under the heading of the question. The question heading and numbers (where applicable) must be shaded with a screen of at least ten percent. A clerk, county auditor, or appropriate governing body shall provide a title for each question printed on the ballot. The title must not contain more than ten words and must not be used on the ballot until it has been approved by the jurisdiction's legal counsel. The title must be printed in bold type in as large as practicable but no smaller than 10-point type and must be printed in the same section as the body of the question to which it refers. The body of the question must be printed in as large as practicable but no smaller than 10-point type. The words "Yes" and "No" must be aligned as close as possible to the vote targets and must be printed in bold type in as large as practicable but no smaller than 10-point type.

Subp. 11. **Instructions, order and form of constitutional amendments.** For a ballot containing a constitutional amendment, the following statement shall be printed beneath the heading in "Constitutional Amendment" no smaller than 8-point type: "Failure to vote on a constitutional amendment will have the same effect as voting no on the amendment." A bold dividing line running the width of the ballot column shall be immediately below the statement. The words "To vote for a proposed constitutional amendment, fill in the oval next to the word 'Yes' on that question. To vote against a proposed constitutional amendment, fill in the oval next to the word 'No' on that question." must follow and be printed in upper and lower case and no smaller than 8-point type. If a target shape other than an oval is used on the ballot, then the word "oval" must be replaced with the applicable target shape word. If more than one constitutional amendment is on the ballot, each constitutional amendment must be designated by a number and must be preceded by the word "Amendment" and the number assigned to the amendment and the title required by Minnesota Statutes, section 204D.15, subdivision 1, must be printed in as large as practicable but no smaller than 10-point bold type and must be shaded with a screen of at least ten percent. The body of the question must be printed in as large as practicable but no smaller than 10-point type. The words "Yes" and "No" must be aligned as close as possible to the vote targets and must be printed in bold type in as large as practicable but no smaller than 10-point type.

Subp. 12. **Vote targets.** The target used to indicate to the voters where to mark their votes may be either a horizontal oval next to the candidate name or similar target if used by certified equipment. The target may be highlighted or outlined in a color that does not affect the ability of the ballot counter to read the ballot.

Subp. 13. **Two-sided ballots.** On two-sided ballots, the words "Vote front and back of ballot" must be printed in no smaller than 10-point bold type at the bottom of both sides of the ballot.

Subp. 14. **Form of federal ballot.** The names of all candidates for the offices of president and vice-president of the United States and senator and representative in Congress shall be placed on a ballot printed on white paper which shall be known as the "federal ballot." This ballot must be prepared and furnished in accordance with the federal Uniformed and Overseas Citizens Absentee Voting Act, United States Code, title 42, section 1973ff. The federal ballot shall be the only ballot sent to citizens of the United States who are eligible to vote by absentee ballot only for federal candidates in Minnesota. The federal ballot shall conform in all other respects to the State Primary or State General election ballot.

Subp. 15. **Form of presidential ballot.** The names of all candidates for the offices of president and vice-president of the United States shall be placed on a ballot printed on white paper which shall be known as the "presidential ballot." This ballot must be prepared and furnished in accordance with the federal Uniformed and Overseas Citizens Absentee Voting Act, United States Code, title 42, section 1973ff. The presidential ballot shall be the only ballot provided to citizens of the United States who are eligible to vote by absentee ballot only for presidential candidates in Minnesota. The presidential ballot shall conform in all other respects to the State General election ballot.

Subp. 16. **Order and form of special election ballot.** The names of candidates to fill vacancies at a special election for county and municipal offices must be listed under the heading "Special election for (name of office)," followed by "To fill vacancy in term expiring (date)" with the name of the office, the date of expiration of the term, and any other information necessary to distinguish the office. For state offices, immediately following the title of the office shall be printed "To fill vacancy in term expiring (date)." Vacant offices being filled by special election must be listed with other offices of that type but after any offices for which a candidate will be elected for a full term, except as required by Minnesota Statutes, section 204D.25, subdivision 1.

Subp. 17. **Extraneous marks.** No election official may place marks on the ballot other than those provided in Minnesota Statutes, section 204C.09, subdivision 1, or 206.86, subdivision 5.

Subp. 18. **Example ballot.** The secretary of state shall supply each auditor with a copy of an example ballot by May 1 of each year. The example ballot must illustrate the format required for the ballots used in the primary and general elections that year. The county auditor shall distribute copies of the example ballot to municipal and school district clerks in municipalities and school districts holding elections that year. The official ballots must conform in all respects to the example ballot.

Statutory Authority: *MS s 206.84*

History: *34 SR 1561; 38 SR 1368; 40 SR 1553*

8250.9910 [Repealed, 23 SR 459]

8250.9920 [Repealed, 23 SR 459]

CHAPTER 8255 - REDISTRICTING

8255.0010 ALTERNATE DATES FOR COMPLETION OF LOCAL REDISTRICTING.

If the adoption of the legislative redistricting plan or the resolution of any court challenge to the legislative redistricting plan occurs less than 19 weeks before the state primary, in a year ending in two, the following schedule for reestablishment of precinct boundaries and election districts must be followed:

A. Precincts must be reestablished no later than 28 days after the adoption of the legislative plan.

B. Wards must be redistricted no later than 28 days after the adoption of the legislative plan.

C. Local government election districts must be redistricted no later than 42 days after adoption of the legislative plan.

When a municipality completes the reestablishment of precinct boundaries, the municipal clerk shall immediately provide the secretary of state, county auditor, and all school districts with territory in the municipality a copy of a map illustrating the precinct boundaries.

Statutory Authority: *MS s 204B.14*

History: *16 SR 2026; 25 SR 616*

8255.0015 COORDINATION OF REESTABLISHMENT OF PRECINCT BOUNDARIES.

After redistricting, a municipality must obtain maps of the school districts located wholly or partially in the municipality before the municipality reestablishes its precinct boundaries. A municipality must obtain the school district maps no later than 21 days after adoption of the legislative plan.

Statutory Authority: *MS s 204B.13-14*

History: *25 SR 616*

8255.0020 ~~ESTABLISHMENT OF PRECINCT BOUNDARIES LACKING RECOGNIZABLE PHYSICAL FEATURES.~~

Repealed - published electronically June 15, 2016

[Repealed, 40 SR 1553] ~~If recognizable physical features are unavailable for use as precinct boundaries, or if establishment of a precinct boundary along a school district boundary which does not follow a recognizable physical feature is desired, the county or municipal governing body may establish precinct boundaries lacking a recognizable physical feature. A precinct boundary lacking a recognizable physical feature must be established as provided in this part.~~

~~Two precincts may be formed which share a boundary that is not located on a recognizable physical feature. However, the boundary of the two precincts combined must be entirely located on recognizable physical features or jurisdictional boundaries.~~

~~The governing body of a municipality, or of a county for precincts in unorganized territory, may use, in whole or in part, the jurisdictional boundary of the municipality, unorganized territory, or county as a precinct boundary.~~

~~If two precincts are divided by a boundary not located on a recognizable physical feature as provided in this part, the two precincts must be named to reflect a relationship for the purpose of reporting election results, for example: "precinct 1A and precinct 1B." Two precincts that are divided by a congressional district boundary may be named in the same manner and may use a single polling place as provided in *Minnesota Statutes*, section 204B.16, subdivision 2.~~

Statutory Authority: *MS s 204B.14*

History: *16 SR 2026; 17 SR 351; 40 SR 1553*

8255.0025 ~~CORRECTION OF PRECINCT BOUNDARIES NOT BASED ON RECOGNIZABLE PHYSICAL FEATURES.~~

Repealed - published electronically June 15, 2016

[Repealed, 40 SR 1553] ~~The Secretary of State shall monitor precinct boundaries within the state. If a precinct boundary is not in compliance with the requirements of Minnesota Statutes, section 204B.14, the Secretary of State shall notify the county auditor or municipal clerk who established the boundary of the error and provide a map showing a suggested boundary that meets all statutory requirements. The governing body responsible for the precinct has 60 days from the time of notice to adopt the precinct boundary suggested by the Secretary of State, or create another boundary that meets all statutory requirements. If the governing body fails to act within 60 days, the precinct boundary is, by default, the boundary suggested by the Secretary of State.~~

Statutory Authority: *MS s 204B.14*

History: *19 SR 593; 40 SR 1553*

8255.0030 POSTING NOTICE OF BOUNDARY CHANGES.

When a precinct boundary is reestablished or a local government election district boundary is redistricted under part 8255.0010, a notice and a detailed map showing the new precincts or districts must be posted at the locations and in the manner in items A to C.

A. For precincts and wards established by a municipality, the notice prepared by the municipal clerk must be posted in the clerk's office. The notice may be posted in other conspicuous locations in the municipality, at the discretion of the clerk. The information posted must also be made available for public inspection at the office of the county auditor.

B. For districts established by a county, the notice must be prepared by the county auditor and posted in the auditor's office. The county auditor shall provide a copy of the notice to each municipal clerk in the county. Each municipal clerk shall post the notice of county precincts and election districts.

C. For precincts and districts established by school districts, the notice must be prepared by the school district clerk and posted in the clerk's office. The notice may be posted in other conspicuous locations in the school district, at the discretion of the clerk. The information posted must also be available for public inspection at the office of the county auditor.

The notices required by this part must be posted within 72 hours after the adoption of precinct or election district boundaries. The notices must remain posted until the day following the state general election in a year ending in two.

Statutory Authority: *MS s 204B.14*

History: *16 SR 2026*

8255.0040 PUBLISHED NOTIFICATION BY COUNTY AUDITOR.

When precincts are reestablished or local government election districts are redistricted under part 8255.0010, the county auditor shall publish a notice illustrating or describing the congressional, legislative, and county commissioner districts in the county in one or more qualified newspapers in the county. The publication must occur no later than 14 days after the redistricting of local government election districts is completed.

Statutory Authority: *MS s 204B.14*

History: *16 SR 2026*

8255.0050 NOTICE TO AFFECTED VOTERS.

When precinct boundaries are changed under part 8255.0010, the county auditor or municipal clerk shall notify each affected registered voter of the change at least one week prior to the state primary held after the change takes place.

Statutory Authority: *MS s 204B.14*

History: *16 SR 2026*

CHAPTER 8290 – SAFE AT HOME PROGRAM

8290.0100 DEFINITIONS

Subpart 1. **Terms.** For purposes of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Actual address.** "Actual address" means a Minnesota residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant, program renewal application, certification continuance, or change of address form under this chapter.

Subp. 3. **Applicant.** "Applicant" means an adult, a parent or guardian acting on behalf of an eligible minor, or a guardian acting on behalf of an incapacitated person, as defined in Minnesota Statutes, section 524.5-102.

Subp. 4. **Application assistant.** "Application assistant" means a staff person designated by the secretary of state or a person employed by a community-based program as defined in subpart 7 who has completed the training for application assistants approved by the secretary of state.

Subp. 5. **Certification.** "Certification" means that the secretary of state has determined that the eligible person meets the requirements for entering into or continuing in the program.

Subp. 6. **Change of identity.** "Change of identity" means that the program participant has changed the participant's name and Social Security number in an attempt to sever all connections to a previous name.

Subp. 7. **Community-based program.** "Community-based program" means an office, institution, or center whose mission consists substantially of offering assistance to survivors of domestic violence, sexual assault, stalking, or crimes of violence.

Subp. 8. **Criminal justice system management.** "Criminal justice system management" means the eligible person:

A. has been convicted of a crime or offense; or

B. has pled guilty to a crime or offense; or

C. has been adjudicated of a crime or offense; or

D. has pled no contest to a crime or offense; and

E. is under supervision for that crime or offense.

Subp. 9. **Designated address.** "Designated address" means the address assigned to the program participant by the secretary of state, including the lot number, to be used by public and private persons other than the Safe at Home program.

Subp. 10. **Domestic violence.** "Domestic violence" means an act as defined in Minnesota Statutes, section 518B.01, subdivision 2, paragraph (a), or the threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

Subp. 11. **Eligible person.** "Eligible person" means an adult, a minor, or an incapacitated person, as defined in Minnesota Statutes, section 524.5-102, and residing in Minnesota, who is not a person registered or required to register as a predatory offender under Minnesota Statutes, section 243.166 or 243.167, or the law of another jurisdiction, and for whom there is good reason to believe:

A. that the eligible person is a victim of domestic violence, sexual assault, or stalking; or

B. that the applicant fears for the applicant's safety, the safety of another person who resides in the same household, or the safety of persons on whose behalf the application is made.

Subp. 12. **Lot number.** "Lot number" means the specific identifier assigned by the secretary of state to a program participant for use in sorting mail and confirming program participation in accordance with Minnesota Statutes, section 5B.03, subdivision 1, clause (8).

Subp. 13. **Mail.** "Mail" means first class letters and flats delivered via the United States Postal Service, including priority, express, and certified mail, and excluding packages, parcels, periodicals, and catalogs, unless they are clearly identifiable as pharmaceuticals or clearly indicate that they are sent by a state or county government agency, that are specifically addressed to a program participant and delivered to the designated address by the United States Postal Service.

Subp. 14. **Mailing address.** "Mailing address" means the residential street address to which the secretary of state must forward a program participant's mail, except in those cases where the United States Postal Service provides no delivery service to the residential address, in which case it means a post office box serviced by the United States Postal Service.

Subp. 15. **Minor child.** "Minor child" means an individual who has not attained the age of 18, residing with or under the guardianship of an adult applicant or program participant.

Subp. 16. **Program participant.** "Program participant" means an individual certified as a program participant under Minnesota Statutes, section 5B.03.

Subp. 17. [Repealed, 39 SR 392].

Subp. 18. **Safe at Home.** "Safe at Home" is the program authorized by Minnesota Statutes, chapter 5B.

Subp. 19. **Safe at Home card.** "Safe at Home card" means the official participation card issued by the secretary of state to each program participant, which must state the program participant's name, date of birth, designated address, certification expiration date, and a space for the signature of the program participant.

Subp. 20. **School.** "School" means any elementary or secondary educational institution.

Subp. 21. **Sexual assault.** "Sexual assault" means acts criminalized under Minnesota Statutes, sections 609.342 to 609.3453 and 609.352, or the threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

Subp. 22. **Stalking.** "Stalking" means acts criminalized under Minnesota Statutes, section 609.749, or the threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 392; 39 SR 1378*

8290.0200 APPLICATION.

Subpart 1. **Certification of program participant.** The secretary of state shall certify an eligible person as a program participant when the secretary of state receives a properly executed application that contains:

A. the full legal name and date of birth of the eligible person;

B. the name and contact data of the applicant, if different;

C. a listing of all minor children residing at the residential address, each minor child's full legal name, each minor child's date of birth, and each minor child's relationship to the applicant;

D. a statement by the applicant that the applicant has good reason to believe that the eligible person is not applying for certification as a program participant in order to avoid prosecution for a crime and either:

(1) that the eligible person listed on the application has survived domestic violence, sexual assault, or stalking; or

(2) that the eligible person fears for the person’s safety, the safety of another person who resides in the same household, or the safety of persons on whose behalf the application is made;

E. a designation of the secretary of state as agent for purpose of service of process and for the purpose of receipt of mail;

F. the mailing address and the telephone number or numbers at which the eligible person can be contacted by the secretary of state;

G. the actual address or addresses of the eligible person that the applicant requests not be disclosed for the reason that disclosure increases the risk of domestic violence, sexual assault, stalking, or other risks to safety;

H. a statement that the program participant shall not disclose the participant's actual address or addresses to the batterer, stalker, or perpetrator of sexual assault, or other persons the participant fears;

I. the number of motor vehicles that will be registered at the eligible person's designated address;

J. a statement that the applicant understands that a program participant's voting record cannot be active in the statewide voter registration system;

K. a statement whether the eligible person is currently the subject of any pending or ongoing criminal actions, and, if so, the prosecuting authority, adjudicative authority, or probation authority, and consent for the secretary of state to forward notice of the participant's designated address, to the prosecuting authority, adjudicative authority, or probation authority;

L. a statement that the eligible person agrees to provide an actual address, upon request, to any supervising person if the eligible person is or becomes subject to criminal justice system management with specific conditions related to the program participant's actual address;

M. a statement that the eligible person is not a person registered or required to register as a predatory offender under Minnesota Statutes, section 243.166 or 243.167, or the law of another jurisdiction;

N. a statement the eligible person understands that the eligible person is personally responsible for any consequences of a delayed mail delivery if the eligible person requests a short-term mail hold pursuant to this chapter;

O. the signature of the applicant and the date signed; and

P. the signature of the application assistant and the date signed.

Subp. 2. **Completion.** The application must be completed in the presence of an application assistant.

Subp. 3. **Duties of applicant.** The applicant must provide all the information required on the application and indicate the applicant's relationship with the eligible person. The applicant must initial next to each item in the application to indicate that the applicant agrees to those provisions.

Subp. 4. **Proof of identity.** The applicant must also prove the applicant's identity by showing photo identification to the application assistant or must indicate on the application that the applicant does not possess photo identification.

Subp. 5. **Notification to prosecuting authority, adjudicative authority, and probation authority.** If the applicant discloses on the application that the eligible person is currently the subject of pending or ongoing criminal legal action, at the time of the application, the applicant must complete a form letter to notify each prosecuting authority, adjudicative authority, and probation authority for the pending or ongoing criminal action of the designated address and the designation of the secretary of state as agent for purposes of service of process. The secretary of state must provide form letters to all application assistants. The form letter must include a statement that any prospective service of process must be clearly labeled as service of process on the exterior of the envelope containing the service.

Subp. 6. **Submission by application assistant.** The application assistant shall submit completed applications and any additional materials by first class mail to the secretary of state.

Subp. 7. **Missing information.** If the completed application does not meet the requirements of this part, the secretary of state shall contact the applicant listed on the application to obtain the missing information. The eligible person shall be certified only if the missing information is provided.

Subp. 8. **Effective date.** A properly completed application is effective on the day it is reviewed and certified by the secretary of state.

Subp. 9. **Voter registration through secretary of state.** At the time of application, the application assistant must also offer the applicant the opportunity to register to vote as a permanent absentee voter with the secretary of state, pursuant to part 8290.1300 and Minnesota Statutes, section 5B.06. A voter registration application filled out in the presence of an application assistant and submitted by an application assistant is not considered registration by mail as provided in Minnesota Statutes, section 201.061.

Subp. 10. **Penalties.** A person who falsely attests in an application or who knowingly provides false or incorrect information upon making an application is subject to penalties under Minnesota Statutes, section 5.15, cancellation of program certification, or both.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 392; 39 SR 1378*

8290.0300 CERTIFICATION OF PROGRAM PARTICIPANT.

Subpart 1. **Certification.** An eligible person or a minor child residing at the residential address for whom a properly completed application or renewal is filed shall be certified by the secretary of state as a program participant.

Subp. 2. **Duration.** A program participant is certified for four years following the date the application or renewal is certified unless the certification is canceled or withdrawn before that date.

Subp. 3. **Duties of secretary of state and program participant.** Upon certification, the secretary of state shall, within three business days, issue and mail a Safe at Home card to the program participant's mailing address with instructions on how to use the Safe at Home card. Upon receipt, the program participant must immediately sign the Safe at Home card. A program participant under the age of 11 may have the card signed by the adult responsible for the participant.

Subp. 4. **Communication; verification of identity.** The secretary of state must verify the identity of the applicant or program participant before discussing any data related to certification or otherwise related to the applicant or program participant.

Subp. 5. **Notification to other parties.** If an application submitted to the secretary of state discloses that the eligible person is the subject of a pending or ongoing criminal legal action, the applicant or eligible person must have completed and submitted with the application the form letter referenced in part 8290.0200, subpart 5. The secretary of state must mail the letter to the appropriate prosecuting authority, probation authority, and adjudicative authority. If compliance with this subpart is necessary and the letters have not been submitted to the secretary of state, the secretary of state shall certify the program participant, and provide the program participant with new form letters and instructions on how they must be used. Failure by the applicant to provide these letters to the secretary of state shall lead to cancellation pursuant to part 8290.0900.

Subp. 6. **Lost or stolen card.** A program participant shall contact the secretary of state whenever a Safe at Home card is lost or stolen. The secretary of state shall issue a replacement Safe at Home card to the program participant. If a card is found by a program participant after being reported lost or stolen, the program participant shall return the card to the secretary of state.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 1378*

8290.0400 DESIGNATED ADDRESS.

Subpart 1. **Address and program status.** Every public or private person or entity shall accept the designated address as the true address of the program participant. Presentation of the Safe at Home card creates a rebuttable presumption that the individual listed on the card is a program participant. A program participant is not required to respond to any question a public or private person puts to the program participant about the details or circumstances of the person's inclusion in the program. The public or private person or entity may contact the secretary of state for information on the program.

Subp. 2. **Request.** The program participant, and not the secretary of state, is responsible for requesting the use of the designated address by any public or private person or entity as the address of the program participant.

Subp. 3. **Secretary of state as agent.** The secretary of state is the agent for receipt of all mail sent by public and private persons and entities to the program participants at the designated address.

Subp. 4. **Mail to be forwarded.** All mail specifically addressed to the program participant at the designated address must be forwarded at least every second business day to the participant at the participant's mailing address. Envelopes containing the mail being forwarded must be marked "Return Service Requested." The secretary of state is not required to forward mail if the mail is not specifically addressed to a program participant.

Subp. 5. **Short-term mail hold.** The secretary of state may hold a participant's mail for up to three days upon request of the program participant. The secretary of state may hold a participant's mail for up to a total of three weeks if the participant has sent a signed, written mail hold request to the secretary of state that includes a telephone number at which the participant can be reached. Upon receipt of a written request, the secretary of state must compare the signature of the program participant or applicant on the request with the signature on the original application or on any other document on file with the secretary of state and conclude that the signatures are the same. The mail hold is effective the date the secretary of state receives the request, unless the participant has indicated an alternate effective future date.

Subp. 6. **Limited circumstances of use of actual address.**

A. In cases in which a public or private person or entity must under federal law obtain a program participant's actual address, the program participant must provide the program participant's actual address, in addition to the designated address.

B. For those services delivered to an actual address or tied to residency in a particular jurisdiction, the public or private person must request only that portion of the actual address required in order to provide those services, in addition to the designated address.

C. A program participant who is subject to criminal justice system management must, upon request, supply the program participant's actual address to the participant's supervising person, in addition to the designated address, if there are specific court-ordered conditions related to the participant's actual address as part of the supervision.

D. In cases in which all or part of the actual address has been disclosed pursuant to item A, B, or C, the designated address must be used as the address of the program participant by the public or private person or entity for all purposes where the actual address is not specifically required.

E. The secretary of state, upon request of the public or private person, shall suggest measures that shall assist in protecting the actual address and the program participant's name against disclosure in any way. Measures may include, but are not limited to, assigning a pseudonym to the program participant; suppressing the program participant's name on records; keeping the actual address in the program participant's paper file, but not entering it into a database; and making the records password protected and limiting access to them to a small pool of staff.

Subp. 7. **Availability to law enforcement.** The secretary of state shall be available at all times to fulfill the requirements of Minnesota Statutes, section 5B.07, subdivision 2, in exigent circumstances.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 1378*

8290.0500 SERVICE OF PROCESS.

Subpart 1. **Secretary of state as agent.** The secretary of state shall be an agent of the program participant upon whom any summons, writ, notice, demand, or process may be served. The secretary of state shall not charge a fee for accepting service. The secretary of state ceases to be agent when a program participant is canceled or withdraws from program participation.

Subp. 2. **Service by mail.** Service on the secretary of state of any such summons, writ, notice, demand, or process must be made by mailing the summons, writ, notice, demand, or process to the participant, including the participant's first and last name, at the participant's designated address. If an envelope enclosing the summons, writ, notice, demand, or process is clearly labeled as service of process on the outside of the envelope and is served by first class or certified mail on the secretary of state, the secretary of state shall forward the service to the program participant no later than the next business day unless the program participant has requested a mail hold or is in a pending cancellation status due to undeliverable mail. If the secretary of state receives service for a program participant in pending cancellation status due to undeliverable mail, the secretary of state must attempt to contact the participant through alternative means and obtain a current mailing address. If the secretary of state cannot obtain an alternative mailing address within two business days of the receipt of service, the secretary of state must forward the service to the program participant at the address on file with the secretary of state. As the secretary of state is the agent for service of process, the signed receipt of certified mail by the secretary of state constitutes proof of service on the program participant and commences the time in which responsive pleadings must be filed.

Subp. 3. **Service in person.** In the event that personal service of any document is required by law, that document may be served by delivering the document to any public counter of the Office of the Secretary of State. In order for the secretary of state to accept service on a participant, the service documents must indicate the program participant's first and last name and lot number. The secretary of state must forward the service to the program participant no later than the next business day unless the program participant has requested a mail hold or is in a pending cancellation status due to undeliverable mail. If the secretary of state receives service for a program participant in pending cancellation status due to undeliverable mail, the secretary of state must attempt to contact the participant through alternative means and obtain a current mailing address. If the secretary of state cannot obtain an alternative mailing address within two business days of the receipt of service, the secretary of state must forward the service to the program participant at the address on file with the secretary of state. As the secretary of state is the agent for service of process, an affidavit of service on the secretary of state constitutes proof of service on the program participant and commences the time in which responsive pleadings must be filed.

Subp. 4. **Record.** The secretary of state shall maintain, in the program participant's file, a record of services served upon the secretary of state for that participant. The secretary of state shall include in the file the action taken on that service, including the name of the program participant to whom the service is directed, the date of receipt, the date of mailing, and whether the mailing was returned to the secretary of state as undeliverable.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 1378*

8290.0600 ATTAINING AGE OF MAJORITY.

Subpart 1. **Notification of option to continue certification.** When a program participant reaches the age of 18, the secretary of state shall inform the program participant of the option of continuing certification in Safe at Home by sending a certification continuance form by first class mail to the program participant's mailing address. The notice must provide instructions to the program participant on what actions to take upon attaining the age of majority if the program participant does not submit a certification continuance form, including the return of the Safe at Home card and notification to public and private persons of the actual address, and that the designated address is no longer the address of the program participant. If the secretary of state has not received a certification continuance form within 30 days after the program participant reaches the age of 18, the

secretary of state must mail a notice to the program participant stating that the program participant is in pending cancellation status and the program participant's certification shall be canceled if the participant fails to submit the certification of continuance within ten days.

Subp. 1a. **Voter registration information.** Along with the certification continuance form sent 30 days prior to expiration, the secretary of state must also offer the program participant the opportunity to register to vote as an ongoing absentee voter with the secretary of state, pursuant to part 8290.1300 and Minnesota Statutes, section 5B.06.

Subp. 1b. **Certification continuance.** The secretary of state shall renew the certification of a program participant when the secretary of state receives a certification continuance from that program participant. The certification continuance must contain the same information required in the application as specified in part 8290.0200, subpart 1, except the certification continuance need not contain the signature of an application assistant.

Subp. 2. **Responsibility for information changes.** An individual who became a program participant as a minor child assumes responsibility for information changes pursuant to part 8290.0700 and renewal pursuant to part 8290.1100 when the individual reaches the age of 18.

Subp. 3. **Address change; reapplication or withdrawal.** A program participant who reaches the age of 18 must reapply or withdraw if the participant establishes a new residence separate from the adult participant who applied for certification on the participant's behalf when the program participant was a minor.

Subp. 4. **Reapplication.** Program participants who reach the age of 18 who have withdrawn or whose certification expires or has expired may reapply on their own behalf.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 1378*

8290.0700 CHANGES IN PROGRAM PARTICIPANT INFORMATION.

Subpart 1. **Notification of personal contact changes.** A program participant or applicant shall send signed, written notification of a change of mailing or actual address, telephone number, legal name, or permanent contact data to the secretary of state.

Subp. 2. **Additional minor children.** If a program participant sends signed, written notification to the secretary of state that the program participant is now responsible for additional minor children, the secretary of state must certify the minor children as program participants and issue them Safe at Home cards.

Subp. 3. **Notification of name changes.** If the legal name of a program participant changes, the program participant or applicant shall send signed, written notification to the secretary of state along with a copy of the court order or other formal documentation indicating the legal name change and the program participant's Safe at Home card or a statement that the program participant has misplaced the Safe at Home card. The program participant must also provide the secretary of state the new signature for the purpose of future changes according to this part. The secretary of state must send a Safe at Home card with the participant's new legal name to the participant within two business days of receiving notification under this subpart and conducting the verification required by subpart 4.

Subp. 4. **Signature verification.** Before making changes in information effective, the secretary of state must compare the signature of the program participant or applicant on the notification of the change with the signature on the original application, or on any other document on file with the secretary of state, and conclude that the signatures are the same.

Subp. 5. **Change in identity.** On or before the effective date of a change in identity, a program participant or an applicant, if different, must withdraw from Safe at Home pursuant to part 8290.1000. The program participant or applicant may apply for recertification in Safe at Home under the new identity.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 1378*

8290.0800 TRANSFER OF SCHOOL RECORDS.

Subpart 1. **Participant request.** A parent or guardian of a program participant who is a student in an elementary or secondary school in Minnesota, or a student in a secondary school in Minnesota who is a program participant who has reached the age of majority, may submit a records transfer request to the secretary of state which shall consist of written consent for: (1) the secretary of state to request the student's records from the student's previous school; (2) the student's previous school to provide the student's records to the secretary of state; and (3) the secretary of state to send the records to the student's new school. If it is in receipt of a records transfer request, the secretary of state must request the student's records from the student's previous school and provide the student's previous school with the parent's, guardian's, or student's written consent for the school to provide the student's records to the secretary of state. A school that receives such a request must send the student's records to the secretary of state within the time frame required by Minnesota Statutes, section 120A.22, subdivision 7. The secretary of state must forward the records to the student's new school as soon as practicable after receipt.

Subp. 2. **School request.** If a school makes a request of the secretary of state to facilitate the transfer of records for a student who is a program participant, the secretary of state must provide the program participant's parent or guardian or the program participant, if the program participant has reached the age of majority, with the opportunity to provide a records transfer request to the secretary of state, in accordance with subpart 1.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819*

8290.0900 FAILURE TO NOTIFY SECRETARY OF STATE OF CHANGES IN INFORMATION; CANCELLATION.

Subpart 1. **Warning by secretary of state.** If:

A. the secretary of state learns that a program participant has failed to provide prior notification about a change in the participant's mailing or residential address, telephone number, legal name, or permanent contact data, as required by part 8290.0700, subpart 1;

B. mail forwarded by the secretary of state to the program participant is returned as undeliverable;

C. the program participant has not complied with part 8290.0200, subpart 5, if required, at the time the secretary of state mails notice of the certification to the program participant; or

D. the program participant has not complied with part 8290.0600 after 30 days of reaching the age of 18;

the secretary of state must contact the program participant or applicant, if different, to request that the program participant or applicant comply with part 8290.0200, subpart 5, 8290.0600, or 8290.0700, subpart 1. The notice must state that if the program participant or applicant fails to comply within ten business days, the program participant's certification shall be canceled and the former program participant must return any Safe at Home cards in the participant's possession.

Subp. 1a. **Participant no longer eligible.** If the secretary of state learns that a program participant is no longer eligible, the secretary of state must provide the program participant with the opportunity to submit a withdrawal request in accordance with part 8290.1000.

Subp. 1b. **Pending cancellation status.** After the secretary of state has provided notice as required by subpart 1 or 1a, the program participant is in pending cancellation status. While in this status, the secretary of state must hold the program participant's mail and must not forward it to the program participant. Pending cancellation status ends after ten business days, or upon the program participant's compliance with part 8290.0200, subpart 5, 8290.0700, subpart 1, or 8290.1000, whichever occurs first. This subpart does not prevent the secretary of state from forwarding correspondence marked "service of process" pursuant to part 8290.0500.

Subp. 2. **Cancellation.**

A. If the program participant's pending cancellation status expires, the secretary of state must cancel the certification of the program participant.

B. If a program participant or applicant provides false information when applying for certification or renewal, or on a change of information notice, the secretary of state must cancel the certification of the program participant.

Subp. 3. **Cancellation of program certification without recourse.** The secretary of state must cancel a program participant's certification if a program participant or applicant is found by a court to have knowingly provided false information when applying for certification or renewal, or on a change of information notice. The court may include in the finding a restriction or prohibition on reapplication to Safe at Home. The secretary of state shall inform the former program participant that the Safe at Home card must be returned immediately. Upon receiving the court findings and sending the notice, the secretary of state shall execute these actions.

Subp. 4. **Return of mail.** If the certification of the program participant is canceled, mail addressed to the program participant must be returned to the sender.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 1378*

8290.1000 WITHDRAWAL OF PROGRAM CERTIFICATION.

Subpart 1. **Withdrawal request.**

A. A program participant or an applicant, if different, may withdraw from Safe at Home by submitting a signed withdrawal request along with any Safe at Home cards.

B. The withdrawal request shall include a statement that the program participant or applicant:

(1) wants to withdraw from Safe at Home; and

(2) understands that it is the responsibility of the program participant or applicant, if different, to notify all persons of a new mailing address at which the participant can be contacted.

C. The program participant shall list the names of any minor children who are being withdrawn from the program on the withdrawal request.

D. The program participant or applicant may request mail be forwarded up to 30 days immediately following the date on which the withdrawal is effective and may provide an address to which mail should be forwarded for this period, if different than the mailing address on record. The secretary of state may only forward mail within the United States.

E. The program participant or applicant may include the date on which the participant would like the withdrawal to be effective.

Subp. 2. **Signature verification.** Before terminating a program participant's certification, the secretary of state must compare the signature of the program participant or applicant on the withdrawal request with the signature on the original application or on any other document on file with the secretary of state and conclude that the signatures are the same.

Subp. 3. **Termination.** Certification as a program participant shall be terminated upon withdrawal. The termination is effective on the day the withdrawal request is received by the secretary of state, unless the participant designated a future effective date on the withdrawal request.

Subp. 4. **Mail forwarding.** Mail received at the designated address for the program participant other than mail designated "Do Not Forward," "Return Service Requested," "Service of Process," or similarly designated, must be forwarded to the program participant for 30 days after the effective date of withdrawal, unless the program participant or applicant has designated a shorter period. After 30 days mail must be returned to the sender.

Subp. 5. **Reapplication.** A program participant whose certification is withdrawn may reapply or have an applicant reapply on the program participant's behalf pursuant to part 8290.0200.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 1378*

8290.1100 RENEWAL OF PROGRAM CERTIFICATION.

Subpart 1. **Notification of option to renew.**

A. At least 30 days before the expiration of the certification, the secretary of state shall inform the program participant or applicant, if different, of the option of renewing certification in Safe at Home by sending a renewal form by first class mail to the program participant's mailing address. The notice must provide instructions to the program participant on what actions to take upon expiration, including the return of the Safe at Home card and notification to public and private persons of the actual address, and that the designated address is no longer the address of the program participant. If the secretary of state has not received a renewal form ten days before the expiration of the program participant's certification, the secretary of state must mail a notice to the program participant reminding the program participant of the option to renew.

B. Along with the renewal form sent 30 days prior to expiration, the secretary of state must also offer the program participant the opportunity to register to vote as a permanent absentee voter with the secretary of state, pursuant to part 8290.1300 and Minnesota Statutes, section 5B.06, if the program participant has not already done so.

Subp. 2. **Application.** The secretary of state shall renew the certification of a program participant when the secretary of state receives a certification renewal form from that program participant or applicant, if different. The application must contain the same information required in the application as specified in part 8290.0200, subpart 1, except the renewal need not contain the signature of an application assistant.

Subp. 3. **Duties of applicant.** The program participant or applicant, if different, must provide all the information required by subpart 2 in the renewal, and date and sign the renewal.

Subp. 4. **Completed renewals to be mailed.** The program participant or applicant must submit completed renewals and any additional materials by first class mail to the secretary of state.

Subp. 5. **Missing information.** If the completed renewal does not meet the requirements of this part, the secretary of state shall contact the program participant or applicant to obtain the missing information.

Subp. 6. **Effective date.** A properly completed renewal postmarked on or before the expiration date is effective on the day it is reviewed and certified by the secretary of state.

Subp. 7. **Duties of secretary of state and program participants.** The secretary of state must send new Safe at Home cards with updated expiration dates within three business days of renewing a program participant's certification. Upon receipt, the program participant must immediately sign the Safe at Home card. A program participant under the age of 11 may have the card signed by the adult responsible for that person.

Subp. 8. **Penalties.** A person who falsely attests in a renewal or who knowingly provides false information upon making an application for renewal is subject to penalties under Minnesota Statutes, section 5.15, cancellation of program certification, or both.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 392; 39 SR 1378*

8290.1200 EXPIRATION OF PROGRAM CERTIFICATION.

When the term of a program participant expires, the program participant is no longer certified in Safe at Home. The secretary of state must forward mail to the former program participant's mailing address for five days after the expiration date. After that five-day period, the secretary of state must return all mail to the sender.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819*

8290.1300 VOTING BY PROGRAM PARTICIPANT.

Subpart 1. **Internal procedures.** The secretary of state shall establish internal procedures designed to facilitate voting by program participants that minimize the number of persons with access to program participant data while maintaining the integrity of the election process.

Subp. 2. **Permanent absentee voter status.** A program participant who is eligible to vote may register to vote with the secretary of state as a permanent absentee voter pursuant to Minnesota Statutes, section 5B.06. The secretary of state shall maintain a record of each program participant registering to vote as a permanent absentee voter. If a program participant withdraws or is canceled from the program, the individual loses eligibility to vote through Safe at Home. In order to comply with the Help America Vote Act when registering to vote, the program participant must provide a copy of a photo identification with the combined voter registration and permanent absentee ballot request form if:

A. it was not submitted by an application assistant;

B. the statewide voter registration system indicates that the program participant voter has not previously voted in a federal election in Minnesota;

C. the application states that the participant possesses photo identification; and

D. the program participant voter has not already provided the secretary of state with a photocopy of photo identification.

Subp. 2a. **Review and removal from voter registration system.** Upon certification of an application, the secretary of state must suppress any record for a program participant found in the system. When a program participant withdraws or is canceled from the program, the secretary of state must unsuppress any voter record for the program participant in the statewide voter registration system.

Subp. 2b. **Challenging voter records.**

A. If a program participant or applicant provides information to the secretary of state that indicates that a program participant voter is not eligible to vote, or if the secretary of state is able to determine from information provided by the commissioner of corrections, the state court administrator, or the Department of Public Safety that the program participant voter is not eligible to vote, then the secretary of state must mark the voter's record as challenged.

B. If the secretary of state is able to determine from information provided by any of the sources in item A that a program participant whose voter record was challenged has become eligible to vote, the secretary of state must remove the challenge from the program participant's voter record.

Subp. 2c. **Updates to voter records.** If a program participant or applicant submits notification in accordance with part 8290.0700 that the program participant voter has moved or the voter's name has changed, the secretary of state must update the program participant's voter record.

Subp. 3. **Identification of program participant voters.** Whenever the secretary of state is notified that an election will be taking place, the secretary of state must, at least 60 days before the election, or in the case of a special election, within two business days after it is scheduled, identify all program participant voters who live in the jurisdiction.

Subp. 4. [Repealed, 39 SR 392]

Subp. 5. **Requesting absentee ballots.** The secretary of state must communicate to the appropriate election administrator of each jurisdiction the number of ballots necessary for each jurisdiction to provide ballots to program participant voters whose records are not challenged. Notwithstanding part 8210.0200, the election administrator must provide the appropriate ballots for that election to the secretary of state.

Subp. 6. **Ballot distribution.** The secretary of state must forward ballots to each program participant whose voter record is not challenged by first class mail, accompanied by a notice of the criteria for being eligible to vote in Minnesota, absentee ballot instructions, a ballot envelope, a signature envelope, and a return envelope addressed to the secretary of state.

Subp. 6a. **Notice to challenged voters.** The secretary of state must send a notice to program participants whose voter records are challenged to explain the basis of the challenge and that the program participant will not be provided with a ballot unless the program participant returns a signed statement swearing or affirming that the program participant is eligible to vote. If the program participant returns the signed statement, the secretary of state must remove the challenge from the program participant's voter record, request a ballot for the program participant, and forward it to the program participant by first class mail.

Subp. 7. **Return of unvoted ballots.** The secretary of state must return unvoted absentee ballots to the appropriate county auditor in cases in which:

A. they are returned by the United States Postal Service; or

B. the program participant is canceled or withdraws from the program after the ballots were requested, but before they were mailed; or

C. the program participant's residential address is updated on the program participant's voting record in accordance with subpart 2c after the ballots were requested, but before they were mailed; or

D. the program participant's voter eligibility is challenged in accordance with subpart 2b after the ballots were requested, but before they were mailed; or

E. the program participant dies after the ballots were requested, but before they were mailed.

Subp. 8. **Ballot handling.**

A. Notwithstanding part 8210.0500, program participants must submit their return envelopes to the secretary of state.

B. If the program participant submits a signature envelope, the secretary of state must review the signature envelope and the program participant voter's record to determine whether the secretary of state is satisfied that:

(1) the individual has not withdrawn or been canceled from Safe at Home;

(2) the program participant's voter record is not challenged;

(3) the program participant's name and identification number or signature on the signature envelope appear in substantially the same form as on the absentee ballot request form described in subpart 2; and

(4) the certificate on the signature envelope is properly executed.

C. The secretary of state must remove the ballot envelope from the signature envelope received from the program participant and transfer the ballot envelope to an envelope with the verification certificate printed on it. The secretary of state must complete and sign the verification certificate. The verification certificate includes the county, municipality, ward, and precinct/school district combination and states that the ballot is provided for a Safe at Home participant, and whether or not all of the following are true:

(1) the individual is an active program participant;

(2) the program participant's voter record is not challenged;

(3) the secretary of state is satisfied that the program participant's name and identification number or signature on the signature envelope appear in substantially the same form as on the permanent absentee ballot request form described in subpart 2; and

(4) whether the certificate on the signature envelope is properly executed. The secretary of state must then forward these materials to the county auditor by first class mail.

Subp. 9. **County auditor to forward ballot.** The county auditor shall forward the envelope bearing the verification certificate to the appropriate absentee ballot board.

Subp. 10. **Receipt and counting of ballots.** The absentee ballot board must review the verification certificate and may only reject the absentee ballot if the verification certificate indicates that the secretary of state was not satisfied that the program participant met the requirements of this part or if the secretary has subsequently notified the county auditor that the ballot should be rejected, in accordance with subpart 10e. If the absentee ballot board accepts the ballot, the election judges must write "SAH" followed by a sequential number for each Safe at Home ballot processed and "AB" on the election day registration roster page. An accepted ballot is counted as any other registered absentee ballot for statistical purposes.

Subp. 10a. **Replacement ballots.** If the secretary of state forwards a certification envelope to a county auditor at least five days before the election that indicates that the ballot should be rejected because of reasons identified in subpart 8, item C, subitem (3) or (4), the secretary of state must request a replacement ballot from the county auditor for the program participant. The county auditor must promptly fulfill this request and the secretary of state must forward it to the program participant by first class mail.

Subp. 10b. **Notice of rejected ballot.** If within five days before the election the secretary of state forwards a certification envelope to a county auditor that indicates that the ballot should be rejected because of reasons identified in subpart 8, item C, subitem (3) or (4), the secretary of state must attempt to contact the program participant by telephone to notify the program participant that the ballot will be rejected.

Subp. 10c. **Notice to canceled or withdrawn program participants who were sent ballots.** If, after a ballot was sent to a program participant for an upcoming election, the program participant withdraws or is canceled from the program, the secretary of state must inform the former program participant that the former program participant is no longer eligible to vote through Safe at Home. If the program participant was canceled from the program due to mail returned as undeliverable, the secretary of state is exempt from the requirement to provide the former program participant with the written notice required by this subpart or any other written notice required by this part.

Subp. 10d. **Challenges after ballots were sent.**

A. If, after a ballot was sent to a program participant for an upcoming election, the program participant's voter record is challenged in accordance with subpart 2b, the secretary of state must notify the program participant in writing that the ballot will not be counted unless the program participant returns a signed statement swearing or affirming that the program participant is eligible to vote.

B. If the challenged program participant returns the signed statement swearing or affirming that the program participant is eligible to vote, the secretary of state must remove the challenge from the program participant's voter record and process any returned ballot in accordance with subpart 8.

C. If the secretary of state has already forwarded the challenged program participant's ballot to the county auditor when the secretary of state receives a signed statement swearing or affirming that the program participant is eligible to vote and the verification certificate indicates that the ballot should be rejected, the secretary of state must provide the county auditor with a replacement verification certificate. The absentee ballot board must review the replacement verification certificate to determine whether the program participant's ballot should be accepted.

Subp. 10e. **Participant moved after ballots were sent.** If, prior to the time frame for processing ballots in accordance with Minnesota Statutes, section 203B.121, subdivision 4, a program participant's residential address is updated on the program participant's voting record in accordance with subpart 2c, then the secretary of state must mark the voter's record of the ballot as "spoiled."

If the secretary of state has not received the voted ballot from the program participant, the secretary of state must notify the program participant that the program participant should destroy the ballot and dispose of the other ballot materials and that the ballot will not be counted if it is returned.

If the program participant's ballot was forwarded to the county auditor and otherwise would have been accepted, then the secretary of state must promptly notify the county auditor in writing that the ballot board should reject the ballot.

The secretary of state must request a replacement ballot for the voter from the appropriate county auditor. Before sending the new ballot to the participant, the secretary of state must print the words "Replacement Ballot" on the signature envelope.

Subp. 10f. **Ineligibility after ballot is forwarded to county.** If, after a ballot was forwarded to the county auditor that otherwise would have been accepted,

A. a program participant withdraws or is canceled from the program; or

B. the program participant's voter record is challenged in accordance with subpart 2b; or

C. the program participant dies,

then the secretary of state must promptly notify the county auditor in writing that the ballot board should reject the ballot if the ballot board has not already processed the ballot in accordance with Minnesota Statutes, section 203B.121, subdivision 4.

Subp. 10g. **Notice of ballot disposition.** Within six to ten weeks after the election, the secretary of state must send a notice to a program participant if the absentee ballot board was instructed to reject the program participant's ballot.

Subp. 11. **Review and determination by secretary of state.** By March 31 of each year, the secretary of state must determine whether any program participants who cast ballots in the preceding 12-month period are recorded in the statewide voter registration system as having both a record of casting a ballot under this part and also voting in the same election. If it is found that a program participant voter casting a ballot under this part also has a voting history record for the same election in the statewide voter registration system, the secretary of state shall notify the appropriate county attorney of that fact.

Subp. 12. **Cessation of permanent absentee voter status.** The secretary of state must revoke the program participant's permanent absentee voter status under this part until the county attorney confirms that the issue has been resolved in favor of the program participant if voting records under this part and voting history records in the statewide voter registration system show that the program participant has not only cast a ballot under this part but also voted in the same election by other means.

Subp. 13. **Record keeping.** The secretary of state must maintain a record for each election with the number of ballots requested by precinct/school district combinations, blank ballots received from each county auditor, assembled ballots sent to program participants, unvoted ballots returned to the county auditors, ballot envelopes returned by program participants to the secretary of state, and certification envelopes forwarded to county auditors.

Subp. 14. **Biennial report.** By April 30 of each odd-numbered year, the secretary of state shall issue a report on the activities of program participants during the period of two calendar years ending on December 31 preceding the report date.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 392; 39 SR 1378*

8290.1400 SUMMARY DATA.

For purposes of collecting state aid on motor vehicles pursuant to Minnesota Statutes, section 163.051, the secretary of state shall issue to the Department of Public Safety and to the Minnesota Department of Transportation a table containing summary data by county on the number of motor vehicles reported as registered at the program participant's designated address by program participants. The table must be used only for the purposes of issuing state aid on motor vehicles and wheelage tax administration.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 1378*

8290.1500 APPLICATION ASSISTANT ACCREDITATION.

Subpart 1. **Role of community-based programs.** The role of the community-based programs in Safe at Home is to select potential application assistants to explain to an applicant the program's services and limitations, explain to an applicant a program participant's responsibilities, and assist applicants in the completion of application materials.

Subp. 2. **When awarded.** Application assistant accreditation shall be awarded by the secretary of state when:

A. the prospective application assistant:

(1) completes an application that includes the prospective application assistant's name, business mailing address, business telephone number, and business e-mail address, if available; the community-based program at which the application assistant is employed and a contact name for the community-based program; a statement that the application assistant provides direct advocacy services to victims as a substantial part of the application assistant's current job duties; an agreement to adhere to the instructions and terms provided in the application assistant agreement; and an agreement not to discriminate against any applicant or program participant because of race, creed, religion, color, national origin, gender, marital status, sexual orientation, status with regard to public assistance, age, or mental, physical, or sensory disability;

(2) submits the completed application, with a statement from the community-based program as described in item B, to the secretary of state; and

(3) successfully completes a program orientation or training session sponsored by or on behalf of the secretary of state; and

B. the community-based program confirms that the application assistant is employed by the community-based program and agrees to designate a contact for the community-based program. The program must have a person authorized to act on behalf of the organization execute the application in order for it to be accepted by the secretary of state.

Subp. 3. **Employment status.** The application assistant performing the duties under this chapter is not deemed to be an employee of the Office of the Secretary of State or of the state of Minnesota or an agent of the secretary of state in any manner whatsoever. The application assistant shall not hold out as, nor claim to be, an officer or employee of the Office of the Secretary of State or of the state of Minnesota simply because the person is an application assistant, and shall not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the Office of the Secretary of State or of the state of Minnesota.

Subp. 4. **Term of accreditation.** An application assistant's accreditation is ongoing as long as the application assistant maintains employment at the community-based organization named on the application, completes a periodic review approved by the secretary of state at least once every three years, and, in addition, completes any other training deemed necessary by the secretary of state.

Subp. 5. **Termination.** An application assistant's accreditation may be terminated by the secretary of state for failing to abide by any requirement in this chapter or for failing to act in accordance with requirements of the secretary of state. An application assistant's accreditation must be terminated if the application assistant is no longer employed by the community-based organization with which the person applied.

Subp. 6. **Employment with another community-based organization.** If an application assistant changes employment, leaving employment at one community-based organization and gaining employment at another, the application assistant may apply to become accredited again after the new community-based organization confirms the person is an employee and agrees to designate a contact for the community-based program. The new organization must have a person authorized to act on behalf of the organization execute a new application. The secretary of state will determine what training, if any, is necessary to fully renew the application assistant's accreditation status.

Subp. 7. **Access to application assistants.** The secretary of state shall make available a list of the names and telephone numbers of community-based programs at which accredited application assistants may be found.

Subp. 8. **Records.** An application assistant shall forward the completed application materials required by this chapter to the secretary of state. If the applicant so directs, an application assistant may mail any optional notices that are generated as a part of the application process to the appropriate party. Any remaining application materials must be given to the applicant or securely disposed of by the application assistant.

Statutory Authority: *MS s 5B.08*

History: *34 SR 819; 39 SR 1378*