

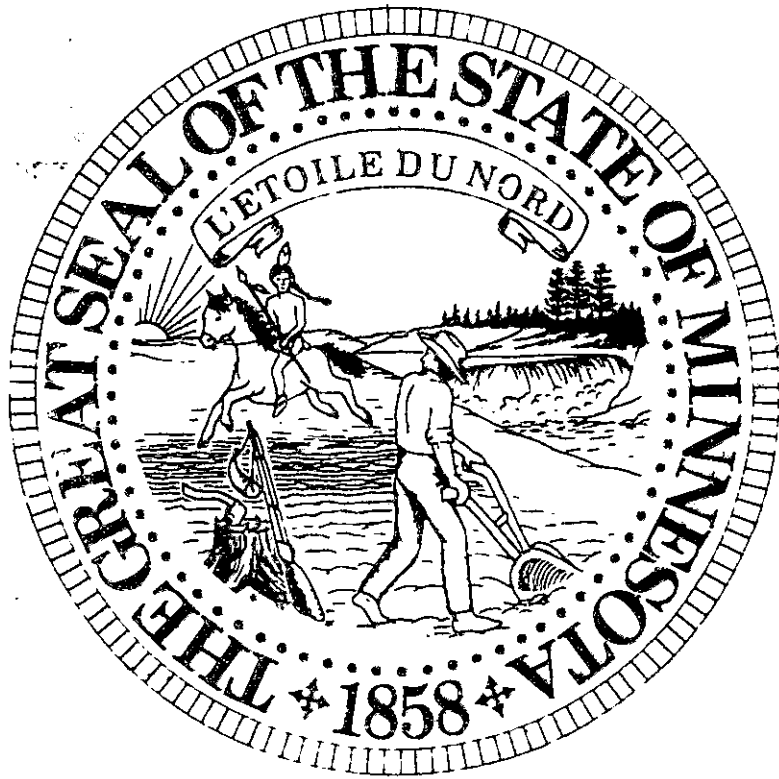
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# AN ACT

relating to elections; eliminating combined precincts but authorizing a combined polling place under the same conditions; adding three years to the time precinct boundaries may be changed; requiring separate precincts for each congressional district; limiting precinct boundary changes close to an election; amending Minnesota Statutes 1992, sections 204B.14, subdivisions 2 and 3; 204B.22, subdivision 1; and 205A.11; Minnesota Statutes 1993 Supplement, section 204B.14, subdivisions 4 and 5; repealing Minnesota Statutes 1992, sections 204B.14, subdivision 8; and 204B.16, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 204B.14, subdivision 2, is amended to read:

Subd. 2. [SEPARATE PRECINCTS; REQUIREMENTS 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, unless municipalities are combined for election purposes under

subdivision 8. Notwithstanding any law to the contrary, each town and each statutory city located within the metropolitan area as defined in section 473.121, subdivision 2, shall constitute at least one election precinct.

(b) A single, accessible, combined polling place may be established no later than June 1 of any year:

(1) for any city of the third or fourth class, any town, or

1 any city having territory in more than one county, in which all  
2 the voters of the city or town shall cast their ballots;

3 (2) for two contiguous precincts in the same municipality  
4 that have a combined total of fewer than 500 registered voters;  
5 or

6 (3) for up to four contiguous municipalities located  
7 entirely outside the metropolitan area, as defined by section  
8 473.121, subdivision 2, that are contained in the same  
9 congressional, legislative, and county commissioner district.

10 A copy of the ordinance or resolution establishing a  
11 combined polling place must be filed with the county auditor  
12 within 30 days after approval by the governing body. A polling  
13 place combined under clause (3) must be approved by the  
14 governing body of each participating municipality. A  
15 municipality withdrawing from participation in a combined  
16 polling place must do so by filing a resolution of withdrawal  
17 with the county auditor no later than May 1 of any year.

18 The secretary of state shall provide a separate polling  
19 place roster for each precinct served by the combined polling  
20 place. A single set of election judges may be appointed to  
21 serve at a combined polling place. The number of election  
22 judges required must be based on the total number of persons  
23 voting at the last similar election in all precincts to be  
24 voting at the combined polling place. Separate ballot boxes  
25 must be provided for the ballots from each precinct. The  
26 results of the election must be reported separately for each  
27 precinct served by the combined polling place, except in a  
28 polling place established under clause (2) where one of the  
29 precincts has fewer than ten registered voters, in which case  
30 the results of that precinct must be reported in the manner  
31 specified by the secretary of state.

32 Sec. 2. Minnesota Statutes 1992, section 204B.14,  
33 subdivision 3, is amended to read:

34 Subd. 3. [BOUNDARY CHANGES; PROHIBITIONS; EXCEPTION.]  
35 Notwithstanding other law or charter provisions to the contrary,  
36 during the period from January 1 in any year ending in seven

1 zero to the time when the legislature has been redistricted in a  
2 year ending in one or two, no changes may be made in the  
3 boundaries of any election precinct except as provided in this  
4 subdivision.

5 (a) If a city annexes an unincorporated area located in the  
6 same county as the city and adjacent to the corporate boundary,  
7 the annexed area may be included in an election precinct  
8 immediately adjacent to it.

9 (b) A municipality or county may establish new election  
10 precincts lying entirely within the boundaries of any existing  
11 precinct and shall assign names to the new precincts which  
12 include the name of the former precinct.

13 (c) Precinct boundaries must be reestablished within 60  
14 days of the time when the legislature has been redistricted, or  
15 at least 19 weeks before the state primary election in a year  
16 ending in two, whichever comes first. The adoption of  
17 reestablished precinct boundaries becomes effective on the date  
18 of the state primary election in the year ending in two.

19 Precincts must be arranged so that no precinct lies in more  
20 than one legislative or congressional district.

21 Sec. 3. Minnesota Statutes 1993 Supplement, section  
22 204B.14, subdivision 4, is amended to read:

23 Subd. 4. [BOUNDARY CHANGE PROCEDURE.] Any change in the  
24 boundary of an election precinct shall be adopted at least 90  
25 days before the date of the next election and, for the state  
26 primary and general election, no later than June 1 in the year  
27 of the state general election. The precinct boundary change  
28 shall not take effect until notice of the change has been posted  
29 in the office of the municipal clerk or county auditor for at  
30 least 60 days.

31 The county auditor must publish a notice illustrating or  
32 describing the congressional, legislative, and county  
33 commissioner district boundaries in the county in one or more  
34 qualified newspapers in the county at least 14 days prior to the  
35 first day to file affidavits of candidacy for the state general  
36 election in the year ending in two.

1           Alternate dates for adopting changes in precinct  
2 boundaries, posting notices of boundary changes, and notifying  
3 voters affected by boundary changes pursuant to this subdivision  
4 may be established in the manner provided in the rules of the  
5 secretary of state.

6           Sec. 4. Minnesota Statutes 1993 Supplement, section  
7 204B.14, subdivision 5, is amended to read:

8           Subd. 5. [PRECINCT BOUNDARIES; DESCRIPTION; MAPS.] When a  
9 precinct boundary has been changed, the municipal clerk shall  
10 immediately notify the secretary of state. Upon receipt of this  
11 notice or a notice of annexation from the Minnesota municipal  
12 board, the secretary of state shall provide the municipal clerk  
13 with a base map on which the clerk shall note the boundary  
14 change. The clerk shall return the corrected base map to the  
15 secretary of state within 30 days after the boundary change was  
16 made. The secretary of state shall update the precinct boundary  
17 database, prepare a corrected precinct map, and provide the  
18 corrected precinct map to the county auditor and the municipal  
19 clerk who shall make them available for public inspection. The  
20 county auditor shall prepare and file precinct boundary maps for  
21 precincts in unorganized territories, ~~and the municipal clerk~~  
22 ~~designated in the combination agreement shall prepare and file~~  
23 ~~precinct boundary maps in the case of municipalities combined~~  
24 ~~for election purposes under subdivision 8,~~ in the same manner as  
25 provided for precincts in municipalities. For every election  
26 held in the municipality the election judges shall be furnished  
27 precinct maps as provided in section 201.061, subdivision 6. If  
28 a municipality changes the boundary of an election precinct, the  
29 county auditor shall notify each school district with territory  
30 affected by the boundary change at least 30 days before the  
31 effective date of the change.

32           Sec. 5. Minnesota Statutes 1992, section 204B.22,  
33 subdivision 1, is amended to read:

34           Subdivision 1. [MINIMUM NUMBER REQUIRED.] A minimum of  
35 three election judges shall be appointed for each precinct. In  
36 a ~~precinct of municipalities combined for election purposes~~

1 polling place under section 204B.14, subdivision 2, at least  
2 one judge must be appointed from each municipality in the  
3 combined precinct polling place, provided that not less than  
4 three judges shall be appointed for each combined precinct  
5 polling place. The appointing authorities may appoint election  
6 judges for any precinct in addition to the number required by  
7 this subdivision including additional election judges to count  
8 ballots after voting has ended.

9 Sec. 6. Minnesota Statutes 1992, section 205A.11, is  
10 amended to read:

11 205A.11 [PRECINCTS; POLLING PLACES.]

12 Subdivision 1. [ESTABLISHED PRECINCTS.] ~~The precincts and~~  
13 ~~polling places for school district elections are those precincts~~  
14 ~~or parts of precincts and polling places set in sections 204B.14~~  
15 ~~to 204B.16, except that at a school district election not held~~  
16 ~~on the day of a statewide election, the school board may, in the~~  
17 ~~manner specified in this section, combine several precincts into~~  
18 ~~a single combined precinct with one polling place and one set of~~  
19 ~~election judges. The school board shall establish combined~~  
20 ~~precincts and polling places for an election by resolution~~  
21 ~~adopted at least 30 days before the election, post a map of the~~  
22 ~~combined precincts, file a copy of the map and resolution with~~  
23 ~~the county auditor, and cause notice of the election to be~~  
24 ~~published in the official newspaper of the district, which~~  
25 ~~notice must include information concerning each established~~  
26 ~~combined precinct and polling place. At school district~~  
27 ~~elections not held on the day of a statewide election, precincts~~  
28 ~~located in separate counties may be combined into a single~~  
29 ~~combined precinct with one polling place and one set of election~~  
30 ~~judges if duplicate voter registration files are maintained for~~  
31 ~~the voters of each county. School district elections must be~~  
32 ~~conducted in the precincts, or when the school district boundary~~  
33 ~~divides a precinct, parts of precincts that have been~~  
34 ~~established by the county or municipal governing bodies as~~  
35 ~~provided in section 204B.14. If an election other than the~~  
36 ~~school district election is being held in any part of a~~

1 precinct, all the voters of the precinct must vote at the  
2 polling place designated for the precinct as provided in section  
3 204B.14.

4 Subd. 2. [COMBINED POLLING PLACE.] If there is an election  
5 being conducted in some but not all of the precincts in the  
6 school district, for those precincts in which no other election  
7 is being conducted the school board may designate a combined  
8 polling place at which the voters in up to ten precincts may  
9 vote in the school district election. If there is no other  
10 election being conducted in any part of the school district, the  
11 school board may establish a single polling place at which all  
12 the voters must vote.

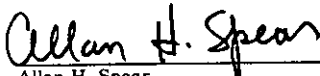
13 Subd. 3. [PROCEDURE.] The school board must notify the  
14 county auditor within 30 days after the establishment of a  
15 polling place as provided in this section. The notice must  
16 include a list of the precincts that will be voting at each  
17 polling place. The school board must send the notice required  
18 by section 204B.16, subdivision 1a, after a polling place is  
19 established as provided in this section, but no additional  
20 notices of this kind are required for any subsequent similar  
21 elections until the location of the polling place or the  
22 combination of precincts voting at the polling place is  
23 changed. The secretary of state shall provide a single polling  
24 place roster for use in any polling place established as  
25 provided in this section. A single set of election judges must  
26 be appointed to serve in the polling place. The number of  
27 election judges required must be based on the total number of  
28 persons voting at the last similar election in all the precincts  
29 to be voting at the single polling place. A single ballot box  
30 may be provided for all the ballots.

31 Sec. 7. [REPEALER.]

32 Minnesota Statutes 1992, sections 204B.14, subdivision 8;  
33 and 204B.16, subdivision 2, are repealed.



This bill was passed in conformity to the rules of each house and the joint rules of the two houses as required by the Constitution of the State of Minnesota.

  
Allan H. Spear  
*President of the Senate.*

  
Irvin N. Anderson  
*Speaker of the House of Representatives.*

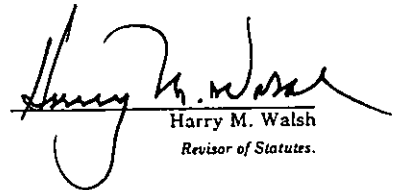
Passed the Senate on April 6, 1994.

  
Patrick E. Flahaven  
*Secretary of the Senate.*


Passed the House of Representatives on May 4, 1994.

  
Edward A. Burdick  
*Chief Clerk, House of Representatives.*

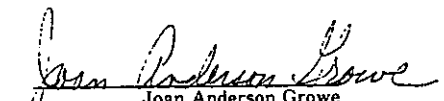
This bill is properly enrolled and was presented to the Governor on May 5, 1994.

  
Harry M. Walsh  
*Revisor of Statutes.*

Approved on May 6, 1994, at 11:58 A. M.

  
Arne H. Carlson  
*Governor.*

Filed on May 6, 1994.

  
Joan Anderson Grove  
*Secretary of State.*

# AN ACT

1  
2 relating to elections; providing uniform local  
3 election procedures; requiring regular city elections  
4 to be held in the fall; permitting certain town  
5 elections to be held in November; making uniform  
6 certain local government procedures; changing school  
7 district election requirements; amending Minnesota  
8 Statutes 1992, sections 103C.305, subdivision 2;  
9 123.33, subdivision 1; 205.02, subdivision 2; 205.065,  
10 subdivisions 1 and 2; 205.07, subdivision 1; 205.10,  
11 subdivision 1, and by adding a subdivision; 205.13,  
12 subdivision 1, and by adding a subdivision; 205.16,  
13 subdivisions 1 and 2; 205.17, subdivision 4; 205.175;  
14 205A.03, subdivisions 1 and 2; 205A.04, subdivision 1;  
15 205A.06, subdivision 1, and by adding a subdivision;  
16 205A.09, subdivision 2; 365.51, subdivisions 1 and 3;  
17 and 367.03, as amended; Minnesota Statutes 1993  
18 Supplement, section 206.90, subdivision 6; proposing  
19 coding for new law in Minnesota Statutes, chapter 205;  
20 repealing Minnesota Statutes 1992, sections 205.065,  
21 subdivision 3; 205.18; 205.20; and 205A.04,  
22 subdivision 2.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

24 Section 1. Minnesota Statutes 1992, section 103C.305,  
25 subdivision 2, is amended to read:

26 Subd. 2. [NOMINATING-PETITION FILING FOR OFFICE; AFFIDAVIT  
27 OF CANDIDACY.] ~~{a}-The-district-secretary-shall-immediately~~  
28 ~~submit-the-names-of-the-candidates-and-the-terms-for-which-each~~  
29 ~~candidate-is-nominated-to-the-county-auditor-~~  
30 ~~{b)-Nominating-petitions-conforming-to-section-1030-301,~~  
31 ~~subdivision-17-shall-be-filed-with-the-secretary-of-the-district~~  
32 ~~at-least-60-days-before-the-general-election- A candidate for~~  
33 ~~the office of supervisor shall file an affidavit of candidacy~~  
34 ~~with the county auditor of the county in which the district~~

1 office is located during the period provided for filing  
2 affidavits of candidacy for county offices in section 204B.09,  
3 subdivision 1. The county auditor accepting affidavits of  
4 candidacy shall forward copies of all affidavits filed by  
5 candidates for supervisor to the auditor of any other county in  
6 which the office is voted on.

7       Sec. 2. Minnesota Statutes 1992, section 123.33,  
8 subdivision 1, is amended to read:

9       Subdivision 1. The care, management, and control of  
10 independent districts shall be vested in a board of directors,  
11 to be known as the school board. The term of office of a member  
12 shall be three four years and until a successor qualifies. The  
13 membership of the school board shall consist of six elected  
14 directors together with such ex officio member as may be  
15 provided by law. But the board may submit to the electors at  
16 any school election the question whether the board shall consist  
17 of seven members and if a majority of those voting on the  
18 proposition favor a seven-member board, a seventh member shall  
19 be elected at the next election of directors for a three-year  
20 four-year term and thereafter the board shall consist of seven  
21 members.

22       Those districts with a seven-member board may submit to the  
23 electors at any school election at least 150 days before the  
24 next election of three members of the board the question whether  
25 the board shall consist of six members. If a majority of those  
26 voting on the proposition favor a six-member board instead of a  
27 seven-member board, two members instead of three members shall  
28 be elected at the next election of the board of directors and  
29 thereafter the board shall consist of six members.

30       Sec. 3. Minnesota Statutes 1992, section 205.02,  
31 subdivision 2, is amended to read:

32       Subd. 2. [CITY ELECTIONS.] In all statutory and home rule  
33 charter cities, the primary, general and special elections held  
34 for choosing city officials and deciding public questions  
35 relating to the city shall be held as provided in this chapter,  
36 except that ~~this section and~~ sections 205.065, subdivisions 2 4

1 to 7; 205.07 to, subdivision 3; 205.10; 205.121; and 205.175-and  
2 ~~205.105~~ 205.17, subdivisions 2 and 3, do not apply to a city  
3 whose charter provides the manner of holding its primary,  
4 general or special elections.

5 Sec. 4. Minnesota Statutes 1992, section 205.065,  
6 subdivision 1, is amended to read:

7 Subdivision 1. [~~CITIES-OF-FIRST-CLASS~~ ESTABLISHING  
8 PRIMARY.] A municipal primary for the purpose of nominating  
9 elective officers may be held in any city ~~of-the-first-class~~ on  
10 the ~~second-or-third~~ first Tuesday after the second Monday in  
11 ~~March~~ September of any year in which a municipal general  
12 election is to be held for the purpose of electing officers.

13 ~~if-the-majority-of-the-governing-body-of-a-city-of-the~~  
14 ~~first-class-adopted-a-resolution-after-June-24,-1957,~~  
15 ~~establishing-the-second-or-third-Tuesday-in-March-for-holding~~  
16 ~~its-municipal-primary-in-any-year-in-which-its-municipal-general~~  
17 ~~election-is-held,-and-if-the-city-clerk-or-other-officer-of-the~~  
18 ~~city-charged-with-keeping-the-minutes-and-records-of-the~~  
19 ~~governing-body-filed-a-certified-copy-of-the-resolution-with-the~~  
20 ~~secretary-of-state-and-another-certified-copy-of-the-resolution~~  
21 ~~with-the-county-recorder-of-the-county-in-which-the-city-is~~  
22 ~~located,-the-time-established-by-the-resolution-for-holding-the~~  
23 ~~municipal-primary-is-fixed,-and-the-governing-body-of-the-city~~  
24 ~~may-not-change-the-time-unless-the-authority-to-make-the-change~~  
25 ~~is-conferred-on-the-governing-body-by-the-legislature,-or-by-an~~  
26 ~~amendment-to-the-charter-of-the-city-duly-ratified-and-accepted~~  
27 ~~by-the-eligible-voters-of-the-city,-in-accordance-with-the~~  
28 ~~constitution-of-the-state-of-Minnesota-and-other-applicable-law.~~

29 Sec. 5. Minnesota Statutes 1992, section 205.065,  
30 subdivision 2, is amended to read:

31 Subd. 2. [RESOLUTION OR ORDINANCE.] The governing body of  
32 a city ~~of-the-second,-third,-or-fourth-class-or-a-town~~  
33 ~~containing-a-statutory-city~~ may, by ordinance or resolution  
34 adopted at least three months before the next municipal general  
35 election, elect to choose nominees for municipal offices by a  
36 primary as provided in ~~subdivisions-2-to-7~~ this section. The

1 resolution or ordinance, when adopted, is effective for all  
2 ensuing municipal elections until it is revoked. Subdivisions-2  
3 ~~to-7-do-not-apply-to-a-city-the-charter-of-which-specifically~~  
4 ~~prohibits-or-provides-for-a-municipal-primary.~~ The municipal  
5 clerk shall notify the secretary of state and the county auditor  
6 within 30 days after the adoption of the resolution or ordinance.

7 Sec. 6. Minnesota Statutes 1992, section 205.07,  
8 subdivision 1, is amended to read:

9 Subdivision 1. [~~DATE~~ CITY ELECTIONS.] The municipal  
10 general election in each statutory city shall be held on the  
11 first Tuesday after the first Monday in November in every  
12 even-numbered year. Notwithstanding any provision of law to the  
13 contrary and subject to the provisions of this section, the  
14 governing body of a statutory city may, by ordinance passed at a  
15 regular meeting held before September June 1 of any year, elect  
16 to hold the election on the first Tuesday after the first Monday  
17 in November in each odd-numbered year. ~~A-city-which-was-a~~  
18 ~~village-on-January-17-1974-and-before-that-date-provided-for-a~~  
19 ~~system-of-biennial-elections-in-the-odd-numbered-year-shall~~  
20 ~~continue-to-hold-its-elections-in-that-year-until-changed-in~~  
21 ~~accordance-with-this-section.~~ When a city changes its elections  
22 from one year to another, and does not provide for the  
23 expiration of terms by ordinance, the term of an incumbent  
24 expiring at a time when no municipal election is held in the  
25 months immediately prior to expiration is extended until the  
26 date for taking office following the next scheduled municipal  
27 election. If the change results in having three council members  
28 to be elected at a succeeding election, the two individuals  
29 receiving the highest vote shall serve for terms of four years  
30 and the individual receiving the third highest number of votes  
31 shall serve for a term of two years. To provide an orderly  
32 transition to the odd or even year election plan, the governing  
33 body of the city may adopt supplementary ordinances regulating  
34 initial elections and officers to be chosen at the elections and  
35 shortening or lengthening the terms of incumbents and those  
36 elected at the initial election so as to conform as soon as

1 possible to the regular schedule provided in section 412.02,  
2 subdivision 1. Whenever the time of the municipal election is  
3 changed, the city clerk immediately shall notify in writing the  
4 county auditor and secretary of state of the change of date.  
5 Thereafter the municipal general election shall be held on the  
6 first Tuesday after the first Monday in November in each  
7 odd-numbered or even-numbered year until the ordinance is  
8 revoked and notification of the change is made.

9 Sec. 7. [205.075] [TOWN GENERAL ELECTION.]

10 Subdivision 1. [DATE OF ELECTION.] The general election in  
11 a town must be held on the second Tuesday in March, except as  
12 provided in subdivision 2.

13 Subd. 2. [ALTERNATE DATE; METROPOLITAN TOWNS.] The  
14 governing body of a town located in the metropolitan area as  
15 defined by section 473.121 may, by resolution or ordinance,  
16 designate the first Tuesday after the first Monday in November  
17 of either the even-numbered or the odd-numbered year as the date  
18 of the town general election. Town supervisors elected at a  
19 November town general election shall serve four-year terms.

20 The ordinance or resolution changing the date of the town  
21 general election must include a plan to shorten or lengthen the  
22 terms of office to provide an orderly transition to the November  
23 election schedule.

24 The ordinance or resolution changing the date of the town  
25 general election is effective upon an affirmative vote of the  
26 voters of the town at the next town general election.

27 Sec. 8. Minnesota Statutes 1992, section 205.10,  
28 subdivision 1, is amended to read:

29 Subdivision 1. [QUESTIONS.] Special elections may be held  
30 in a statutory-or-home-rule-charter city or town on a question  
31 on which the voters are authorized by law or charter to pass  
32 judgment. A special election may be ordered by the governing  
33 body of the city municipality on its own motion or, on a  
34 question that has not been submitted to the voters in an  
35 election within the previous six months, upon a petition signed  
36 by a number of voters equal to 20 percent of the votes cast at

1 the last municipal general election. A question is carried only  
2 with the majority in its favor required by law or charter. The  
3 election officials for a special election shall be the same as  
4 for the most recent municipal general election unless changed  
5 according to law. Otherwise special elections shall be  
6 conducted and the returns made in the manner provided for the  
7 municipal general election.

8 Sec. 9. Minnesota Statutes 1992, section 205.10, is  
9 amended by adding a subdivision to read:

10 Subd. 4. [VACANCIES IN TOWN OFFICES.] Special elections  
11 must be held with the town general election to fill vacancies in  
12 town offices as provided in section 367.03, subdivision 2.

13 Sec. 10. Minnesota Statutes 1992, section 205.13,  
14 subdivision 1, is amended to read:

15 Subdivision 1. [AFFIDAVIT OF CANDIDACY.] ~~Not-more-than~~  
16 ~~{1}-eight-nor-less-than-six-weeks-in-the-case-of-a-town,or~~  
17 ~~{2}-not-more-than-ten-nor-less-than-eight-weeks, in-the~~  
18 ~~case-of-a-city,~~

19 ~~before-the-municipal-primary,or-before-the-municipal-general~~  
20 ~~election-if-there-is-no-municipal-primary, An individual who is~~  
21 eligible and desires to become a candidate for an office to be  
22 voted for at the municipal general election shall file an  
23 affidavit of candidacy with the municipal clerk. The affidavit  
24 shall be in substantially the same form as that in section  
25 204B.06, subdivision 1. The municipal clerk shall also accept  
26 an application signed by not less than five voters and filed on  
27 behalf of an eligible voter in the municipality whom they desire  
28 to be a candidate, if service of a copy of the application has  
29 been made on the candidate and proof of service is endorsed on  
30 the application being filed. Upon receipt of the proper filing  
31 fee, the clerk shall place the name of the candidate on the  
32 official ballot without partisan designation. ~~The-filing-dates~~  
33 ~~contained-in-this-subdivision-do-not-apply-to-any-home-rule~~  
34 ~~charter-city-whose-charter-provides-for-earlier-filing-dates-~~

35 Sec. 11. Minnesota Statutes 1992, section 205.13, is  
36 amended by adding a subdivision to read:

1        Subd. 1a. [FILING PERIOD.] An affidavit of candidacy for a  
2 town office to be elected in March must be filed not more than  
3 eight weeks nor less than six weeks before the town election.  
4 In municipalities nominating candidates at a municipal primary,  
5 an affidavit of candidacy for a city office or town office voted  
6 on in November must be filed not more than 70 days nor less than  
7 56 days before the first Tuesday after the second Monday in  
8 September preceding the municipal general election. In all  
9 other municipalities, an affidavit of candidacy must be filed  
10 not more than 70 days and not less than 56 days before the  
11 municipal general election.

12        Sec. 12. Minnesota Statutes 1992, section 205.16,  
13 subdivision 1, is amended to read:

14        Subdivision 1. [PUBLICATION AND POSTING.] In every  
15 ~~statutory-city-and-home-rule-charter-city,-the-charter-of-which~~  
16 ~~does-not-provide-the-manner-of-giving-notice-of-a-municipal~~  
17 election municipality, the city municipal clerk shall, except as  
18 otherwise provided in this section, give two weeks' published  
19 notice, and may also give ten days' posted notice, of the  
20 election, stating the time of the election, the location of each  
21 polling place, the offices to be filled, and all propositions or  
22 questions to be voted upon at the election. In a city of the  
23 fourth class or a town not located within a metropolitan county  
24 as defined in section 473.121, the governing body may dispense  
25 with publication of the notice of the municipal general  
26 election, in which case ten days' posted notice shall be given.  
27 The city municipal clerk shall also post a copy of the notice in  
28 the clerk's office for public inspection.

29        Sec. 13. Minnesota Statutes 1992, section 205.16,  
30 subdivision 2, is amended to read:

31        Subd. 2. [SAMPLE BALLOT, PUBLICATION.] ~~In-all-statutory~~  
32 ~~and-home-rule-charter-cities,~~ For every municipal election,  
33 the city municipal clerk shall, at least one week before the  
34 election, publish a sample ballot in the official newspaper of  
35 the city municipality, except that the governing body of a  
36 fourth class city or a town not located within a metropolitan



1 county as defined in section 473.121 may dispense with  
2 publication.

3 Sec. 14. Minnesota Statutes 1992, section 205.17,  
4 subdivision 4, is amended to read:

5 Subd. 4. [BLUE BALLOTS; QUESTIONS.] All questions relating  
6 to the adoption of a city charter or charter amendments ~~or~~ a  
7 proposition for the issuance of bonds, and all other questions  
8 relating to city or town affairs submitted at an election to the  
9 voters of the municipality, shall be printed on one separate  
10 blue ballot and shall be prepared, printed and distributed under  
11 the direction of the city municipal clerk at the same time and  
12 in the same manner as other municipal ballots. The ballots,  
13 when voted, shall be deposited in a separate blue ballot box  
14 provided by the local authorities for each voting precinct. The  
15 ballots shall be canvassed, counted, and returned in the same  
16 manner as other municipal ballots. The returns shall provide  
17 appropriate blank spaces for the counting, canvassing and  
18 returning of the results of the questions submitted on the blue  
19 ballot.

20 Sec. 15. Minnesota Statutes 1992, section 205.175, is  
21 amended to read:

22 205.175 [VOTING HOURS.]

23 Subdivision 1. [~~CITIES~~ MINIMUM VOTING HOURS.] In  
24 ~~all statutory-and-home-rule-charter-city~~ municipal elections,  
25 ~~the governing-body-of-the-city,-by-resolution-adopted-prior-to~~  
26 ~~giving-notice-of-the-election,-may-designate-the-time,-in-no~~  
27 ~~event-less-than-three-hours,-during-which-the~~ polling places  
28 will remain open for voting ~~at-the-next-succeeding-and-all~~  
29 ~~subsequent-municipal-elections,-until-the-resolution-is~~  
30 ~~revoked,-Cities-covered-by-this-subdivision-shall-certify-their~~  
31 ~~election-hours-to-the-county-auditor-upon-adoption-of-the~~  
32 ~~resolution-giving-notice-of-the-election~~ from 5:00 p.m. to 8:00  
33 p.m.

34 Subd. 2. [METROPOLITAN AREA ~~TOWNS~~ MUNICIPALITIES.] ~~At-any~~  
35 ~~election-of-town-officers,-in-a-town~~ The governing body of a  
36 municipality which is located within a metropolitan county as

1 defined by section 473.121, ~~the town board, by resolution~~  
2 ~~adopted prior to giving notice of the election,~~ may designate  
3 the time during which the polling places will remain open for  
4 voting at the next succeeding and all subsequent town municipal  
5 elections, provided that the polling places shall open no later  
6 than 10:00 a.m. and shall close no earlier than 8:00 p.m. The  
7 resolution shall remain in force until it is revoked by the town  
8 board municipal governing body.

9 Subd. 3. [~~OTHER TOWNS MUNICIPALITIES.~~] ~~In any election of~~  
10 ~~town officers in a town~~ The governing body of a municipality  
11 other than a town municipality described in subdivision 2, the  
12 ~~town board,~~ may by resolution adopted prior to giving notice of  
13 the election, ~~may~~ designate the time, ~~in no event less than~~  
14 three hours addition to the minimum voting hours provided in  
15 subdivision 1, during which the polling places will remain open  
16 for voting at the next succeeding and all subsequent town  
17 municipal elections. The resolution shall remain in force until  
18 it is revoked by the ~~town board~~ municipal governing body or  
19 changed because of request by voters as provided in this  
20 subdivision. If a petition requesting longer voting hours,  
21 signed by a number of voters equal to 20 percent of the votes  
22 cast at the last town municipal election, is presented to the  
23 town municipal clerk no later than 30 days prior to the town  
24 municipal election, then the polling places for that election  
25 shall open at 10:00 a.m. and close at 8:00 p.m. The town  
26 municipal clerk shall give ten days notice of the changed voting  
27 hours and notify the county auditor of the change. ~~Towns~~  
28 Municipalities covered by this subdivision shall certify their  
29 election hours to the county auditor in January of each year.

30 Sec. 16. Minnesota Statutes 1992, section 205A.03,  
31 subdivision 1, is amended to read:

32 Subdivision 1. [RESOLUTION.] The school board of a school  
33 district may, by resolution adopted ~~at least 12 weeks before the~~  
34 ~~next school district general election~~ by June 1 of any year,  
35 decide to choose nominees for school district elective offices  
36 by a primary as provided in subdivisions 1 to 6. The

1 resolution, when adopted, is effective for all ensuing elections  
2 of board members in that school district until it is revoked.

3 Sec. 17. Minnesota Statutes 1992, section 205A.03,  
4 subdivision 2, is amended to read:

5 Subd. 2. [DATE.] The school district primary must be  
6 ~~held at a time designated by the school board in the resolution~~  
7 ~~adopting the primary system, but no later than six weeks~~  
8 before on the first Tuesday after the second Monday in September  
9 in the year when the school district general election is held.  
10 The clerk shall give notice of the primary in the manner  
11 provided in section 205A.07.

12 Sec. 18. Minnesota Statutes 1992, section 205A.04,  
13 subdivision 1, is amended to read:

14 Subdivision 1. [SCHOOL DISTRICT GENERAL ELECTION.] Except  
15 ~~as may be provided in a special law or charter provision to the~~  
16 ~~contrary,~~ The general election in each school district must be  
17 ~~held on the third Tuesday in May, unless the school board~~  
18 ~~provides by resolution for holding the school district general~~  
19 ~~election on the first Tuesday after the first Monday in November~~  
20 of either the odd-numbered or the even-numbered year. When the  
21 ~~time of a school district's general election is changed from May~~  
22 ~~to November, the terms of all board members shall be lengthened~~  
23 ~~to expire on January 1, when the time of a school district's~~  
24 ~~general election is changed from November to May, the terms of~~  
25 ~~all board members shall be shortened to expire on July 1.~~  
26 ~~Whenever the time of a school district election is changed, the~~  
27 ~~school district clerk shall immediately notify in writing the~~  
28 ~~county auditor or auditors of the counties in which the school~~  
29 ~~district is located and the secretary of state of the change of~~  
30 ~~date.~~

31 Sec. 19. Minnesota Statutes 1992, section 205A.06,  
32 subdivision 1, is amended to read:

33 Subdivision 1. [AFFIDAVIT OF CANDIDACY.] ~~Not more than ten~~  
34 ~~nor less than eight weeks before a school district primary, or~~  
35 ~~before the school district general election if there is no~~  
36 ~~school district primary,~~ An individual who is eligible and

1 desires to become a candidate for an office to be voted on at  
2 the election must file an affidavit of candidacy with the school  
3 district clerk. The affidavit must be in substantially the same  
4 form as that in section 204B.06, subdivision 1. The school  
5 district clerk shall also accept an application signed by at  
6 least five voters and filed on behalf of an eligible voter in  
7 the school district whom they desire to be a candidate, if  
8 service of a copy of the application has been made on the  
9 candidate and proof of service is endorsed on the application  
10 being filed. No individual shall be nominated by nominating  
11 petition for a school district elective office except in the  
12 event of a vacancy in nomination as provided in section 205A.03,  
13 subdivision 6. Upon receipt of the proper filing fee, the clerk  
14 shall place the name of the candidate on the official ballot  
15 without partisan designation.

16 Sec. 20. Minnesota Statutes 1992, section 205A.06, is  
17 amended by adding a subdivision to read:

18 Subd. 1a. [FILING PERIOD.] In school districts nominating  
19 candidates at a school district primary, affidavits of candidacy  
20 may be filed with the school district clerk no earlier than the  
21 70th day and no later than the 56th day before the first Tuesday  
22 after the second Monday in September in the year when the school  
23 district general election is held. In all other school  
24 districts, affidavits of candidacy must be filed not more than  
25 70 days and not less than 56 days before the school district  
26 general election.

27 Sec. 21. Minnesota Statutes 1992, section 205A.09,  
28 subdivision 2, is amended to read:

29 Subd. 2. [OTHER SCHOOL DISTRICTS.] At a school district  
30 election in a school district other than one described in  
31 subdivision 1, the school board, by resolution adopted before  
32 giving notice of the election, may designate the time, ~~in no~~  
33 ~~event-less-than-three-hours,~~ during which the polling places  
34 will remain open for voting at the next succeeding and all later  
35 school district elections. All polling places must be open  
36 between the hours of 5:00 p.m. and 8:00 p.m. The resolution

1 must remain in force until it is revoked by the school board or  
2 changed because of request by voters as provided in this  
3 subdivision. If a petition requesting longer voting hours,  
4 signed by a number of voters equal to 20 percent of the votes  
5 cast at the last school district election, is presented to the  
6 school district clerk no later than 30 days before a school  
7 district election, then the polling places for that election  
8 must open at 10:00 a.m. and close at 8:00 p.m. The school  
9 district clerk must give ten days' published notice and posted  
10 notice of the changed voting hours and notify appropriate county  
11 auditors of the change.

12 Sec. 22. Minnesota Statutes 1993 Supplement, section  
13 206.90, subdivision 6, is amended to read:

14 Subd. 6. [BALLOTS.] In precincts using optical scan voting  
15 systems, a single ballot card on which all ballot information is  
16 included must be printed in black ink on white or-buff colored  
17 material except that marks not to be read by the automatic  
18 tabulating equipment may be printed in another color ink. ~~If~~  
19 ~~more-than-one-ballot-card-is-required; the-cards-must, so-far-as~~  
20 ~~practicable, be-of-the-same-color-as-is-required-for-paper~~  
21 ~~ballots.~~

22 When optical scan ballots are used, the offices to be  
23 elected must appear in the following order: federal offices;  
24 state legislative offices; constitutional offices; proposed  
25 constitutional amendments; county offices and questions;  
26 municipal offices and questions; school district offices and  
27 questions; special district offices and questions; and judicial  
28 offices.

29 Sec. 23. Minnesota Statutes 1992, section 365.51,  
30 subdivision 1, is amended to read:

31 Subdivision 1. [WHEN; BAD WEATHER.] A town's annual town  
32 meeting must be held on the second Tuesday of March at the place  
33 named by the last annual town meeting. If no place was named  
34 then, the meeting must be held at the place named by the town  
35 board. The place may be outside the town if the place is within  
36 five miles of a town boundary. If there is bad weather on the

1 day of the meeting and election in March, the town board shall  
2 set the meeting and election for the third Tuesday in March. If  
3 there is bad weather on the third Tuesday in March, the town  
4 board shall set another date for the meeting and election within  
5 30 days of the third Tuesday in March. If the meeting and  
6 election are postponed, the notice requirements in subdivision 2  
7 shall apply to the postponed meeting and election.

8 The balloting of the town election must be concluded on the  
9 same day the election is commenced.

10 Sec. 24. Minnesota Statutes 1992, section 365.51,  
11 subdivision 3, is amended to read:

12 Subd. 3. [OFFICERS; OTHER BUSINESS.] An annual town  
13 election shall be held on the same day as the annual town  
14 meeting to elect all town officers required by law to be  
15 elected, except as provided in section 205.075, subdivision 2.  
16 Other town business shall be conducted at the town meeting as  
17 provided by law.

18 Sec. 25. Minnesota Statutes 1992, section 367.03, as  
19 amended by Laws 1993, chapter 24, section 1, is amended to read:

20 367.03 [OFFICERS ELECTED AT ANNUAL ELECTION; VACANCIES.]

21 Subdivision 1. [~~OFFICERS~~ SUPERVISORS, TERMS.] Except in  
22 towns operating under option A or in towns operating as provided  
23 in subdivision 4, three supervisors shall be elected in each  
24 town at the town general election as provided in this section.  
25 Each supervisor shall be elected for a term of three years.

26 Subd. 2. [NEW TOWNS.] When a new town is organized and  
27 supervisors are elected at a town meeting prior to the annual  
28 town election, they shall serve only until the next annual town  
29 election. At that election three supervisors shall be elected,  
30 one for three years, one for two years, and one for one year, so  
31 that the term of one shall expire each year. The number of  
32 years for which each is elected shall be indicated on the ballot.

33 Subd. 3. [SUPERVISORS; TOWNS UNDER OPTION A.] When two  
34 supervisors are to be elected for three-year terms under option  
35 A, a candidate shall indicate on the affidavit of candidacy  
36 which of the two offices the candidate is filing for. At

1 following annual town elections one supervisor shall be elected  
2 for three years to succeed the one whose term expires at that  
3 time and shall serve until a successor is elected and qualified.

4 Subd. 4. [OFFICERS; METROPOLITAN TOWNS.] Supervisors and  
5 other town officers in towns located in the metropolitan area as  
6 defined in section 473.121 that hold the town general election  
7 in November shall be elected for terms of four years and until  
8 their successors are elected and qualified. The clerk and  
9 treasurer shall be elected in alternate years.

10 Subd. 5. [ELECTION OF CLERK, TREASURER.] Except in towns  
11 operating under option B or option D, or both, or in towns  
12 operating as provided in subdivision 4, at the annual town  
13 election in even-numbered years one town clerk and at the annual  
14 town election in odd-numbered years one town treasurer shall be  
15 elected. The clerk and treasurer each shall serve for two years  
16 and until their successors are elected and qualified.

17 Subd. 2 6. [VACANCIES.] When a vacancy occurs in a town  
18 office, the town board shall fill the vacancy by appointment.  
19 The person appointed shall hold office until the next annual  
20 town election, when a successor shall be elected for the  
21 unexpired term. A vacancy in the office of supervisor shall be  
22 filled by the remaining supervisors and the town clerk until the  
23 next annual town election, when a successor shall be elected for  
24 the unexpired term. When, because of a vacancy, more than one  
25 supervisor is to be chosen at the same election, candidates for  
26 the offices of supervisor shall file for one of the specific  
27 terms being filled. Law enforcement vacancies shall be filled  
28 by appointment by the town board.

29 Sec. 26. [TRANSITION SCHEDULE FOR EVEN-YEAR ELECTIONS.]

30 Subdivision 1. [APPLICATION.] The transition schedule in  
31 this section applies to political subdivisions that choose,  
32 before January 1, 1995, to conduct their primary and general  
33 elections in the even-numbered years. A political subdivision  
34 that later determines to change from an odd-numbered year  
35 election to an even-numbered year election may do so by adoption  
36 of a new resolution or ordinance that contains an orderly plan

1 for the transition.

2       Subd. 2. [CITY OFFICES.] For city officials elected in  
3 1995, the governing body of the city shall select by lot the  
4 officials whose terms of office will expire on the first Monday  
5 in January of 1999 or on the first Monday in January of 2001.  
6 To the extent practicable, the terms of one-half of the members  
7 of the governing body to be elected in 1995 must expire in  
8 January of 1999. The governing body of the city must complete  
9 the selection required by this paragraph no later than 30 days  
10 before the first day to file affidavits of candidacy for the  
11 election in 1995.

12       The terms of all city officials elected at a general  
13 election in 1996 expire on the first Monday in January of 2001.  
14 The terms of all city officials elected at a general election in  
15 1998 expire on the first Monday in January of 2003.

16       For city officials elected in 1997, the governing body of  
17 the city shall select by lot the officials whose terms of office  
18 will expire on the first Monday in January of 2001 or on the  
19 first Monday in January of 2003. To the extent practicable, the  
20 terms of one-half of the members of the governing body to be  
21 elected in 1997 must expire in January 2001. The governing body  
22 of the city must complete the selection required by this  
23 paragraph no later than 30 days before the first day to file  
24 affidavits of candidacy for the election in 1997.

25       Subd. 3. [SCHOOL BOARD MEMBERS.] The terms of all school  
26 board members elected in 1996 expire on the first Monday in  
27 January of 2001. The terms of all school board members elected  
28 in 1998 expire on the first Monday in January of 2003.

29       The terms of office of school board members elected in 1995  
30 expire on the first Monday in January of 1999 or 2001, as  
31 provided in this paragraph. The governing body of the school  
32 district shall select by lot the board members whose terms will  
33 expire in January of 1999 or January of 2001. To the extent  
34 practicable, one-half of the members elected in 1995 must expire  
35 in January of 1999. The governing body of the school district  
36 must complete the selection required by this paragraph no later



1 than 30 days before the first day to file affidavits of  
2 candidacy for the election in 1995.

3 The terms of office of school board members elected in 1997  
4 expire on the first Monday in January of 2001 or 2003, as  
5 provided in this paragraph. The governing body of the school  
6 district shall select by lot the board members whose terms will  
7 expire in January of 2001 or January of 2003. To the extent  
8 practicable, one-half of the members elected in 1997 must expire  
9 in January of 2001.

10 Subd. 4. [SPECIAL DISTRICT OFFICES.] The terms of office  
11 of special district officials elected in 1995 expire on the  
12 first Monday in January of 1999 or 2001, as provided in this  
13 paragraph. The governing body of the district shall select by  
14 lot the officials whose terms will expire in January of 1999 or  
15 January of 2001. To the extent practicable, the terms of  
16 one-half of the officials to be elected in 1995 must expire in  
17 January of 1999. The governing body of the district must  
18 complete the selection required by this paragraph no later than  
19 30 days before the first day to file affidavits of candidacy for  
20 the election in 1995.

21 The terms of all special district officials elected in 1996  
22 expire on the first Monday in January of 2001. The terms of all  
23 special district officials elected in 1998 expire on the first  
24 Monday in January of 2003.

25 The terms of office of special district officials elected  
26 in 1997 expire on the first Monday in January of 2001 or 2003,  
27 as provided in this paragraph. The governing body of the  
28 district shall select by lot the officials whose terms will  
29 expire in January of 2001 or January of 2003. To the extent  
30 practicable, the terms of one-half of the officials to be  
31 elected in 1997 must expire in January of 2001. The governing  
32 body of the district must complete the selection required by  
33 this paragraph no later than 30 days before the first day to  
34 file affidavits of candidacy for the election in 1997.

35 Sec. 27. [TRANSITION SCHEDULE FOR ODD-YEAR ELECTIONS.]

36 Subdivision 1. [APPLICATION.] The transition schedule in

1 this section applies to political subdivisions that do not  
2 choose, before January 1, 1995, to conduct their primary and  
3 general elections in the even-numbered years. A political  
4 subdivision that later determines to change from an  
5 even-numbered year election to an odd-numbered year election may  
6 do so by adoption of a new resolution or ordinance that contains  
7 an orderly plan for the transition.

8       Subd. 2. [CITY OFFICES.] For city officials elected in  
9 1996, the governing body of the city shall select by lot the  
10 officials whose terms of office will expire on the first Monday  
11 in January of 2000 or on the first Monday in January of 2002.  
12 To the extent practicable, the terms of one-half of the members  
13 of the governing body to be elected in 1996 must expire in  
14 January of 2000. The governing body of the city must complete  
15 the selection required by this paragraph no later than 30 days  
16 before the first day to file affidavits of candidacy for the  
17 election in 1996.

18       The terms of all city officials elected at a general  
19 election in 1997 expire on the first Monday in January of 2002.  
20 The terms of all city officials elected at a general election in  
21 1999 expire on the first Monday in January of 2004.

22       For city officials elected in 1998, the governing body of  
23 the city shall select by lot the officials whose terms of office  
24 will expire on the first Monday in January of 2002 or on the  
25 first Monday in January of 2004. To the extent practicable, the  
26 terms of one-half of the members of the governing body to be  
27 elected in 1998 must expire in January 2002. The governing body  
28 of the city must complete the selection required by this  
29 paragraph no later than 30 days before the first day to file  
30 affidavits of candidacy for the election in 1998.

31       Subd. 3. [SCHOOL BOARD MEMBERS.] The terms of all school  
32 board members elected in 1997 expire on the first Monday in  
33 January of 2002. The terms of all school board members elected  
34 in 1999 expire on the first Monday in January of 2004.

35       The terms of office of school board members elected in 1996  
36 expire on the first Monday in January of 2000 or 2002, as

1 provided in this paragraph. The governing body of the school  
2 district shall select by lot the board members whose terms will  
3 expire in January of 2000 or January of 2002. To the extent  
4 practicable, one-half of the members elected in 1996 must expire  
5 in January of 2000. The governing body of the school district  
6 must complete the selection required by this paragraph no later  
7 than 30 days before the first day to file affidavits of  
8 candidacy for the election in 1996.

9       Subd. 4. [SPECIAL DISTRICT OFFICES.] The terms of office  
10 of special district officials elected in 1996 expire on the  
11 first Monday in January of 2000 or 2002, as provided in this  
12 paragraph. The governing body of the district shall select by  
13 lot the officials whose terms will expire in January of 2000 or  
14 January of 2002. To the extent practicable, the terms of  
15 one-half of the officials to be elected in 1996 must expire in  
16 January of 2000. The governing body of the district must  
17 complete the selection required by this paragraph no later than  
18 30 days before the first day to file affidavits of candidacy for  
19 the election in 1996.

20       The terms of all special district officials elected in 1997  
21 expire on the first Monday in January of 2002. The terms of all  
22 special district officials elected in 1999 expire on the first  
23 Monday in January of 2004.

24       The terms of office of special district officials elected  
25 in 1998 expire on the first Monday in January of 2002 or 2004,  
26 as provided in this paragraph. The governing body of the  
27 district shall select by lot the officials whose terms will  
28 expire in January of 2002 or January of 2004. To the extent  
29 practicable, the terms of one-half of the officials to be  
30 elected in 1998 must expire in January of 2002. The governing  
31 body of the district must complete the selection required by  
32 this paragraph no later than 30 days before the first day to  
33 file affidavits of candidacy for the election in 1998.

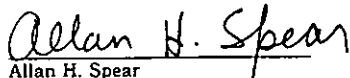
34       Sec. 28. [REPEALER.]

35       Minnesota Statutes 1992, sections 205.065, subdivision 3;  
36 205.18; 205.20; and 205A.04, subdivision 2, are repealed.

1       Sec. 29. [EFFECTIVE DATE.]

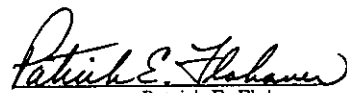
2       Sections 4, 6, and 17 to 20 are effective on January 1,  
3 1998. Section 2 is effective for school board members elected  
4 after January 1, 1995.

This bill was passed in conformity to the rules of each house and the joint rules of the two houses as required by the Constitution of the State of Minnesota.

  
Allan H. Spear  
*President of the Senate.*

  
Irvin N. Anderson  
*Speaker of the House of Representatives.*

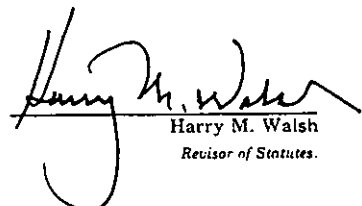
Passed the Senate on May 6, 1994.

  
Patrick E. Flahaven  
*Secretary of the Senate.*


Passed the House of Representatives on May 6, 1994.

  
Edward A. Burdick  
*Chief Clerk, House of Representatives.*

This bill is properly enrolled and was presented to the Governor on May 9, 1994.

  
Harry M. Walsh  
*Revisor of Statutes.*

Approved on May 16, 1994, at 3:14 P. M.

  
Arne H. Carlson  
*Governor.*

Filed on May 16, 1994.

  
Joan Anderson Growe  
*Secretary of State.*

1 8200.3900 PROCESSING OF NATIONAL VOTER REGISTRATION ACT  
2 APPLICATIONS.

3 All county auditors shall accept voter registration  
4 applications on forms prescribed by the Federal Election  
5 Commission as provided by the National Voter Registration Act if  
6 the application is from a person eligible to vote in Minnesota,  
7 and includes the registrant's name, address in Minnesota,  
8 previous address (if any), date of birth, registrant's  
9 signature, and the date of registration. The application must  
10 be processed and stored by the county auditor in the same manner  
11 as a Minnesota voter registration card.

12 8200.9115 FORM OF POLLING PLACE ROSTERS.

13 [For text of subps 1 and 2, see M.R.]

14 Subp. 3. Production of rosters. The Secretary of State  
15 shall identify and develop methods of producing polling place  
16 rosters. The Secretary of State shall provide polling place  
17 rosters for each election in the state. The roster may be  
18 provided to the county auditor on paper or computer tape or  
19 other electronic medium.

20 8200.9305 ADMINISTRATION OF STATEWIDE REGISTRATION SYSTEM.

21 The Secretary of State shall develop and operate a  
22 centralized database of all registered voters in the state of  
23 Minnesota. The database must be available to each county in the  
24 state through a statewide registration system provided by the  
25 Secretary of State. The registration system must allow the  
26 county auditors to add, change, and delete information from the  
27 system in order to maintain an accurate database of  
28 registrants. The system must provide all county auditors and  
29 the Secretary of State with a method to view and search  
30 registration information.

31 A county auditor must use the statewide registration system  
32 to execute the duties of chief registrar of voters and chief  
33 custodian of registration records in the auditor's county.

34 8200.9310 PROCESSING OF COMPLETED VOTER REGISTRATION CARDS.

1 A completed voter registration card may be returned to any  
2 state agency or county auditor. The Secretary of State shall  
3 provide training to state agencies on the proper forwarding of  
4 completed voter registration cards. Completed registration  
5 cards received by the Secretary of State must be forwarded to  
6 the appropriate county auditor for entry into the statewide  
7 registration system. With the approval of the appropriate  
8 county auditor, the Secretary of State shall enter the  
9 registration cards into the statewide registration system for  
10 that county.

11 The Secretary of State may electronically transmit the  
12 information on the voter registration cards to the appropriate  
13 county auditor. The county auditor shall promptly enter the  
14 information into the statewide registration system. The  
15 original registration cards submitted to the Secretary of State  
16 must be maintained either by the Secretary of State or by the  
17 appropriate county auditor. Voter registration cards must be  
18 stored in either paper, microfilm, or electronic format.

19 The Secretary of State shall have full access to all  
20 functions of the statewide registration system and may, with the  
21 authorization of the county, add, change, or delete registration  
22 records or other information in the system.

23 8200.9315 PROCEDURE FOR ENTERING DATA INTO STATEWIDE  
24 REGISTRATION SYSTEM.

25 When entering information from a voter registration card  
26 into the statewide registration system, the Secretary of State  
27 or county auditor shall:

28 A. conduct a statewide search of the registration  
29 database to determine if the registrant has previously  
30 registered in Minnesota;

31 B. assign the registrant to the proper voting  
32 precinct for the address provided on the registration card;

33 C. determine all election districts in which the  
34 registrant will be eligible to vote;

35 D. notify the appropriate county auditor if the

1 registrant has moved from another county in the state in which  
2 the registrant was previously registered;

3 E. assign the registration record a unique  
4 identification number, and date the record as to when the  
5 registration was entered into the registration database;

6 F. maintain a record of voting history of the  
7 registrant for at least the previous six calendar years and a  
8 record of previous registrations and changes to voter status in  
9 the state for at least two years; and

10 G. provide information on prior registrations in  
11 other states. At periodic intervals, the Secretary of State  
12 shall notify the chief election officials of other states of  
13 individuals who have registered to vote in Minnesota and who  
14 indicated a prior registration in their state.

15 The Secretary of State shall establish a precinct finder  
16 that must be maintained by each county auditor. The precinct  
17 finder must identify the voting precinct that will be assigned  
18 to the registrant. For the purposes of redistricting, the  
19 Secretary of State shall include geographical data from the  
20 United States Census Bureau in the precinct finder.

21 8200.9320 INTERACTION WITH DEPARTMENT OF PUBLIC SAFETY.

22 The Secretary of State, in cooperation with the  
23 commissioner of public safety, shall develop a single unified  
24 application for use by the Department of Public Safety to permit  
25 eligible voters who have indicated they wish to register to vote  
26 to simultaneously register to vote and apply for a driver's  
27 license or state identification card. The Secretary of State  
28 and the commissioner of public safety may access a common  
29 database of information entered from this application.

30 The information from the unified application for voter  
31 registration and a driver's license or state identification card  
32 must be transferred electronically from the commissioner of  
33 public safety to the Secretary of State. The Secretary of State  
34 shall make available to each county auditor the data necessary  
35 to add or update a voter record on the statewide registration



1 system. The county auditor shall process the data in the manner  
2 provided in part 8200.9315.

3 8200.9325 SECURITY FOR STATEWIDE REGISTRATION SYSTEM.

4 All authorized users of the statewide registration system  
5 must be identified uniquely in the manner provided by the  
6 Secretary of State. No access to the statewide registration  
7 system will be allowed to any person not identified as an  
8 authorized user of the system.

9 To ensure that information obtained from the statewide  
10 registration system is being used in the manner provided by law,  
11 the Secretary of State shall insert verification records into  
12 the statewide registration system. The verification records  
13 must not be included on any master list or polling place  
14 roster. If the Secretary of State has reason to believe that  
15 information obtained from the statewide registration system was  
16 used in a manner inconsistent with Minnesota Statutes, section  
17 201.091, a report must be immediately transmitted to the  
18 appropriate county attorney.

19 8200.9953 REQUEST FOR COPIES OF PUBLIC INFORMATION LISTS,  
20 SPECIFIED BY PART 8200.6100.

21 To the Auditor of \_\_\_\_\_ County  
22 County Courthouse  
23 \_\_\_\_\_ (County Seat), Minnesota  
24

25 I hereby request copies of the lists of registered voters  
26 for the following precincts: \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_

29 (attach additional sheets if necessary).

30 My name is \_\_\_\_\_.

31 I reside at \_\_\_\_\_ (Street  
32 address) \_\_\_\_\_ (City or Township).

33 I certify that I am a registered voter in Minnesota. I am  
34 aware that using the public information lists of voters for  
35 purposes not related to elections, political activities, or law  
36 enforcement is a violation of the law. I am also aware that any  
37 individual who subsequently acquires the public list of

1 registered voters from me may only use that information for the  
2 purposes listed above. Any individual who acquires the public  
3 information lists of registered voters from me must first  
4 certify to the Secretary of State that the information in those  
5 lists will only be used for the purposes allowed in Minnesota  
6 election law.

7  
8  
9

/ /  
(Date)

\_\_\_\_\_  
(Signature)

10 8210.0700 ABSENTEE BALLOT RETURN ENVELOPE AS PROVIDED BY  
11 MINNESOTA STATUTES, SECTIONS 203B.04 TO 203B.15.

12 Subpart 1. Form. The absentee ballot return envelope must  
13 be printed in the form shown in part 8210.9945.

14 [For text of subps 2 to 6, see M.R.]

15 Subp. 7. Ward and precinct number. The official mailing  
16 or delivering absentee ballots to an absent voter shall, before  
17 doing so, fill in the absent voter's ward and precinct number in  
18 the spaces provided on the left-hand end of the return envelope.

19 [For text of subp 8, see M.R.]

20 8210.3000 MAIL BALLOTING.

21 [For text of subps 1 to 3, see M.R.]

22 Subp. 4. Mailing ballots. The county auditor, municipal  
23 clerk, or school district clerk shall mail ballots to the voters  
24 registered in the municipality or unorganized territory. A  
25 ballot mailing must be sent to each registered voter no earlier  
26 than 20 or later than 14 days prior to the election. No ballot  
27 may be mailed to a challenged voter.

28 Ballots must be sent by nonforwardable mail. Ballots for  
29 eligible voters who reside in health care facilities may be  
30 delivered as provided in Minnesota Statutes, section 203B.11.  
31 The ballot mailing must be addressed to the voter at the voter's  
32 residence address as shown on the registration file unless the  
33 voter completes an absentee ballot request as provided in  
34 Minnesota Statutes, section 203B.04.

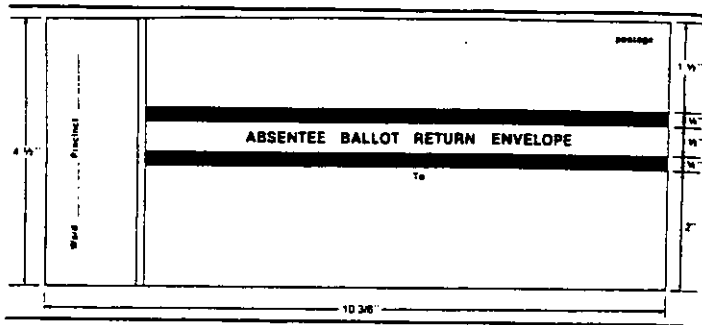
35 A return envelope, a ballot secrecy envelope, and  
36 instructions for marking and returning mail ballots must be

1 included with the ballots. At the request of the secretary of  
 2 state, a survey card that the voter can return to the secretary  
 3 of state must also be included. The ballot return envelope must  
 4 be printed with the mail voter's certificate. The ballot return  
 5 envelope must be addressed for return to the county auditor as  
 6 specified in part 8210.0700, subpart 4. First class postage  
 7 must be affixed to the return envelope.

8 [For text of subps 4a to 12, see M.R.]

9 8210.9945 ABSENTEE BALLOT RETURN ENVELOPE, SPECIFIED BY PART  
 10 8210.0700.

11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20



21 8235.0300 NOTICE.

22 Within 24 hours after determining that an automatic recount  
 23 is required or within 48 hours of receipt of a written request  
 24 for a recount and filing of a security deposit if one is  
 25 required, the official in charge of the recount shall send  
 26 notice to the candidates for the office to be recounted and the  
 27 county auditor of each county wholly or partially within the  
 28 election district. The notice must include the date, starting  
 29 time, and location of the recount, the office to be recounted,  
 30 and the name of the official performing the recount. The notice  
 31 must state that the recount is open to the public, and in case  
 32 of an automatic recount, that the losing candidate may waive the  
 33 recount.

34 8250.0365 FORM OF PINK BALLOT.

1 Subpart 1. General form. The ballot for constitutional  
2 amendments must be prepared in the same manner as the white  
3 ballot, except as provided in this part. Ballot pages and  
4 ballot cards for electronic voting systems must be prepared in  
5 the manner provided for paper ballots to the extent practicable.

6 Subp. 2. Ballot heading. The words "CONSTITUTIONAL  
7 AMENDMENT BALLOT" must be printed at the top of the ballot.  
8 Directly below the heading will be a bold dividing line running  
9 the width of the ballot. The following statement shall be  
10 beneath the dividing line and printed in upper and lower case:  
11 "Failure to vote on a constitutional amendment, will have the  
12 same effect as voting no for the amendment." A bold dividing  
13 line running the width of the ballot shall be immediately below  
14 the statement.

15 Subp. 3. Instructions to voters. The following  
16 instructions must be printed directly below the statement  
17 required in subpart 2. "To vote for a proposed constitutional  
18 amendment, put an (X) in the square before the word "YES" at the  
19 left of the proposition. To vote against a proposed  
20 constitutional amendment, put an (X) in the square before the  
21 word "NO." A bold dividing line running the width of the  
22 ballot must appear immediately below the instructions.

23 8250.0370 FORM OF CANARY BALLOT.

24 Subpart 1. General form. The canary ballot must be  
25 prepared in the same manner as the white ballot, except as  
26 provided in this part. Ballot pages and ballot cards for  
27 electronic voting systems must be prepared in the manner  
28 provided for paper ballots to the extent practicable.

29 Subp. 2. Ballot order. County offices must be listed  
30 first on the canary ballot in the following order: county  
31 commissioner, county auditor, county treasurer, county recorder,  
32 county sheriff, county attorney, county coroner, and county  
33 surveyor. Special district offices must follow the last county  
34 office. Judicial offices must follow special district offices  
35 and appear in the following order: chief justice - supreme

1 court, associate justice - supreme court, judge - court of  
2 appeals, and judge - district court. Where judicial seats are  
3 designated by number, the offices must be listed in numerical  
4 order. Optical scan ballots must be prepared in the order  
5 provided in Minnesota Statutes, chapter 206. County and  
6 judicial offices for which there is only one candidate will  
7 appear in the manner provided in Minnesota Statutes, section  
8 204D.14.

9 Subp. 3. **Ballot size.** The canary ballot must be 5-1/4  
10 inches wide and no more than 30 inches long.

11 8250.0375 FORM OF GRAY BALLOT.

12 Subpart 1. **General form.** The judicial nonpartisan office  
13 ballot must only be used if the canary ballot exceeds 30 inches  
14 in length, except in counties using optical scan ballots, when  
15 the gray ballot may be prepared at the discretion of the county  
16 auditor. The ballot for judicial nonpartisan offices must be  
17 prepared in the same manner as the white ballot, except as  
18 provided in this part. Ballot pages and ballot cards for  
19 electronic voting systems must be prepared in the manner  
20 provided for paper ballots to the extent practicable.

21 Subp. 2. **Ballot order.** Offices appearing on the gray  
22 ballot must be listed in the order provided by part 8250.0370,  
23 subpart 2.

24 8255.0025 CORRECTION OF PRECINCT BOUNDARIES NOT BASED ON  
25 RECOGNIZABLE PHYSICAL FEATURES.

26 The Secretary of State shall monitor precinct boundaries  
27 within the state. If a precinct boundary is not in compliance  
28 with the requirements of Minnesota Statutes, section 204B.14,  
29 the Secretary of State shall notify the county auditor or  
30 municipal clerk who established the boundary of the error and  
31 provide a map showing a suggested boundary that meets all  
32 statutory requirements. The governing body responsible for the  
33 precinct has 60 days from the time of notice to adopt the  
34 precinct boundary suggested by the Secretary of State, or create  
35 another boundary that meets all statutory requirements. If the

08/23/94

[REVISOR ] CEL/CS AR2400ST

- 1 governing body fails to act within 60 days, the precinct
- 2 boundary is, by default, the boundary suggested by the Secretary
- 3 of State.
  
- 4 REPEALER. Minnesota Rules, part 8210.9940, is repealed.

**NEW  
DOCUMENT**

1 Secretary of State

2

3 Adopted Permanent Rule Governing Additional Proof of Residence

4

5 Rule as Adopted

6 8200.5100 REGISTRATION AT PRECINCT ONLY.

7 Subpart 1. Procedure; proof. Any person otherwise  
8 qualified but not registered to vote in the precinct in which  
9 the person resides may register to vote on election day at the  
10 polling place of the precinct in which the person resides in  
11 areas with voter registration. To register on election day a  
12 person must complete and sign the original card, sign the  
13 duplicate card, and provide proof of residence. A person may  
14 prove residence on election day only (1) by presenting (i) a  
15 valid Minnesota driver's license, learner's permit, or a receipt  
16 for either that contains the voter's valid address in the  
17 precinct; (ii) a valid Minnesota identification card issued by  
18 the Minnesota Department of Public Safety or a receipt for the  
19 identification card that contains the voter's valid address in  
20 the precinct; or (iii) a current student identification card  
21 that contains the student's valid address in the precinct, a  
22 current student fee statement that contains the student's valid  
23 address in the precinct, or a copy of a current student  
24 registration card that contains the student's valid address in  
25 the precinct; (2) by having a valid registration in the same  
26 precinct under a different address; (3) by presenting an  
27 "ineffective registration notice" mailed by the county auditor  
28 or municipal clerk; or (4) by having a person who is registered  
29 to vote in the precinct and knows the applicant is a resident of  
30 the precinct sign the oath in part 8200.9939.

31 The oath in (4) must be attached to the voter registration  
32 card until the address of the applicant is verified by the  
33 county auditor. The oath must be printed on a four-inch by  
34 six-inch card by the county auditor. After every election day  
35 the county auditor shall file the oaths and maintain them for



1 one year.

2 Subp. 2. ~~Optional~~ Additional proof of residence  
3 allowed. ~~In-a-precinct-including-student-housing, the county~~  
4 ~~auditor-may-provide-that~~ An eligible voter may also prove  
5 residence by presenting a current valid photo identification  
6 issued by a postsecondary educational institution in Minnesota  
7 if the voter's name, student identification number (if  
8 available), and address within the precinct appear on a current  
9 list of persons residing in the institution's housing certified  
10 to the county auditor by the educational institution.

11 This ~~optional~~ additional proof of residence must not be  
12 allowed unless the educational institution submits to the county  
13 auditor no later than 60 days prior to the election a written  
14 agreement that the educational institution will certify for use  
15 at the election accurate updated lists of persons residing in  
16 housing owned, operated, leased, or otherwise controlled by the  
17 institution. A written agreement is effective for the election  
18 and all subsequent elections held in that calendar year.

19 The additional proof of residence must be allowed on an  
20 equal basis for voters resident in housing of any postsecondary  
21 education institution within the county, if lists certified by  
22 the institution meet the requirements of this part.

23 An updated list must be certified to the county auditor no  
24 earlier than 20 days prior to each election. The certification  
25 must be dated and signed by the chief officer or designee of the  
26 institution and must state that the list is current and accurate  
27 and includes only the names of persons residing as of the date  
28 of the certification in housing controlled by the institution.

29 The auditor shall instruct the election judges of the  
30 precinct in procedures for use of the list in conjunction with  
31 photo identification. The auditor shall supply a list to the  
32 election judges with the election supplies for the precinct.

33 The auditor shall notify all postsecondary educational  
34 institutions in the county of the provisions of this subpart.

APPROVED IN THE  
REVISOR OF STATUTES  
OFFICE BY:

1 Secretary of State  
2  
3 Proposed Permanent Rules Relating to Optical Scan Voting Systems  
4  
5 Rules as Proposed

6 8220.0750 PREPARATION OF COMPUTER PROGRAMS.

7 Computer programs must be prepared so as to tabulate  
8 accurately each voter's choices for all candidates, offices, and  
9 measures for which the voter is lawfully entitled to vote in  
10 conformity with the laws of Minnesota and parts 8220.0050 to  
11 8230.4250.

12 Computer programs must include instructions requiring that  
13 machine-readable precinct identification be required on all  
14 ballot cards. Two identical header cards may precede the deck  
15 of ballot cards of each precinct. The program may provide that  
16 if two identical header cards do not appear in front of the  
17 ballot cards of a precinct, no counting of ballots for that  
18 precinct may take place.

19 A data processing card may follow the ballots of each  
20 precinct instructing the computer that all ballots of the  
21 precinct have been counted. The program may provide that if  
22 header cards contain instructions to the computer that all  
23 ballots of the preceding precinct have been counted, no separate  
24 end card is needed.

25 The vote tabulation portion of the computer program must be  
26 prepared as follows:

27 A. to H. [Unchanged.]

28 I. If the counting equipment can examine and return a  
29 ballot card to the voter before counting it, the computer  
30 program must check for and reject without counting any ballot  
31 card with an overvote or, at a partisan primary, with votes cast  
32 for candidates of more than one party. When the ballot card is  
33 returned to a voter, an error message must indicate the type of  
34 defect but not the specific office or question where the  
35 defective condition was found.

APPROVED IN THE  
REVISOR OF STATUTES  
OFFICE BY:

1           J. When a write-in vote is indicated by a  
2 machine-readable punch or mark, a punch or mark indicating a  
3 write-in is a vote for the purpose of determining if an overvote  
4 condition exists. Except where an overvote condition for the  
5 office exists, the computer program must record that a write-in  
6 has been indicated. The program must count and record valid  
7 votes on the ballot for all other offices and questions before a  
8 ballot with a write-in recorded is separated from ballots with  
9 no write-ins recorded. The program must report, by office, the  
10 total number of write-ins recorded.

11 8220.1250 DOCUMENTING TEST BALLOTS.

12           A documentation, record, chart, or listing must be prepared  
13 indicating the punches or marks recorded in the test ballots and  
14 whether the punches or marks are valid or invalid.

15 8220.1350 PRELIMINARY TESTING OF COMPUTER PROGRAMS.

16           Prior to the public accuracy test, the election  
17 jurisdiction providing the computer programs shall test the  
18 computers and programs to ascertain that they will correctly  
19 count the votes for all offices and measures. The computer  
20 programs must be tested on all precincts.

21           The election jurisdiction requesting the computer programs  
22 shall compare the edit listing against the ~~ballot-labels~~ ballots  
23 of all precincts to ascertain that the appropriate  
24 ~~labels~~ ballots are in each precinct, and the ballot position  
25 numbers for each candidate and proposal appearing on the ballot  
26 ~~labels~~ agree with those recorded on the edit listing for each  
27 precinct. Each election jurisdiction shall make a certificate  
28 as to the above matters and file it with the county auditor.

29           The test must be conducted using the test deck or ballot  
30 image prepared under the direction of the election jurisdiction,  
31 and the results must be compared against the predetermined  
32 results of the test deck or ballot image. For the purpose of  
33 this test, the test deck may be reproduced onto standard data  
34 processing cards.

35           All prom packs, memory packs, and similar devices

APPROVED IN THE  
SENATE BY THE  
COMMISSIONER OF STATUTES  
DATE: \_\_\_\_\_

1 containing the election program must be secured with a metal  
2 seal and a certificate must be prepared indicating the seal  
3 number.

4

5 Rules as Proposed (all new material)

6 8230.4350 OPTICAL SCAN VOTING SYSTEMS

7 Subpart 1. Applicability. This part applies to optical  
8 scan voting systems, as defined in Minnesota Statutes, section  
9 206.90, subdivision 1. Parts 8220.0050 to 8220.2850 apply to  
10 the use of optical scan voting systems. To the extent possible,  
11 parts 8220.3050 to 8230.4250 for use of punch-card voting  
12 systems apply to the use of optical scan voting systems, unless  
13 this part provides otherwise.

14 Subp. 2. Ballot cards. The name of the precinct and  
15 machine-readable precinct identification must be printed on each  
16 ballot card. Voting instructions must be printed at the top of  
17 the ballot card on each side that includes ballot information.  
18 The instructions must include an illustration of the proper mark  
19 to be used to indicate a vote. Detachable stubs or consecutive  
20 numbers are not required. Lines for the initials of at least  
21 two election judges must be printed on one side of the ballot  
22 card so that the judges' initials are visible when the ballot is  
23 enclosed in a secrecy sleeve.

24 Ballot cards must meet or exceed the specifications the  
25 equipment manufacturer has filed with the secretary of state.  
26 The election official responsible for preparing the ballots must  
27 supply to the ballot printer the manufacturer's recommended  
28 standards and specifications for ballot printing.

29 The equipment manufacturer must file with the secretary of  
30 state recommended procedures and standards for checking ballot  
31 specifications. Upon receipt of the ballots the election  
32 jurisdiction must immediately examine the ballot cards to  
33 determine that they meet the required specifications. The  
34 ballot cards must be packaged and stored in a manner to protect  
35 against moisture.

APPROVED IN THE  
REVISOR OF STATUTES  
OFFICE BY:

1           Subp. 3. Supplies. Each precinct must be supplied with  
2 secrecy sleeves that will shield voting marks from view while  
3 the voter deposits the ballot into the ballot box. Ballot boxes  
4 must be made of metal or high-impact plastic.

5           Ballot boxes used with counting equipment that reads the  
6 ballot as it is inserted into the ballot box may be separate or  
7 part of the equipment so long as the ballot is fed directly into  
8 a locked or sealed ballot box. At a general election, the  
9 ballot boxes must have two separate compartments into which the  
10 equipment can feed ballots. One compartment must receive  
11 ballots on which all votes have been counted and recorded, and  
12 the other compartment must receive the ballots on which all  
13 votes have been counted except for those offices for which a  
14 write-in indication has been recorded. An auxiliary ballot box,  
15 that may be separate or an additional compartment, must be  
16 supplied to be used if the equipment fails to function and to  
17 receive ballots that cannot be read by the equipment.

18           A writing instrument without an eraser that will produce  
19 marks that can be accurately read by the automatic tabulating  
20 equipment must be provided to each voter.

21           Subp. 4. Testing. Computer programs and counting  
22 equipment must be tested as required by Minnesota election laws  
23 and rules. In addition, as necessary to ensure accuracy of vote  
24 counting, diagnostic test capabilities of the equipment and  
25 additional test procedures recommended by the equipment  
26 manufacturer must be used. The equipment manufacturer must file  
27 with the secretary of state recommended test procedures and  
28 instructions.

29           Subp. 5. Precinct counting equipment. Precinct counting  
30 systems that read ballots as they are inserted into the ballot  
31 box may not be used for a central counting center, except that  
32 one ballot counter may be supplied for two precincts if one of  
33 the precincts has fewer than 200 registered voters. Separate  
34 prom packs must be used for each of the two precincts. Except  
35 as provided in this subpart, at least one ballot counter must be  
36 supplied to each precinct.

1 If the ballot counter will be used to count ballots of only  
2 one precinct, machine-readable ballot configuration  
3 identification may be printed on each ballot card in place of  
4 the precinct name and identification required by subpart 2. A  
5 ballot configuration means a unique ballot format prepared for  
6 use in one or more precincts in which all ballot information,  
7 including offices and questions to be voted on, candidate names,  
8 and rotation sequence, is identical.

9 If the locked ballot box cannot be detached from the ballot  
10 counter, the number of ballot counters supplied to the precinct  
11 must be sufficient so that the number of ballots expected to be  
12 counted on any counter will be at least ten percent less than  
13 the maximum capacity of the ballot box. The maximum capacity  
14 must be determined on the basis of the size of the ballot to be  
15 voted at the election.

16 The auditor or clerk must test each prom pack individually  
17 and, after testing, seal it with a numbered seal. Each ballot  
18 counter must be tested to ensure that the components are  
19 operating properly. The election judges shall verify that the  
20 ballot counter at the precinct has the correct seal number and  
21 certify the seal number on the summary statement.

22 Before opening the polls, the election judges shall  
23 initialize the ballot counter in accordance with the  
24 manufacturer's instructions. The judges shall verify that the  
25 initial counts for the voting positions are zero, that the  
26 public counter is set at zero, and that the ballot positions and  
27 other ballot information for each candidate and proposal printed  
28 on the initial tape agree with those on the ballot cards.

29 If the ballot counter is programmed to return to the voter  
30 a ballot having defects, the rejected ballot must be treated as  
31 a spoiled ballot and a new ballot must be issued to the voter  
32 after the spoiled ballot has been deposited in the spoiled  
33 ballot container. The election judges shall read the error  
34 message to the voter and may explain the conditions that cause a  
35 ballot to be rejected, but the judges shall not examine the  
36 voted ballot unless the voter requests assistance as provided in

1 Minnesota Statutes, section 204C.15.

2 If the ballot counter is programmed to return to the voter  
3 a ballot having defects, no means of overriding the rejection  
4 may be used that do not meet the conditions in items A to C.

5 A. The override must be protected against being  
6 inadvertently activated.

7 B. The override must not allow more than one ballot  
8 to be processed each time it is operated.

9 C. A message, to be initialed by the election judges  
10 who activated the override, must be printed on the results tape  
11 each time the override is operated.

12 As soon as voting has ended, the election judges shall  
13 process any ballots in the auxiliary ballot box and then secure  
14 the ballot counter against receiving any more ballots. The  
15 election judges shall produce a printed record of results and  
16 sign the certificate that is part of the printed record.

17 At a general election, after the ballot counter has been  
18 secured against receiving additional ballots, the election  
19 judges shall open the write-in compartment and count and record  
20 on the summary statement the valid write-in votes.

21 One unbroken tape that includes the initial zero report at  
22 the opening of the polls, messages printed during the hours of  
23 voting, and the first printout of results must be certified to  
24 the county canvassing board. In the event of equipment failure,  
25 the election judges and any technicians working on the equipment  
26 shall make entries on the tape of initials and time of  
27 occurrence to indicate the points at which the equipment failed  
28 and was returned to service. If the tape has been broken, the  
29 election judges shall seal the parts together and sign over the  
30 seal so that it cannot be broken without disturbing the  
31 continuity of the signatures. Additional copies of the record  
32 of results must be certified as required by the election  
33 jurisdiction.

34 Subp. 6. Absentee ballots. The election judges shall  
35 examine the absentee ballots as they are removed from the ballot  
36 envelope and separate any ballots with erasures, marked with a

1 carbonless writing instrument, or otherwise marked so they  
2 cannot be read by the counting equipment. The separated  
3 absentee ballots must be counted manually and the results added  
4 to the printed record of results or duplicated for tabulating as  
5 provided in part 8230.3850.

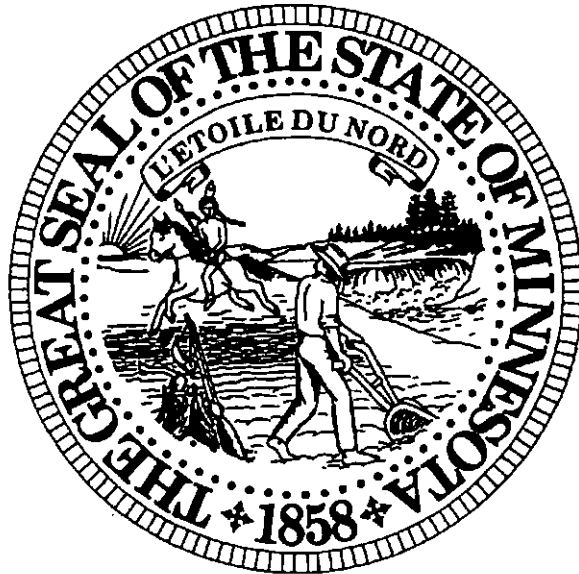
6 When printing instructions to be supplied with absentee  
7 ballots, the election jurisdiction may change item (6) on the  
8 instructions to absent voter in parts 8210.0500 and 8210.9920 to  
9 include the proper method for marking and folding the optical  
10 scan voting system ballot cards.

11 Subp. 7. Ballots at counting center. Except for ballots  
12 that must be counted manually, ballots for a precinct must be  
13 tabulated together. After tabulation of votes for candidates  
14 whose names appear on the ballot at a general election, at least  
15 two election judges of different political parties shall count  
16 the valid write-in votes on ballots with a write-in indication.  
17 The judges shall record the valid write-in votes on the summary  
18 statement.



**NEW  
DOCUMENT**

**MINNESOTA**  
**ELECTION LAWS**  
**1991**



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Secretary of State

Annotated by  
Hubert H. Humphrey III  
Attorney General

## **Preface**

The secretary of state is required by Minnesota Statutes section 204B.27 to distribute to county auditors and other election officials copies of the state election laws. This compilation has been prepared for that purpose. It contains the provisions of the federal and state constitutions relating to elections and the Minnesota election laws. Other related Minnesota statutes are supplied as well for the convenience of election officials. The rules adopted by the secretary of state are included on blue tinted pages.

Laws of local application have not been included. Therefore, applicable provisions of session laws and local charters should be consulted with reference to elections in particular municipalities operating thereunder. Also not included are laws relating to elections on county organization, city incorporation, local option and bond issues. Annotations giving citations to opinions of the attorney general and articles or notes published in the Minnesota Law Review have been incorporated. The text under the designations "Notes and Decisions" has been prepared by the office of the attorney general.

JOAN ANDERSON GROWE  
Secretary of State

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**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.

**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.

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### Selected Amendments To U.S. Constitution

#### 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.

#### 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.

#### 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.

#### 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.

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### 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 2nd 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.

### 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.

### 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.

### 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.

### NOTES AND DECISIONS UNITED STATES CONSTITUTION

#### AMENDMENT XVII

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).



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. 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 judgement 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*, 541 Supp. (D. Minn. 1982).

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

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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 judgement and ability.

### 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 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).

##### ARTICLE VI Sec. 5

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

##### ARTICLE VI Sec. 8

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.

#### NOTES UNDER PRIOR ARTICLE

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.

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

No constitutional requirement that justice are to be elected as a group. *Gustafson v. Holm*, 232 Minn. 118, 44 N.W. 2d 443. Legislature cannot consolidate offices of judge of probate or clerk of district court with other elective offices because such offices are created by the constitution. *Op. Atty. Gen.* April 8, 1933.

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).

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 of invalidate election. *Op. Atty. Gen.* 307K, August 12, 1957.

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. Barr Ass'n. v. AmDahl*, 264 Minn. 350, 119 N.W. 2d 169 (1963). See M.S. 204B.13.

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

# MINNESOTA ELECTION LAWS - 1991

## 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.

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.

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.*

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

By adoption of federal suffrage amendment in 1920 word male automatically stricken. Age, majority reached on election day, 1928 *El. Op. 201, 203.*

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

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

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. 64S, March 19, 1954.*

For effect of rejecting qualified voters upon validity of elections, see 15 *Minn. Law Review* 832.

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.*

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

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

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.

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

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 been restored to civil rights. Op. Atty. Gen. May 5, 1932.

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.

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.

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.

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.

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

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

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).

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).

### ARTICLE VII Sec. 2

See also M.S. 204B.06.

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 (1976).

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

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

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

Art 4, s 5, creates an exception to this section. State ex rel. v. Erickson, 180 Minn. 246, 230 N.W. 637 (1912).

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

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

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.

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.

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

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.

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.

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.

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.

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).

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.

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.

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.

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

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

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

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

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

Offices of village marshal and street commissioner are not incompatible. Op. Atty. Gen. February 25, 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 city attorney and member of board of regents of state university are not incompatible. Op. Atty. Gen. April 27, 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, 1941.

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.

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

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

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

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.

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

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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.

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

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

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

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 constable and councilman of LeSueur are incompatible. Op. Atty. Gen. May 1, 1933; May 9, 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 special municipal judge and school director are not incompatible. Op. Atty. Gen. August 1, 1933.

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

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

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

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.

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.

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.

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

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

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. Op. Atty. Gen. 358-F, April 28, 1948.

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.

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. Op. Atty. Gen. 358C-6, December 23, 1963.

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

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.

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.

For discussion concerning effect of election where candidate receiving high vote is ineligible, see 7 Minn. Law Review 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.

## 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; judgement.** 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 judgement shall not extend further than to removal from office 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, judgement 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.

# MINNESOTA ELECTION LAWS - 1991

## NOTES AND DECISIONS

### ARTICLE VIII - Section 5

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 or 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.D. 2d 203 (1958).

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 pro-posed amendment is submitted, it will be valid. *Op. Atty. Gen. 86A*, November 12, 1946.

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.

Electors using the special presidential ballot pursuant to former sections 208.21 to 208.35 would not possess the constitutional right to vote on constitutional amendments and, thus, should not be counted in determining a majority of the electors for purposes of ascertaining whether a constitutional amendment has in fact been adopted. *Op. Atty. Gen. 86A*, June 10, 1968.

# CONSTITUTION OF THE UNITED STATES

## ARTICLE I

Section—

1. Of the legislative power.
2. House of representatives; qualification of members; apportionment of representatives and direct taxes; census; first apportionment; vacancies; officers of the house; impeachments.
3. Senate; classification of senators; qualifications of; vice president to preside; other officers; trial of impeachments.
4. Election of members of congress; meetings of congress.
5. Powers of each house; expulsion of members; journal; adjournments.
6. Compensation and privileges; disabilities of members.
7. Revenue bills; passage and approval of bills; orders and resolutions.
8. General powers of congress.
9. Certain limitations of the powers of congress.
10. Limitation of the powers of individual states.

## ARTICLE II

1. Of the executive powers; electors, how and when chosen; qualifications of president; when powers of, to devolve upon vice president; compensation and oath of president.
2. Powers and duties of president; making of treaties; powers of appointment.
3. Other powers and duties.
4. Officers liable to impeachment.

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1. Of the judicial power.
2. Extent of the judicial power; jurisdiction of the supreme court; trials for crimes.
3. Treason defined; trial for and punishment.

## ARTICLE IV

1. Effect of public acts, records, etc., of each state.
2. Citizenship; fugitives from justice and from service to be delivered up.
3. Admission of new states; power of congress over territory.
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Amendment—

1. Religious freedom; freedom of speech and of the press; right of petition.
2. Right to bear arms.
3. Quartering of soldiers.
4. Unreasonable searches and seizures; search warrants.
5. Rights of persons charged with crimes; taking of private property.
6. Trials in criminal cases and rights of the accused.
7. Trials by jury in civil cases.
8. Excessive bail, fines and punishments.
9. Rights of the people.
10. Of powers reserved to the states.
11. Extent of judicial powers.
12. Manner of electing president and vice president; qualification of vice president.
13. Prohibition of slavery.

Amendment—

14. Citizenship; security of persons and property; apportionment of representatives; who prohibited from holding office; validity of the public debt; what obligation to be void.
15. Right of citizens to vote.
16. Income tax.
17. Election of United States senators.
18. Prohibition of the liquor traffic.
19. Women's suffrage.
20. Dates of beginning and ending of terms of president and vice president, senators and representatives and date of the assembling of the congress declared.
21. Eighteenth article of amendment repealed.
22. Limitations on Presidential terms.
23. Presidential Electors for District of Columbia.
24. Elections; abolition of the poll tax.
25. Presidential succession.
26. Elective franchise.

## MINNESOTA ELECTION LAWS — 1987

*Preamble. We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.*

### ARTICLE I

Section 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and a house of representatives.

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.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every 30,000, but each state shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose 3; Massachusetts, 8; Rhode Island and Providence Plantations, 1; Connecticut, 5; New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; North Carolina, 5; South Carolina, 5; Georgia, 3.

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

The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

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.

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year.<sup>1</sup> 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 appointments until the people fill the vacancies by election as the legislature may direct.

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.

The vice president of the United States shall be president of the senate, but shall have no vote unless they be equally divided.

The senate shall choose their own officers, and also a president *pro tempore*, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments.



## MINNESOTA ELECTION LAWS — 1987

No tax or duty shall be laid on articles exported from any state.

No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear or pay duties in another.

No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States, and no person holding any office of profit and trust under them shall, without the consent of the Congress, accept of any present, emolument, office or title of any kind whatever, from any king, prince or foreign state.

Sec. 10. No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts or grant any title of nobility.

No state shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No state shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

## 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 electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and the number of votes for each; which list 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 the 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 shall be appointed, if such a number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president; and if no person have a majority, then from the five highest on the list the said house shall, in like manner, choose 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. In every case after the choice of the president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice president.

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 a 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.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office he shall take the following oath or affirmation:

“I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States.”

Sec. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur, and he shall nominate, and by and with the advice and consent of the senate shall appoint ambassadors, other public ministers, and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

Sec. 3. He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them; and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Sec. 4. The president, vice president, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

### ARTICLE III

Section 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

## MINNESOTA ELECTION LAWS — 1987

Sec. 2. The judicial power shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Sec. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attained.

### ARTICLE IV

Section 1. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Sec. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Sec. 3. New states may be admitted by the Congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned, as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States, and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular state.

Sec. 4. The United States shall guarantee to every state in the Union a republican form of government; and shall protect each of them against invasion, and, on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

# MINNESOTA ELECTION LAWS — 1987

## ARTICLE V

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which in either case shall be valid, to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; *provided*, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

## ARTICLE VI

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this Constitution, but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII

The ratification of the conventions of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

## AMENDMENTS

*In addition to, and amendment of, the Constitution of the United States of America, proposed by Congress and ratified by the Legislatures of the several states, pursuant to the fifth article of the original Constitution.*

### AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, or to petition the government for a redress of grievances.

### AMENDMENT II

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

### AMENDMENT III

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

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### AMENDMENT IV

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

### AMENDMENT V

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war and public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself; nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

### AMENDMENT VI

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

### AMENDMENT VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court in the United States than according to the rules of the common law.

### AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

### AMENDMENT IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

### AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states, respectively, or to the people.

### AMENDMENT XI

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

### AMENDMENT XII

The electors shall meet in their respective states, and vote by ballot for presi-

## MINNESOTA ELECTION LAWS — 1987

dent 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.

### AMENDMENT XIII

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

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

### AMENDMENT XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Sec. 3. No person shall be a senator or representative in Congress or elector of president and vice president, or hold any office, civil or military, under the United

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States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house remove such disability.

Sec. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Sec. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

### 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.

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

### AMENDMENT XVI

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

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### 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.

### AMENDMENT XVIII

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Sec. 2. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

### 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.

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

### 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 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. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3rd day of January, unless they shall by law appoint a different day.

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; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect 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.

Sec. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

### AMENDMENT XXI

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Sec. 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

### 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.

### AMENDMENT XXIII

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they



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shall be in addition to those appointed by the states, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

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

### 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.

### AMENDMENT XXV

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Sec. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Sec. 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as acting President.

Sec. 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

### 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.

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

NOTE: The Constitution was adopted Sept. 17, 1787, by the unanimous consent of the states present in the convention appointed in pursuance of the resolution of the Congress of the confederation, of the twenty-first of February, 1787, and was ratified by the conventions of the several states, as follows, viz.: By convention of Delaware, Dec. 7, 1787; Pennsylvania, Dec. 12, 1787; New Jersey, Dec. 18, 1787; Georgia, Jan. 2, 1788; Connecticut, Jan. 9, 1788; Massachusetts, Feb. 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; New York, July 26, 1788; North Carolina, Nov. 21, 1789; Rhode Island, May 29, 1790.

The first ten of the amendments were proposed at the first session of the First Congress of the United States, Sept. 25, 1789; and were finally ratified by the constitutional number of states Dec. 15, 1791. The eleventh amendment was proposed at the first session of the Third Congress, March 5, 1794, and was declared in a message from the president of the United States to both houses of Congress, dated Jan. 8, 1798, to have been adopted by the constitutional number of states. The twelfth amendment was proposed at the first session of the Eighth Congress, Dec. 12, 1803, and was adopted by the constitutional number of states in 1804, according to a public notice thereof by the secretary of state, dated Sept. 25, 1804.

The thirteenth amendment took effect December 18, 1865.

The fourteenth amendment took effect July 28, 1868.

The fifteenth amendment took effect March 30, 1870.

The sixteenth amendment took effect February 25, 1913.

The seventeenth amendment took effect May 31, 1913.

The eighteenth amendment took effect January 29, 1920.

The nineteenth amendment took effect August 27, 1920.

The twentieth amendment took effect February 6, 1933.

The twenty-first amendment took effect December 5, 1933.

The twenty-second amendment took effect March 1, 1951.

The twenty-third amendment took effect April 3, 1961.

The twenty-fourth amendment took effect February 4, 1964.

The twenty-fifth amendment took effect February 23, 1967.

The twenty-sixth amendment took effect July 5, 1971.

## NOTES AND DECISIONS UNITED STATES CONSTITUTION

### AMENDMENT XVII

### NOTES AND DECISIONS

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).

# CONSTITUTION OF THE STATE OF MINNESOTA

Adopted October 13, 1857.  
Generally Revised November 5, 1974

Article 1.	Bill of rights.
Article 2.	Name and boundaries.
Article 3.	Distribution of the powers of government.
Article 4.	Legislative department.
Article 5.	Executive department.
Article 6.	Judiciary.
Article 7.	Elective franchise.
Article 8.	Impeachment and removal from office.
Article 9.	Amendments to the constitution.
Article 10.	Taxation.
Article 11.	Appropriations and finances.
Article 12.	Special legislation; local government.
Article 13.	Miscellaneous subjects.
Article 14.	Public highway system.

## Preamble

We, the people of the state of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this Constitution

## ARTICLE I BILL OF RIGHTS

**Section 1. Object of government.** Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform government whenever required by the public good.

**Sec. 2. Rights and privileges.** No member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the state otherwise than as punishment for a crime of which the party has been convicted.

**Sec. 3. Liberty of the press.** The liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right.

**Sec. 4. Trial by jury.** The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy. A jury trial may be waived by the parties in all cases in the manner prescribed by law. The legislature may provide that the agreement of five-sixths of a jury in a civil action or proceeding, after not less than six hours' deliberation, is a sufficient verdict.

**Sec. 5. No excessive bail or unusual punishments.** Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

**Sec. 6. Rights of accused in criminal prosecutions.** In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law. The accused shall enjoy the right to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel in his defense.

**Sec. 7. Due process; prosecutions; double jeopardy; self-incrimination; bail; habeas corpus.** No person shall be held to answer for a criminal offense without due process of law, and no person shall be put twice in jeopardy of punishment for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law. All persons before conviction shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great. The privilege of the writ of habeas corpus shall not be suspended unless the public safety requires it in case of rebellion or invasion.

**Sec. 8. Redress of injuries or wrongs.** Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws.

**Sec. 9. Treason defined.** Treason against the state consists only in levying war against the state, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court.

**Sec. 10. Unreasonable searches and seizures prohibited.** The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

**Sec. 11. Attainers, ex post facto laws and laws impairing contracts prohibited.** No bill of attainder, ex post facto law, or any law impairing the obligation of contracts shall be passed, and no conviction shall work corruption of blood or forfeiture of estate.

**Sec. 12. Imprisonment for debt; property exemption.** No person shall be imprisoned for debt in this state, but this shall not prevent the legislature from providing for imprisonment, or holding to bail, persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of any debt or liability. The amount of such exemption shall be determined by law. Provided, however, that all property so exempted shall be liable to seizure and sale for any debts incurred to any person for work done or materials furnished in the construction, repair or improvement of the same, and provided further, that such liability to seizure and sale shall also extend to all real property for any debt to any laborer or servant for labor or service performed.

**Sec. 13. Private property for public use.** Private property shall not be taken, destroyed or damaged for public use without just compensation therefor, first paid or secured.

**Sec. 14. Military power subordinate.** The military shall be subordinate to the civil power and no standing army shall be maintained in this state in times of peace.

**Sec. 15. Lands allodial; void agricultural leases.** All lands within the state are allodial and feudal tenures of every description with all their incidents are prohibited. Leases and grants of agricultural lands for a longer period than 21 years reserving rent or service of any kind shall be void.

**Sec. 16. Freedom of conscience; no preference to be given to any religious establishment or mode of worship.** The enumeration of rights in this constitution shall not deny or impair others retained by and inherent in the people. The right of every man to worship God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry, against his consent; nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the state, nor shall any money be drawn from the treasury for the benefit of any religious societies or religious or theological seminaries.

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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 II NAME AND BOUNDARIES

Section 1. **Name and boundaries; acceptance of organic act.** This state shall be called the state of Minnesota and shall consist of and have jurisdiction over the territory embraced in the act of Congress entitled, "An act to authorize the people of the Territory of Minnesota to form a constitution and state government, preparatory to their admission into the Union on equal footing with the original states," and the propositions contained in that act are hereby accepted, ratified and confirmed, and remain irrevocable without the consent of the United States.

Sec. 2. **Jurisdiction on boundary waters.** The state of Minnesota has concurrent jurisdiction on the Mississippi and on all other rivers and waters forming a common boundary with any other state or states. Navigable waters leading into the same, shall be common highways and forever free to citizens of the United States without any tax, duty, impost or toll therefor.

### ARTICLE III DISTRIBUTION OF THE POWERS OF GOVERNMENT

Section 1. **Division of powers.** The powers of government shall be divided into three distinct departments: legislative, executive and judicial. No person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others except in the instances expressly provided in this constitution.

### ARTICLE IV LEGISLATIVE DEPARTMENT

Section 1. **Composition of legislature.** The legislature consists of the senate and house of representatives.

Sec. 2. **Apportionment of members.** The number of members who compose the senate and house of representatives shall be prescribed by law. The representation in both houses shall be apportioned equally throughout the different sections of the state in proportion to the population thereof.

\* 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. 4. **Terms of office of senators and representatives; vacancies.** Representatives shall be chosen for a term of two years, except to fill a vacancy. Senators shall be chosen for a term of four years, except to fill a vacancy and except there shall be an entire new election of all the senators at the first election of representatives after each new legislative apportionment provided for in this article. The governor shall call elections to fill vacancies in either house of the legislature.

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. 7. Rules of government.** Each house may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member; but no member shall be expelled a second time for the same offense.

**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.

**Sec. 9. Compensation.** The compensation of senators and representatives shall be prescribed by law. No increase of compensation shall take effect during the period for which the members of the existing house of representatives may have been elected.

**Sec. 10. Privilege from arrest.** The members of each house in all cases except treason, felony and breach of the peace, shall be privileged from arrest during the session of their respective houses and in going to or returning from the same. For any speech or debate in either house they shall not be questioned in any other place.

**Sec. 11. Protest and dissent of members.** Two or more members of either house may dissent and protest against any act or resolution which they think injurious to the public or to any individual and have the reason of their dissent entered in the journal.

**Sec. 12. Biennial meetings; length of session; special sessions; length of adjournments.** The legislature shall meet at the seat of government in regular session in each biennium at the times prescribed by law for not exceeding a total of 120 legislative days. The legislature shall not meet in regular session, nor in any adjournment thereof, after the first Monday following the third Saturday in May of any year. After meeting at a time prescribed by law, the legislature may adjourn to another time. "Legislative day" shall be defined by law. A special session of the legislature may be called by the governor on extraordinary occasions.

Neither house during a session of the legislature shall adjourn for more than three days (Sundays excepted) nor to any other place than that in which the two houses shall be assembled without the consent of the other house.

**Sec. 13. Quorum.** A majority of each house constitutes a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of absent members in the manner and under the penalties it may provide.

**Sec. 14. Open sessions.** Each house shall be open to the public during its sessions except in cases which in its opinion require secrecy.

**Sec. 15. Officers; journals.** Each house shall elect its presiding officer and other officers as may be provided by law. Both houses shall keep journals of their proceedings, and from time to time publish the same, and the yeas and nays, when taken on any question, shall be entered in the journals.

**Sec. 16. Elections viva voce.** In all elections by the legislature members shall vote viva voce and their votes shall be entered in the journal.

**Sec. 17. Laws to embrace only one subject.** No law shall embrace more than one subject, which shall be expressed in its title.

**Sec. 18. Revenue bills to originate in house.** All bills for raising revenue shall originate in the house of representatives, but the senate may propose and concur with the amendments as on other bills.

**Sec. 19. Reporting of bills.** Every bill shall be reported on three different days in each house, unless, in case of urgency, two-thirds of the house where the bill is pending deem it expedient to dispense with this rule.

**Sec. 20. Enrollment of bills.** Every bill passed by both houses shall be enrolled and signed by the presiding officer of each house. Any presiding officer refusing to sign a bill passed by both houses shall thereafter be disqualified from any office of honor or profit in the state. Each house by rule shall provide the manner in which a bill shall be certified for presentation to the governor in case of such refusal.

**Sec. 21. Passage of bills on last day of session prohibited.** No bill shall be passed by either house upon the day prescribed for adjournment. This section shall not preclude the enrollment of a bill or its transmittal from one house to the other or to the executive for his signature.

**Sec. 22. Majority vote of all members to pass a law.** The style of all laws of this state shall be: "Be it enacted by the legislature of the state of Minnesota." No law shall be passed unless voted for by a majority of all the members elected to each house of the legislature, and the vote entered in the journal of each house.

**Sec. 23. Approval of bills by governor; action on veto.** Every bill passed in conformity to the rules of each house and the joint rules of the two houses shall be presented to the governor. If he approves a bill, he shall sign it, deposit it in the office of the secretary of state and notify the house in which it originated of that fact. If he vetoes a bill, he shall return it with his objections to the house in which it originated. His objections shall be entered in the journal. If, after reconsideration, two-thirds of that house agree to pass the bill, it shall be sent, together with the governor's objections, to the other house, which shall likewise reconsider it. If approved by two-thirds of that house it becomes a law and shall be deposited in the office of the secretary of state. In such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered in the journal of each house. Any bill not returned by the governor within three days (Sundays excepted) after it is presented to him becomes a law as if he had signed it, unless the legislature by adjournment within that time prevents its return. Any bill passed during the last three days of a session may be presented to the governor during the three days following the day of final adjournment and becomes law if the governor signs and deposits it in the office of the secretary of state within 14 days after the adjournment of the legislature. Any bill passed during the last three days of the session which is not signed and deposited within 14 days after adjournment does not become a law.

If a bill presented to the governor contains several items of appropriation of money, he may veto one or more of the items while approving the bill. At the time he signs the bill the governor shall append to it a statement of the items he vetoes and the vetoed items shall not take effect. If the legislature is in session, he shall transmit to the house in which the bill originated a copy of the statement, and the items vetoed shall be separately reconsidered. If on reconsideration any item is approved by two-thirds of the members elected to each house, it is a part of the law notwithstanding the objections of the governor.

**Sec. 24. Presentation of orders, resolutions, and votes to governor.** Each order, resolution or vote requiring the concurrence of the two houses except such as relate to the business or adjournment of the legislature shall be presented to the governor and is subject to his veto as prescribed in case of a bill.

**Sec. 25. Disorderly conduct.** During a session each house may punish by imprisonment for not more than 24 hours any person not a member who is guilty of any disorderly or contemptuous behavior in its presence.

**Sec. 26. Banking laws; two-thirds votes.** Passage of a general banking law requires the vote of two-thirds of the members of each house of the legislature.

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. 3. Powers and duties of governor.** The governor shall communicate by message to each session of the legislature information touching the state and country. He is commander-in-chief of the military and naval forces and may call them out to execute the laws, suppress insurrection and repel invasion. He may require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to his duties. With the advice and consent of the senate he may appoint notaries public and other officers provided by law. He may appoint commissioners to take the acknowledgment of deeds or other instruments in writing to be used in the state. He shall take care that the laws be faithfully executed. He shall fill any vacancy that may occur in the offices of secretary of state, treasurer, auditor, attorney general and the other state and district offices hereafter created by law until the end of the term for which the person who had vacated the office was elected or the first Monday in January following the next general election, whichever is sooner, and until a successor is chosen and qualified.

**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.

**Sec. 7. Board of pardons.** The governor, the attorney general and the chief justice of the supreme court constitute a board of pardons. Its powers and duties shall be defined and regulated by law. The governor in conjunction with the board of pardons has power to grant reprieves and pardons after conviction for an offense against the state except in cases of impeachment.

ARTICLE VI  
JUDICIARY

**Section 1. Judicial power.** The judicial power of the state is vested in a supreme



court, a court of appeals, if established by the legislature, a district court and such other courts, judicial officers and commissioners with jurisdiction inferior to the district court as the legislature may establish. [Amended, November 2, 1982]

**Sec. 2. Supreme court.** The supreme court consists of one chief judge and not less than six nor more than eight associate judges as the legislature may establish. It shall have original jurisdiction in such remedial cases as are prescribed by law, and appellate jurisdiction in all cases, but there shall be no trial by jury in the supreme court.

The legislature may establish a court of appeals and provide by law for the number of its judges, who shall not be judges of any other court, and its organization and for the review of its decisions by the supreme court. The court of appeals shall have appellate jurisdiction over all courts, except the supreme court, and other appellate jurisdiction as prescribed by law.

As provided by law judges of the court of appeals or of the district court may be assigned temporarily to act as judges of the supreme court upon its request and judges of the district court may be assigned temporarily by the supreme court to act as judges of the court of appeals.

The supreme court shall appoint to serve at its pleasure a clerk, a reporter, a state law librarian and other necessary employees. [Amended, November 2, 1982]

**Sec. 3. Jurisdiction of district court.** The district court has original jurisdiction in all civil and criminal cases and shall have appellate jurisdiction as prescribed by law.

**Sec. 4. Judicial districts; district judges.** The number and boundaries of judicial districts shall be established in the manner provided by law but the office of a district judge shall not be abolished during his term. There shall be two or more district judges in each district. Each judge of the district court in any district shall be a resident of that district at the time of his selection and during his continuance in office.

\* **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. [Amended, November 2, 1982]

**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. [Amended, November 2, 1982]

**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.

**Sec. 9. Retirement, removal and discipline.** The legislature may provide by law for retirement of all judges and for the extension of the term of any judge who becomes eligible for retirement within three years after expiration of the term for which he is selected. The legislature may also provide for the retirement, removal or other discipline of any judge who is disabled, incompetent or guilty of conduct prejudicial to the administration of justice.

**Sec. 10. Retired judges.** As provided by law a retired judge may be assigned to hear and decide any cause over which the court to which he is assigned has jurisdiction.

Sec. 11. **Probate jurisdiction.** Original jurisdiction in law and equity for the administration of the estates of deceased persons and all guardianship and incompetency proceedings, including jurisdiction over the administration of trust estates and for the determination of taxes contingent upon death, shall be provided by law.

Sec. 12. **Abolition of probate court; status of judges.** If the probate court is abolished by law, judges of that court who are learned in the law shall become judges of the court that assumes jurisdiction of matters described in section 11.

Sec. 13. **District court clerks.** There shall be in each county one clerk of the district court whose qualifications, duties and compensation shall be prescribed by law. He shall serve at the pleasure of a majority of the judges of the district court in each district.

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.

\* Section 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.

Section 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.

Section 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.

Section 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.

\* Section 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.

Section 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.

Section 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.

\* Section 9. **Campaign spending limits.** The amount that may be spent by candidates for constitutional and legislative offices to campaign for nomination or election shall be limited by law. The legislature shall provide by law for disclosure of contributions

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and expenditures made to support or oppose candidates for state elective offices.  
[Adopted, November 4, 1980]

### 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 any 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. 3. **Suspension.** No officer shall exercise the duties of his office after he has been impeached and before his acquittal.

Sec. 4. **Service of impeachment papers.** No person shall be tried on impeachment before he has been served with a copy thereof at least 20 days previous to the day set for trial.

\* 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.

### 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.

### ARTICLE X TAXATION

Section 1. **Power of taxation; exemptions; legislative powers.** The power of taxation shall never be surrendered, suspended or contracted away. Taxes shall be

uniform upon the same class of subjects and shall be levied and collected for public purposes, but public burying grounds, public school houses, public hospitals, academies, colleges, universities, all seminaries of learning, all churches, church property, houses of worship, institutions of purely public charity, and public property used exclusively for any public purpose, shall be exempt from taxation except as provided in this section. There may be exempted from taxation personal property not exceeding in value \$200 for each household, individual or head of a family, and household goods and farm machinery as the legislature determines. The legislature may authorize municipal corporations to levy and collect assessments for local improvements upon property benefited thereby without regard to cash valuation. The legislature by law may define or limit the property exempt under this section other than churches, houses of worship, and property solely used for educational purposes by academies, colleges, universities and seminaries of learning.

**Sec. 2. Forestation.** To encourage and promote forestation and reforestation of lands whether owned by private persons or the public, laws may be enacted fixing in advance a definite and limited annual tax on the lands for a term of years and imposing a yield tax on the timber and other forest products at or after the end of the term.

**Sec. 3. Occupation tax; ores.** Every person engaged in the business of mining or producing iron ore or other ores in this state shall pay to the state an occupation tax on the valuation of all ores mined or produced, which tax shall be in addition to all other taxes provided by law. The tax is due on the first day of May in the calendar year next following the mining or producing. The valuation of ore for the purpose of determining the amount of tax shall be ascertained as provided by law. Funds derived from the tax shall be used as follows: 50 percent to the state general revenue fund, 40 percent for the support of elementary and secondary schools and ten percent for the general support of the university.

**Sec. 4. Motor fuel taxation.** The state may levy an excise tax upon any means or substance for propelling aircraft or for propelling or operating motor or other vehicles or other equipment used for airport purposes and not used on the public highways of this state.

**Sec. 5. Aircraft.** The legislature may tax aircraft using the air space overlying the state on a more onerous basis than other personal property. Any such tax on aircraft shall be in lieu of all other taxes. The legislature may impose the tax on aircraft of companies paying taxes under any gross earnings system of taxation notwithstanding that earnings from the aircraft are included in the earnings on which gross earnings taxes are computed. The law may exempt from taxation aircraft owned by a nonresident of the state temporarily using the air space overlying the state.

**Sec. 6. Taconite taxation.** Laws of Minnesota 1963, Chapter 81, relating to the taxation of taconite and semi-taconite, and facilities for the mining, production and beneficiation thereof shall not be repealed, modified or amended, nor shall any laws in conflict therewith be valid until November 4, 1989. Laws may be enacted fixing or limiting for a period not extending beyond the year 1990, the tax to be imposed on persons engaged in (1) the mining, production or beneficiation of copper, (2) the mining, production or beneficiation of copper-nickel, or (3) the mining, production or beneficiation of nickel. Taxes imposed on the mining or quarrying of taconite or semi-taconite and on the production of iron ore concentrates therefrom, which are in lieu of a tax on real or personal property, shall not be considered to be occupation, royalty, or excise taxes within the meaning of this amendment.

**Sec. 7.** [Repealed, November 5, 1974]

**Sec. 8. Parimutuel betting.** The legislature may authorize on-track parimutuel betting on horse racing in a manner prescribed by law. [Adopted, November 2, 1982]

ARTICLE XI  
APPROPRIATIONS AND FINANCES

**Section 1. Money paid from state treasury.** No money shall be paid out of the treasury of this state except in pursuance of an appropriation by law.

**Sec. 2. Credit of the state limited.** The credit of the state shall not be given or loaned in aid of any individual, association or corporation except as hereinafter provided.

**Sec. 3. Internal improvements prohibited; exceptions.** The state shall not be a party in carrying on works of internal improvements except as authorized by this constitution. If grants have been made to the state especially dedicated to specific purposes, the state shall devote the proceeds of the grants to those purposes and may pledge or appropriate the revenues derived from the works in aid of their completion.

**Sec. 4. Power to contract public debt; public debt defined.** The state may contract public debts for which its full faith, credit and taxing powers may be pledged at the times and in the manner authorized by law, but only for the purposes and subject to the conditions stated in section 5. Public debt includes any obligation payable directly in whole or in part from a tax of state wide application on any class of property, income, transaction or privilege, but does not include any obligation which is payable from revenues other than taxes.

**Sec. 5. Public debt and works of internal improvement; purposes.** Public debt may be contracted and works of internal improvements carried on for the following purposes:

(a) to acquire and to better public land and buildings and other public improvements of a capital nature and to provide money to be appropriated or loaned to any agency or political subdivision of the state for such purposes if the law authorizing the debt is adopted by the vote of at least three-fifths of the members of each house of the legislature;

(b) to repel invasion or suppress insurrection;

(c) to borrow temporarily as authorized in section 6;

(d) to refund outstanding bonds of the state or any of its agencies whether or not the full faith and credit of the state has been pledged for the payment of the bonds;

(e) to establish and maintain highways subject to the limitations of article XIV;

(f) to promote forestation and prevent and abate forest fires, including the compulsory clearing and improving of wild lands whether public or private;

(g) to construct, improve and operate airports and other air navigation facilities;

(h) to develop the state's agricultural resources by extending credit on real estate security in the manner and on the terms and conditions prescribed by law;

(i) to improve and rehabilitate railroad rights-of-way and other rail facilities whether public or private, provided that bonds issued and unpaid shall not at any time exceed \$200,000,000 par value; and

(j) as otherwise authorized in this constitution.

As authorized by law political subdivisions may engage in the works permitted by (f), (g), and (i) and contract debt therefor. [Amended, November 2, 1982]

**Sec. 6. Certificates of indebtedness.** As authorized by law certificates of indebtedness may be issued during a biennium, commencing on July 1 in each odd-numbered year and ending on and including June 30 in the next odd-numbered year, in anticipation of the collection of taxes levied for and other revenues appropriated to any fund of the state for expenditure during that biennium.

No certificates shall be issued in an amount which with interest thereon to maturity, added to the then outstanding certificates against a fund and interest thereon to maturity, will exceed the then unexpended balance of all money which will be credited to that fund during the biennium under existing laws. The maturi-

ties of certificates may be extended by refunding to a date not later than December 1 of the first full calendar year following the biennium in which the certificates were issued. If money on hand in any fund is not sufficient to pay all non-refunding certificates of indebtedness issued on a fund during any biennium and all certificates refunding the same, plus interest thereon, which are outstanding on December 1 immediately following the close of the biennium, the state auditor shall levy upon all taxable property in the state a tax collectible in the ensuing year sufficient to pay the same on or before December 1 of the ensuing year with interest to the date or dates of payment.

**Sec. 7. Bonds.** Public debt other than certificates of indebtedness authorized in section 6 shall be evidenced by the issuance of bonds of the state. All bonds issued under the provisions of this section shall mature not more than 20 years from their respective dates of issue and each law authorizing the issuance of bonds shall distinctly specify the purposes thereof and the maximum amount of the proceeds authorized to be expended for each purpose. The state treasurer shall maintain a separate and special state bond fund on his official books and records. When the full faith and credit of the state has been pledged for the payment of bonds, the state auditor shall levy each year on all taxable property within the state a tax sufficient with the balance then on hand in the fund to pay all principal and interest on bonds issued under this section due and to become due within the ensuing year and to and including July 1 in the second ensuing year. The legislature by law may appropriate funds from any source to the state bond fund. The amount of money actually received and on hand pursuant to appropriations prior to the levy of the tax in any year shall be used to reduce the amount of tax otherwise required to be levied.

**Sec. 8. Permanent school fund; source; investment; board of investment.** The permanent school fund of the state consists of (a) the proceeds of lands granted by the United States for the use of schools within each township, (b) the proceeds derived from swamp lands granted to the state, (c) all cash and investments credited to the permanent school fund and to the swamp land fund, and (d) all cash and investments credited to the internal improvement land fund and the lands therein. No portion of these lands shall be sold otherwise than at public sale, and in the manner provided by law. All funds arising from the sale or other disposition of the lands, or income accruing in any way before the sale or disposition thereof, shall be credited to the permanent school fund. Within limitations prescribed by law, the fund shall be invested to secure the maximum return consistent with the maintenance of the perpetuity of the fund. The principal of the permanent school fund shall be perpetual and inviolate forever. This does not prevent the sale of investments at less than the cost to the fund; however, all losses not offset by gains shall be repaid to the fund from the interest and dividends earned thereafter. The net interest and dividends arising from the fund shall be distributed to the different school districts of the state in a manner prescribed by law.

A board of investment consisting of the governor, the state auditor, the state treasurer, the secretary of state, and the attorney general is hereby constituted for the purpose of administering and directing the investment of all state funds. The board shall not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or the issuer's agent. [Amended, November 6, 1984]

**Sec. 9. Investment of permanent university fund; restrictions.** The permanent university fund of this state may be loaned to or invested in the bonds of any county, school district, city or town of this state and in first mortgage loans secured upon improved and cultivated farm lands of this state, but no such investment or loan shall be made until approved by the board of investment; nor shall a loan or investment be made when the bonds to be issued or purchased would make the entire bonded indebtedness exceed 15 percent of the assessed valuation of the taxable property of the county, school district, city or town issuing the bonds; nor shall any farm loan or investment be made when the investment or loan would exceed 30 percent of the actual cash value of the farm land mortgaged to secure the

investment; nor shall investments or loans be made at a lower rate of interest than two percent per annum nor for a shorter period than one year nor for a longer period than 30 years.

**Sec. 10. Exchange of public lands; reservation of rights.** As the legislature may provide, any of the public lands of the state, including lands held in trust for any purpose, may be exchanged for any publicly or privately held lands with the unanimous approval of the governor, the attorney general and the state auditor. Lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefor were subject. The state shall reserve all mineral and water power rights in lands transferred by the state. [Amended, November 6, 1984]

**Sec. 11. Timber lands set apart as state forests; disposition of revenue.** School and other public lands of the state better adapted for the production of timber than for agriculture may be set apart as state school forests, or other state forests as the legislature may provide. The legislature may also provide for their management on forestry principles. The net revenue therefrom shall be used for the purposes for which the lands were granted to the state.

**Sec. 12. County, township or municipal aid to railroads limited.** The legislature shall not authorize any county, township or municipal corporation to become indebted to aid in the construction or equipment of railroads to any amount that exceeds five percent of the value of the taxable property within that county, township or municipal corporation. The amount of taxable property shall be determined by the last assessment previous to the incurring of the indebtedness.

**Sec. 13. Safekeeping state funds; security; deposit of funds; embezzlement.** All officers and other persons charged with the safekeeping of state funds shall be required to give ample security for funds received by them and to keep an accurate entry of each sum received and of each payment and transfer. If any person converts to his own use in any manner or form, or shall loan, with or without interest, or shall deposit in his own name, or otherwise than in the name of the state of Minnesota; or shall deposit in banks or with any person or persons or exchange for other funds or property, any portion of the funds of the state or the school funds aforesaid, except in the manner prescribed by law, every such act shall be and constitute an embezzlement of so much of the aforesaid state and school funds, or either of the same, as shall thus be taken, or loaned, or deposited or exchanged, and shall be a felony. Any failure to pay over, produce or account for the state school funds, or any part of the same entrusted to such officer or persons as by law required on demand, shall be held and be taken to be prima facie evidence of such embezzlement.

## ARTICLE XII SPECIAL LEGISLATION; LOCAL GOVERNMENT

**Section 1. Prohibition of special legislation; particular subjects.** In all cases when a general law can be made applicable, a special law shall not be enacted except as provided in section 2. Whether a general law could have been made applicable in any case shall be judicially determined without regard to any legislative assertion on that subject. The legislature shall pass no local or special law authorizing the laying out, opening, altering, vacating or maintaining of roads, highways, streets or alleys; remitting fines, penalties or forfeitures; changing the names of persons, places, lakes or rivers; authorizing the adoption or legitimation of children; changing the law of descent or succession; conferring rights on minors; declaring any named person of age; giving effect to informal or invalid wills or deeds, or affecting the estates of minors or persons under disability; granting divorces; exempting property from taxation or regulating the rate of interest on money; creating private corporations, or amending, renewing, or extending the charters thereof; granting to any private corporation, association, or individual any special or exclusive privilege, immunity or franchise whatever or authorizing public taxation for a private purpose. The inhibitions of local or special laws in this section shall not prevent the passage of general laws on any of the subjects enumerated.

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**Sec. 2. Special laws; local government.** Every law which upon its effective date applies to a single local government unit or to a group of such units in a single county or a number of contiguous counties is a special law and shall name the unit or, in the latter case, the counties to which it applies. The legislature may enact special laws relating to local government units, but a special law, unless otherwise provided by general law, shall become effective only after its approval by the affected unit expressed through the voters or the governing body and by such majority as the legislature may direct. Any special law may be modified or superseded by a later home rule charter or amendment applicable to the same local government unit, but this does not prevent the adoption of subsequent laws on the same subject. The legislature may repeal any existing special or local law, but shall not amend, extend or modify any of the same except as provided in this section.

**Sec. 3. Local government; legislation affecting.** The legislature may provide by law for the creation, organization, administration, consolidation, division and dissolution of local government units and their functions, for the change of boundaries thereof, for their elective and appointive officers including qualifications for office and for the transfer of county seats. A county boundary may not be changed or county seat transferred until approved in each county affected by a majority of the voters voting on the question.

**Sec. 4. Home rule charter.** Any local government unit when authorized by law may adopt a home rule charter for its government. A charter shall become effective if approved by such majority of the voters of the local government unit as the legislature prescribes by general law. If a charter provides for the consolidation or separation of a city and a county, in whole or in part, it shall not be effective without approval of the voters both in the city and in the remainder of the county by the majority required by law.

**Sec. 5. Charter commissions.** The legislature shall provide by law for charter commissions. Notwithstanding any other constitutional limitations the legislature may require that commission members be freeholders, provide for their appointment by judges of the district court, and permit any member to hold any other elective or appointive office other than judicial. Home rule charter amendments may be proposed by a charter commission or by a petition of five percent of the voters of the local government unit as determined by law and shall not become effective until approved by the voters by the majority required by law. Amendments may be proposed and adopted in any other manner provided by law. A local government unit may repeal its home rule charter and adopt a statutory form of government or a new charter upon the same majority vote as is required by law for the adoption of a charter in the first instance.

### ARTICLE XIII MISCELLANEOUS SUBJECTS

**Section 1. Uniform system of public schools.** The stability of a republican form of government depending mainly upon the intelligence of the people, it is the duty of the legislature to establish a general and uniform system of public schools. The legislature shall make such provisions by taxation or otherwise as will secure a thorough and efficient system of public schools throughout the state.

**Sec. 2. Prohibition as to aiding sectarian school.** In no case shall any public money or property be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect are promulgated or taught.

**Sec. 3. University of Minnesota.** All the rights, immunities, franchises and endowments heretofore granted or conferred upon the university of Minnesota are perpetuated unto the university.

**Sec. 4. Lands taken for public way or use; compensation; common carriers.** Land may be taken for public way and for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensa-



tion shall be paid for land and for the damages arising from taking it. All corporations which are common carriers enjoying the right of way in pursuance of the provisions of this section shall be bound to carry the mineral, agricultural and other productions of manufacturers on equal and reasonable terms.

**Sec. 5. Prohibition of lotteries.** The legislature shall not authorize any lottery or the sale of lottery tickets.

**Sec. 6. Prohibition of combinations to affect markets.** Any combination of persons either as individuals or as members or officers of any corporation to monopolize markets for food products in this state or to interfere with, or restrict the freedom of markets is a criminal conspiracy and shall be punished as the legislature may provide.

**Sec. 7. No license required to peddle.** Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor.

**Sec. 8. Veterans' bonus.** The state may pay an adjusted compensation to persons who served in the armed forces of the United States during the period of the Vietnam conflict. Whenever authorized and in the amounts and on the terms fixed by law, the state may expend monies and pledge the public credit to provide money for the purposes of this section. The duration of the Vietnam conflict may be defined by law.

**Sec. 9. Militia organization.** The legislature shall pass laws necessary for the organization, discipline and service of the militia of the state.

**Sec. 10. Seat of government.** The seat of government of the state is in the city of St. Paul. The legislature may provide by law for a change of the seat of government by a vote of the people, or may locate the same upon the land granted by Congress for a seat of government. If the seat of government is changed, the capitol building and grounds shall be dedicated to an institution for the promotion of science, literature and the arts to be organized by the legislature of the state. The Minnesota Historical Society shall always be a department of this institution.

**Sec. 11. State seal.** A seal of the state shall be kept by the secretary of state and be used by him officially. It shall be called the great seal of the state of Minnesota.

#### ARTICLE XIV PUBLIC HIGHWAY SYSTEM

**Section 1. Authority of state; participation of political subdivisions.** The state may construct, improve and maintain public highways, may assist political subdivisions in this work and by law may authorize any political subdivision to aid in highway work within its boundaries.

**Sec. 2. Trunk highway system.** There is hereby created a trunk highway system which shall be constructed, improved and maintained as public highways by the state. The highways shall extend as nearly as possible along the routes number 1 through 70 described in the constitutional amendment adopted November 2, 1920, and the routes described in any act of the legislature which has made or hereafter makes a route a part of the trunk highway system.

The legislature may add by law new routes to the trunk highway system. The trunk highway system may not exceed 12,200 miles in extent, except the legislature may add trunk highways in excess of the mileage limitation as necessary or expedient to take advantage of any federal aid made available by the United States to the state of Minnesota.

Any route added by the legislature to the trunk highway system may be relocated or removed from the system as provided by law. The definite location of trunk highways numbered 1 through 70 may be relocated as provided by law but no relocation shall cause a deviation from the starting points or terminals nor cause any deviation from the various villages and cities through which the routes are to pass under the constitutional amendment adopted November 2, 1920. The location of

routes may be determined by boards, officers or tribunals in the manner prescribed by law.

**Sec. 3. County state-aid highway system.** A county state-aid highway system shall be constructed, improved and maintained by the counties as public highways in the manner provided by law. The system shall include streets in municipalities of less than 5,000 population where necessary to provide an integrated and coordinated highway system and may include similar streets in larger municipalities.

**Sec. 4. Municipal state-aid street system.** A municipal state-aid street system shall be constructed, improved and maintained as public highways by municipalities having a population of 5,000 or more in the manner provided by law.

**Sec. 5. Highway user tax distribution fund.** There is hereby created a highway user tax distribution fund to be used solely for highway purposes as specified in this article. The fund consists of the proceeds of any taxes authorized by sections 9 and 10 of this article. The net proceeds of the taxes shall be apportioned: 62 percent to the trunk highway fund; 29 percent to the county state-aid highway fund; nine percent to the municipal state-aid street fund. Five percent of the net proceeds of the highway user tax distribution fund may be set aside and apportioned by law to one or more of the three foregoing funds. The balance of the highway user tax distribution fund shall be transferred to the trunk highway fund, the county state-aid highway fund, and the municipal state-aid street fund in accordance with the percentages set forth in this section. No change in the apportionment of the five percent may be made within six years of the last previous change.

**Sec. 6. Trunk highway fund.** There is hereby created a trunk highway fund which shall be used solely for the purposes specified in section 2 of this article and the payment of principal and interest of any bonds issued under the authority of section 11 of this article and any bonds issued for trunk highway purposes prior to July 1, 1957. All payments of principal and interest on bonds issued shall be a first charge on money coming into this fund during the year in which the principal or interest is payable.

**Sec. 7. County state-aid highway fund.** There is hereby created a county state-aid highway fund. The county state-aid highway fund shall be apportioned among the counties as provided by law. The funds apportioned shall be used by the counties as provided by law for aid in the construction, improvement and maintenance of county state-aid highways. The legislature may authorize the counties by law to use a part of the funds apportioned to them to aid in the construction, improvement and maintenance of other county highways, township roads, municipal streets and any other public highways, including but not limited to trunk highways and municipal state-aid streets within the respective counties.

**Sec. 8. Municipal state-aid street fund.** There is hereby created a municipal state-aid street fund to be apportioned as provided by law among municipalities having a population of 5,000 or more. The fund shall be used by municipalities as provided by law for the construction, improvement and maintenance of municipal state-aid streets. The legislature may authorize municipalities to use a part of the fund in the construction, improvement and maintenance of other municipal streets, trunk highways, and county state-aid highways within the counties in which the municipality is located.

**Sec. 9. Taxation of motor vehicles.** The legislature by law may tax motor vehicles using the public streets and highways on a more onerous basis than other personal property. Any such tax on motor vehicles shall be in lieu of all other taxes thereon, except wheelage taxes imposed by political subdivisions solely for highway purposes. The legislature may impose this tax on motor vehicles of companies paying taxes under the gross earnings system of taxation notwithstanding that earnings from the vehicles may be included in the earnings on which gross earnings taxes are computed. The proceeds of the tax shall be paid into the highway user tax distribution fund. The law may exempt from taxation any motor vehicle owned by a nonresident of the state properly licensed in another state and transiently or temporarily using the streets and highways of the state.

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Sec. 10. **Taxation of motor fuel.** The legislature may levy an excise tax on any means or substance used for propelling vehicles on the public highways of this state or on the business of selling it. The proceeds of the tax shall be paid into the highway user tax distribution fund.

Sec. 11. **Highway bonds.** The legislature may provide by law for the sale of bonds to carry out the provisions of section 2. The proceeds shall be paid into the trunk highway fund. Any bonds shall mature serially over a term not exceeding 20 years and shall not be sold for less than par and accrued interest. If the trunk highway fund is not adequate to pay principal and interest of these bonds when due, the legislature may levy on all taxable property of the state in an amount sufficient to meet the deficiency or it may appropriate to the fund money in the state treasury not otherwise appropriated. [Amended, November 2, 1982]

# MINNESOTA ELECTION LAWS — 1987

## NOTES AND DECISIONS MINNESOTA CONSTITUTION

### ARTICLE IV Sec. 3

#### NOTES AND DECISIONS

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*, 541 Supp. 160 (D. Minn. 1982).

### ARTICLE IV Sec. 7

#### NOTES AND DECISIONS

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

### ARTICLE VI - Sec. 5

#### NOTES AND DECISIONS

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

### ARTICLE VI - Sec. 8

#### NOTES AND DECISIONS

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.

#### NOTES UNDER PRIOR ARTICLE

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.

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

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

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

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).

Municipal judge elected in 1957 for 6 year term pursuant to Constitution, art VI, s4. Printing "2 year term" on ballot will not change term or invalidate election. *Op. Atty. Gen.* 307K, August 12, 1957.

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.

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

### ARTICLE VII - Sec. 1

#### NOTES AND DECISIONS

See also: M.S. 200.02, subd. 15

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.

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.

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.C. Minn. 1970), affirmed 405 U.S. 1034 (1972).

By adoption of federal suffrage amendment in 1920 word male automatically stricken. Age, majority reached on election day, 1928 *El. Op.* 201, 203.

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

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

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.* 64S, March 19, 1954.

For effect of rejecting qualified voters upon validity of elections, see 15 Minn. Law Review 832.

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.

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

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

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.

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

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 been restored to civil rights. *Op. Atty. Gen.* May 5, 1932.

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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.

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.

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.

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.

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

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

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).

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).

### ARTICLE VII - Section 2

### NOTES AND DECISIONS

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

Op. Atty. Gen. April 7, 1933; note under § 1 of this article.

If a person has not lost his residence for purposes of voting, he has not lost his residence for purpose of hospitalization for insanity. Op. Atty. Gen. May 11, 1933.

Residence for voting purposes of person employed by federal government in Washington is not lost because tenant moved into building where such person formerly lived. Op. Atty. Gen. 490J-2, September 23, 1936.

Where resident of state was appointed to federal office requiring change of abode, resident would not be deprived of right to vote in precinct where resident last voted in absence of manifest intention to abandon state as domicile. Op. Atty. Gen. 490J-2, December 27, 1951.

One in the military service of the United States does not lose his residency by reason of his absence while in the military service. Op. Atty. Gen. 490J-2, March 28, 1952.

### ARTICLE VII - Section 6

### NOTES AND DECISIONS

See also M.S. 204B.06.

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 (1976).

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

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

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

Art 4, s 5, creates an exception to this section. State ex rel. v. Erickson, 180 Minn. 246, 230 N.W. 637 (1912).

Candidate for office need not be a registered voter. Op. Atty. Gen. 184I, November 28, 1958.

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

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.

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.

This section applies to municipal officers. Op. Atty. Gen. 184I, November 12, 1935.

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.

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

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.

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.

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).

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.

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.

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.

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

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- Offices of county commissioner and court bailiff, deputy sheriff, are incompatible. Op. Atty. Gen. December 31, 1930.
- Offices of county surveyor and county highway engineer are incompatible. Op. Atty. Gen. January 10, 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.
- 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 city attorney and that of judge of probate are not incompatible. Op. Atty. Gen. March 7, 1930.
- The office of village recorder is incompatible with that of county auditor. Op. Atty. Gen. April 16, 1930.
- Offices of village marshal and street commissioner are not incompatible. Op. Atty. Gen. February 25, 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 city attorney and member of board of regents of state university are not incompatible. Op. Atty. Gen. April 27, 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, 1941.
- 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.
- The offices of justice of the peace and town supervisor are incompatible. Op. Atty. Gen. September 11, 1931.
- Offices of village attorney and state representative are incompatible. Op. Atty. Gen. December 4, 1931.
- The offices of village trustee and village assessor are incompatible. Op. Atty. Gen. December 19, 1931.
- 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.
- County commissioner may also hold office of district boiler inspector. Op. Atty. Gen. May 27, 1932.
- 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.
- Offices of game warden and constable are not incompatible. Op. Atty. Gen. August 25, 1932. See Dun. Dig. 7995.
- The offices of city auditor and poor commissioner of city of Breckenridge would be incompatible. Op. Atty. Gen. February 16, 1933.
- Special municipal judge need not resign before becoming candidate for regular position as municipal judge. Op. Atty. Gen. March 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.
- Where government of city and government of school district are separate in all things, office of city attorney and member of school are not incompatible. Op. Atty. Gen. April 25, 1933.
- Offices of constable and councilman of LeSueur are incompatible. Op. Atty. Gen. May 1, 1933; May 9, 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 special municipal judge and school director are not incompatible. Op. Atty. Gen. August 1, 1933.
- Positions of member of library board and member of school board are not incompatible. Op. Atty. Gen. August 1, 1933.
- Offices of municipal court judge and director of independent school district are not incompatible. Op. Atty. Gen. 358B-2, August 28, 1935.
- Offices of county attorney and examiner of titles are not incompatible. Op. Atty. Gen. 358A-1, October 7, 1935.
- 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.
- 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.
- 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.
- Offices of town board supervisor and local civil defense director are incompatible. Op. Atty. Gen. 385E-6, May 22, 1962.
- Offices of county coroner and member of county board of health are incompatible. Op. Atty. Gen. 358A-4, August 24, 1962.
- 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. Op. Atty. Gen. 358-F, April 28, 1948.
- 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.
- 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. Op. Atty. Gen. 358C-6, December 23, 1963.
- Office of town clerk is not incompatible with offices of village mayor, trustee or clerk. Id.

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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.

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.

For discussion concerning effect of election where candidate receiving high vote is ineligible, see 7 Minn. Law Review 511.

### ARTICLE VII - Section 9

#### NOTES AND DECISIONS

Limits on election campaign contributions may be imposed without violating rights secured under the first amendment to the United State 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.

### ARTICLE VIII - Section 5

#### NOTES AND DECISIONS

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 or 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 - Section 1

#### NOTES AND DECISIONS

Right to amend constitution rests exclusively with the people. *State v. Pett*, 253 Minn. 429, 92, N.W. 2d 205 (1958).

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.

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.

Electors using the special presidential ballot pursuant to former sections 208.21 to 208.35 would not possess the constitutional right to vote on constitutional amendments and, thus, should not be counted in determining a majority of the electors for purposes of ascertaining whether a constitutional amendment has in fact been adopted. Op. Atty. Gen. 86A, June 10, 1968.

DEFINITIONS



**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, and 211B 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*

**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 to be 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.**

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.** "Major political party" means a political party that maintains a party organization in the state, political division or precinct in question and:

(a) Which has presented at least one candidate for election to a partisan office at the last preceding state general election, which 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; or

(b) Whose members present to the secretary of state a petition for a place on the state partisan primary ballot, which petition contains 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.

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.

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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 data base 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.

**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

### NOTES AND DECISIONS

#### 200.02

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.

Attempt to 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. 2d 491 (Minn. 1979).

**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;

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(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.

**History:** 1981 c 29 art 1 s 4; 1986 c 444

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

### NOTES AND DECISIONS

#### 200.031

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

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

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.

Election judges have no authority to determine question of residence but all they may do is to require applicant for ballot to disclose pertinent facts relating to his residence and the only remedy in case applicant swears falsely is to prosecute him for perjury. *Op. Atty. Gen.* 183L, June 11, 1935.

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. *Op. Atty. Gen.* 183R, January 23, 1928.

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.

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.

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.

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.

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

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

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 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.

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

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.* 490J-2, February 26, 1955.

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).

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

**VOTER  
REGISTRATION**

## 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 of the person; 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

#### NOTES AND DECISIONS

##### **201.014**

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 conserved).

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; PENALTY.**

Subdivision 1. **Determination of residence; penalty.** 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. Any individual who votes in a precinct knowing that the individual does not maintain residence in that precinct is guilty of a felony.

Subd. 2. **Duration of residence.** The governing body of any city by resolution may require an eligible voter to maintain residence in a precinct for a period of 30 days prior to voting on any question affecting only that precinct or voting to elect public officials representing only that precinct. The governing body of any town by resolution may require an eligible voter to maintain residence in that town for a period of 30 days prior to voting in a town election. The school board of any school district by resolution may require an eligible voter to maintain residence in that school district for a period of 30 days prior to voting in a school district election.

**History:** 1981 c 29 art 2 s 3; 1986 c 444; 1987 c 266 art 1 s 4

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### 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 the county systems linked together by a centralized statewide system. 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 maintaining 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

### 201.022 STATEWIDE REGISTRATION SYSTEM.

Subdivision 1. **Establishment.** The secretary of state shall develop and implement a statewide voter registration system to facilitate voter registration and to provide a central data base containing voter registration information from around the state. The system must be accessible to the county auditor of each county in the state.

Subd. 2. **Rules.** The secretary of state shall make permanent and emergency rules necessary to administer the system required in subdivision 1. The rules must at least:

(1) provide for voters to submit their registration to any county auditor, the secretary of state, or the department of public safety;

(2) provide for the establishment and maintenance of a central data base for all voter registration information;

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

(4) provide for interaction with the computerized driver's license records of the department of public safety;

(5) allow the offices of all county auditors and the secretary of state to add, modify, and delete information from the system to provide for accurate and up-to-date records;

(6) allow the offices of all county auditors and the secretary of state's office to have access to the statewide registration system for review and search capabilities;

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

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

(9) prescribe a procedure for phasing in or converting existing computerized records to the statewide registration system;

(10) prescribe a procedure for the return of completed voter registration forms from the department of public safety to the secretary of state or the county auditor; and

(11) provide alternate procedures, effective until December 31, 1990, for updating voter records and producing polling place rosters for counties. The secretary of state shall determine no later than June 1, 1990, whether these alternate procedures will be required.

**History:** 1987 c 361 s 1; 1988 c 646 s 1; 1990 c 585 s 2

### 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.

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*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 card 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, or in any precinct in which the individual does not maintain residence;

(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.

*History: 1981 c 29 art 2 s 6; 1986 c 444; 1987 c 361 s 3; 1990 c 585 s 4*

### **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 card by making the individual's mark. If the individual registers in person, the clerk or election judge accepting the registration shall certify the mark by signing the individual's name. If the individual registers by mail, 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*

**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.** At any time except during the 20 days immediately preceding any 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 registration card and submitting it in person or by mail to the county auditor of that county or to the secretary of state's office. A registration that is received no later than 5:00 p.m. on the 21st day preceding any election shall be accepted. An improperly addressed or delivered registration card shall be forwarded within two working days after receipt to the county auditor of the county where the voter maintains residence.

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

Subd. 3. **Election day registration.** 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 card, making an oath in the

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form prescribed by the secretary of state and providing proof of residence. An individual may prove residence for purposes of registering by:

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

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

(3) showing one of the following:

(i) a current valid student identification card from a post-secondary 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 sign an oath in the presence of the election judge vouching that the voter 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 county, school district, or municipality may require that an election judge responsible for election day registration initial each completed registration card.

**Subd. 4. Registration by election judges; procedures.** Registration at the polling place on election day shall be conducted by the election judges. 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 cards 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 card until the individual's address is verified by the county auditor. Registration cards 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.

**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

**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 CARDS.**

Subdivision 1. **Form.** A registration card must be of suitable size and weight for mailing and 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; date of registration; and voter's signature. The card must also contain the following certification: I certify that I will be at least 18 years old on election day and am a citizen of the United States, that I reside at the address shown and will have resided in Minnesota for 20 days immediately preceding election day, and that I am not under guardianship of the person, have not been found by a court to be legally incompetent to vote, and have not been convicted of a felony without having my civil rights restored. I understand that giving false information to procure a registration is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both.

The form of the voter registration card must be as provided in the rules of the secretary of state.

Subd. 2. **Instructions.** A registration card 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. If, prior to election day, a person requests the instructions in Braille, on cassette tape, or in a version printed in 16-point bold type with heavy leading, the county auditor shall provide them in the form requested. The secretary of state shall prepare Braille and cassette copies and make them available.

Subd. 3. **Deficient registration.** No registration is deficient if it contains the voter's name, address, date of birth, prior registration if any and signature. The absence of a zip code number does not cause the registration to be deficient. The election judges shall request an individual to correct a registration card if it is deficient or illegible or if the name or number of the voter's school district is missing or obviously incorrect. No eligible voter may be prevented from voting unless the voter's registration card is deficient or the voter is duly and successfully challenged in accordance with section 201.195 or 204C.12.

A registration card 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 registration card 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.

Subd. 4. **Change of registration.** Any county auditor who receives a registration card indicating that an individual was previously registered in a different county in Minnesota shall notify the county auditor of that county electronically through the statewide registration system in the manner prescribed in the rules of the secretary of state. A county auditor receiving a registration card indicating that a voter was previously registered in a different precinct in the same county or receiving a notification as provided in this subdivision shall remove that individual's voter registration card from the files. Any county auditor who receives a registration card 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*

**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.**

The statewide registration system is the official record of registered voters. The voter registration cards 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 cards 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 subdivision. The county auditor may make photographic copies of voter registration cards in the manner provided by section 138.17.

**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

**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.**

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 card 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 32 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 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 written request and a copy of the court order, the secretary of state may withhold from the public information list the name of any registered voter placed under court-ordered protection.

**Subd. 5. Copy of list to registered voter.** The county auditors and the secretary of state shall provide paper copies of the public information lists and may provide the lists in some other form to any voter registered in Minnesota within ten days of receiving a written 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. No list made available for public inspection or purchase may include the date of birth of a registered voter.

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 preregistration of voters is allowed as provided in section 201.061, subdivision 1, where eligible voters may register to vote. At least one public building must be designated for each 30,000 residents of the county. At least one telecommunications device for the deaf must be available for voter registration information in each county seat and in every city of the first, second, and third class.

An adequate supply of registration cards and instructions must be maintained at each designated location, and a designated individual must be available there to accept registration cards 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.

**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

**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 CHANGED, CHANGE OF FILES.**

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

**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

**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. **Challenges.** Upon return of the notice by the postal service, the county auditor or the auditor's staff shall personally ascertain the name and address of that individual. If the individual is no longer at the address recorded in the statewide registration system, 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. If a second notice mailed at least 60 days after the return of the first notice is also returned by the postal service, the county auditor may remove the registration card from the file and change the registrant's status to "inactive" in the statewide 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

**201.121 ENTRY OF NAMES; MAILED NOTICE.**

Subdivision 1. **Entry of registration information.** Upon receiving a voter registration card properly completed and submitted in accordance with sections 201.061 and 201.071, the county auditor shall enter in the appropriate registration files and in the statewide registration system the registration card or the information contained on it.

Upon receiving a completed voter registration card or form, the secretary of state may electronically transmit the information on the card or form 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 shall mail the registration card or form to the county auditor for placement in the appropriate files.

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. **Post election 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 and the secretary of state.

**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

**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.** The commissioner of health shall report monthly 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 registration system and remove from the files the registration cards of the voters reported to be deceased.

Subd. 2. **Voter registration record changes for deceased nonresidents.** Within 60 days 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" and remove from the files the voter's registration cards. Notice must be in the form of a printed obituary or a written statement signed by a registered voter of the county.

Subd. 3. **Use of change of address system.** The county auditor may delete the records in the statewide registration system of voters whose change of address can be confirmed by the United States Postal Service. The secretary of state may provide the county auditors with periodic reports on voters whose change of address can be confirmed by the United States Postal Service.

**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 223 s 4, 5; 1993 c 101 s 1

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

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

The court administrator of district court in each county shall report monthly to the county auditor the name and address of each individual, 18 years of age or over, who maintains residence in that county and whose name was changed during the month preceding the date of the report, by marriage, divorce or any order or decree of the court. Upon receipt of the report, the county auditor shall notify by mail each registered voter whose name was changed that it will be necessary to re-register under the changed name in order to vote.

**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

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

**201.15 PROBATE JUDGE, REPORT GUARDIANSHIPS AND COMMITMENTS.**

Subdivision 1. **Guardianships, incompetents and psychopaths.** The probate judge in each county shall report monthly to the county auditor the name and address of each individual 18 years of age or over, who maintains residence in that county and who, during the month preceding the date of the report:

- (a) was placed under a guardianship of the person;
- (b) adjudged legally incompetent by reason of mental illness, mental deficiency, or inebriation; or
- (c) was adjudged a psychopathic personality.

The judge shall also report the same information for each individual transferred to the jurisdiction of the court who meets a condition specified in clause (a), (b) or (c). Upon receipt of the report, the county auditor shall determine whether any individual named in the report is registered to vote. 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. **Restoration to capacity.** The probate judge in each county shall report monthly to the county auditor the name and address of each individual transferred from guardianship to conservatorship or who is restored to capacity by the court after being ineligible to vote for any of the reasons specified in subdivision 1. Upon notice from the judge of probate of a restoration to capacity, or of a transfer from guardianship to conservatorship, 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

#### 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).

**201.16 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 cards. The forms must contain spaces for the information required in section 201.071, subdivision 1, and applicable rules of 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. A copy of each application containing a completed voter registration 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. The computerized driver's license record information relating to name, address, date of birth, driver's license 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

#### 201.1611 POST-SECONDARY INSTITUTION VOTER REGISTRATION.

Subdivision 1. **Forms.** All post-secondary institutions that enroll students accepting state or federal financial aid shall provide voter registration forms to each student upon payment of tuition, fees, and activities funds at the commencement of fall quarter. 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 may request these forms from the secretary of state.

Subd. 2. **Student voter registration.** Upon registration or receipt of payment of fees, students must be asked if they want to register to vote at the same time. 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 to the county auditor within five days and in no case later than 21 days before the general election.

**History:** 1991 c 227 s 8

#### 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 and shall change the status of those registrants to "inactive" in the statewide registration system. 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." The county auditor shall remove the voter registration card of any voter whose name appears on the report. Although not counted in an election, a late absentee ballot must be considered a vote for the purpose of continuing registration.

**History:** 1973 c 676 s 14; 1981 c 29 art 2 s 20; 1987 c 361 s 12; 1990 c 585 s 14

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]

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### 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 laws and rules.

Subd. 3. **Procedures for polling place rosters.** The secretary of state shall prescribe the form of polling place rosters that include the voter's name, address, date of birth, school district number, and space for the voter's signature. 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 one year 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

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 card 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 cards, 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

**201.275 INVESTIGATIONS; PROSECUTIONS.**

A county attorney who is notified of an alleged violation of this chapter shall promptly investigate. If there is probable cause for instituting a prosecution, the county attorney shall proceed by complaint or present the charge, with whatever evidence has been found, to the grand jury. 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. The county attorney, under the penalty of forfeiture of office, shall prosecute all violations of this chapter except violations of this section; if, however, a complainant withdraws an allegation under this chapter, the county attorney is not required to proceed with the prosecution.

**History:** 1978 c 714 s 6; 1981 c 29 art 2 s 26; 1986 c 444; 1988 c 578 art 1 s 2

<b>201.28</b>	MS 1957	[Renumbered 201.31]
<b>201.28</b>	MS 1971	[Repealed, 1973 c 676 s 33]
<b>201.29</b>	MS 1957	[Renumbered 201.32]
<b>201.29</b>	MS 1971	[Repealed, 1973 c 676 s 33]
<b>201.30</b>	MS 1957	[Repealed, 1959 c 675 art 13 s 1]
<b>201.30</b>	MS 1971	[Repealed, 1973 c 676 s 33]
<b>201.31</b>	MS 1957	[Repealed, 1959 c 675 art 13 s 1]
<b>201.31</b>	MS 1971	[Repealed, 1973 c 676 s 33]
<b>201.32</b>	MS 1957	[Repealed, 1959 c 675 art 13 s 1]
<b>201.32</b>	MS 1971	[Repealed, 1973 c 676 s 33]
<b>201.33</b>	MS 1957	[Repealed, 1959 c 675 art 13 s 1]
<b>201.33</b>	MS 1980	[Repealed, 1981 c 29 art 7 s 39]
<b>201.34</b>	MS 1957	[Repealed, 1959 c 675 art 13 s 1]
<b>201.34</b>	MS 1974	[Repealed, 1975 c 204 s 106]

CAUCUSES AND  
CONVENTIONS

## CHAPTER 202A CAUCUSES AND CONVENTIONS

### 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

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 (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 of Minnesota*, 287 F. Supp. 794 (D.C. Minn. 1968).

### 202A.13 COMMITTEES, CONVENTIONS.

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 communicatively impaired delegate or alternate 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 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

#### **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.**

**Subdivision 1. Time and manner of holding; postponement.** At 7:00 p.m. on the first Tuesday in March in every state general election year there shall be held for every election precinct a party caucus in the manner provided in sections 202A.14 to 202A.19, except that 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;

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- (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 county auditor at least 20 days before the precinct caucus. The county auditor shall make this information available 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

### 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 of Minnesota*, 287 F. Supp. 794 (D.C. Minn. 1968).

#### 202A.15 TIME AND PLACE OF CAUCUS.

Subdivision 1. Precinct caucuses within a county shall be held on the day provided by law and the caucuses shall remain open for at least one hour.

Subd. 2. 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

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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

### 202A.155 INTERPRETER SERVICES; CAUCUS MATERIALS.

A communicatively impaired individual who needs interpreter services at a precinct caucus shall so notify the major political party whose caucus the individual plans to attend. Written notice must be given by certified mail to the county or legislative district committee of the political party at least 30 days before the precinct caucus date. The major political party, not later than 14 days before the precinct caucus 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 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

### 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 the hearing impaired, 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

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

Subdivision 1. 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. 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. 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. 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 Constitution art VII, s 1, and notes to M.S. 201.014.

"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

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county conventions and by action in party structure after county conventions. *Irish v. Democratic-Farmer-Labor Party of Minnesota*, 399 F. 2d 119 (8th Cir. 1968).

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 protection clause of the Fourteenth Amendment. *Irish v. Democratic-Farmer-Labor Party of Minnesota*, 287 F. Supp. 794 (D.C. Minn. 1968).

### 202A.17 CAUCUS, BUSINESS.

Each precinct caucus shall elect a chair and such other officers as may be provided by party rules, and the proper number of delegates to congressional district, county, or legislative district conventions as determined by the party's call. The caucus may also discuss party policies, candidates, and any other business as prescribed by party rules.

**History:** 1975 c 5 s 8; 1986 c 444

### 202A.18 CAUCUS, PROCEDURE.

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

Subd. 2. 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. 3. All voting shall be by secret ballot.

Subd. 4. 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. 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

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

Subdivision 1. No 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.

Subd. 2. 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. 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 state 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 state university board. No community college 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 state board for community colleges.

Subd. 4. 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. 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. 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

**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 may provide a method for the timely reporting of caucus results to the public.

**History:** 1989 c 291 art 1 s 2

- 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.54 [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.

**History:** 1981 c 29 art 3 s 1; 1987 c 266 art 1 s 12

**203B.02 GENERAL ELIGIBILITY REQUIREMENTS.**

Subdivision 1. **Unable to go to polling place.** Any eligible voter who reasonably expects to be unable to go to the polling place on election day in the precinct where the individual maintains residence because of absence from the precinct, illness, disability, religious discipline, observance of a religious holiday, or service as an election judge in another precinct may vote by absentee ballot as provided in sections 203B.04 to 203B.15.

Subd. 1a. **Experimental procedures.** A county board may authorize any eligible voter in the county to vote by absentee ballot without qualification by submitting a written request to the county auditor between August 1, 1991 and November 30, 1992, notwithstanding the provisions of subdivision 1. The county auditor shall notify the secretary of state immediately after the adoption of such a resolution of authorization by the county board.

The application for absentee ballots must include the voter's name, residence address in the county, address to which the ballots are to be mailed, the date of the request, and the voter's signature.

The county auditor shall maintain a record of the number of applications for absentee ballots submitted under this subdivision. No later than January 15, 1993, the secretary of state shall prepare a report to the legislature on the implementation of this subdivision.

Assistance to voters in marking absentee ballots is subject to section 204C.15, subdivision 1.

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. **Permanent residence abroad.** A United States citizen living permanently 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

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**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).

**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; or
- (f) use information from absentee ballot materials or records for purposes unrelated to elections, political activities, or law enforcement.

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

**203B.04 APPLICATION FOR BALLOTS.**

Subdivision 1. **Application procedures.** Except as otherwise allowed by subdivision 2, 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. An application submitted pursuant to this subdivision shall be in writing and shall be submitted to:

- (a) the county auditor of the county where the applicant maintains residence; or
- (b) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

An application shall be accepted if it is signed and dated by the applicant, contains the applicant's residence and mailing addresses, and states that the applicant is eligible to vote by absentee ballot for one of the reasons specified in section 203B.02. An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device, at the discretion of the auditor or clerk.

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 card 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.

Subd. 5. **Permanent illness or disability.** An eligible voter who reasonably expects to be permanently unable to go to the polling place on election day because of illness or disability may apply to a county auditor or municipal clerk under this section to automatically receive an absentee ballot application before each election and to have the status as a permanent absentee voter indicated on the voter's registration record. The secretary of state shall adopt rules governing procedures under this subdivision.

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**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

### 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:

- (a) The county auditor of that county has designated the clerk to administer them; or
- (b) The clerk has given the county auditor of that county notice of intention to administer them.

Subd. 2. **City, school district, and town elections.** For city elections not held on the same day as a statewide election, for school district elections not held on the same day as a statewide election, and for town elections conducted under the Australian ballot system, 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

### NOTES AND DECISIONS

#### 203B.05

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.

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.

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.

#### 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.

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.** 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:

- (a) Mail the ballots to the voter whose signature appears on the application if the application is submitted by mail; or
- (b) Deliver the absentee ballots directly to the voter if the application is submitted in person.

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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 to an applicant for any election.

This subdivision does not apply to applications for absentee ballots received pursuant to sections 203B.04, subdivision 2, and 203B.11.

**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 card 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 and arranged according to precincts and the initial letter of the applicant's surname.

**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 shall be sent by air mail. The transmittal and return envelopes shall be marked with the words "OFFICIAL ELECTION BALLOTING MATERIAL -- VIA AIR MAIL." 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

### 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.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 directions for casting an absentee ballot shall be printed in at least 14-point bold type with heavy leading. When a person requests the directions in Braille or on cassette tape, the county auditor or municipal clerk shall provide them in the form requested. The secretary of state shall prepare Braille and cassette copies and make them available.

When a voter registration card is sent to the applicant as provided in section 203B.06, subdivision 4, the directions or registration card 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 voter registration card folded along its perforations. The return envelope shall be designed to open on the left hand end. A certificate of eligibility to vote by absentee ballot shall be printed on the right hand three-fourths of the back of the envelope. The certificate shall 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. The certificate shall also contain a statement signed by an eligible voter of the county in which the absent voter maintains residence or by a notary public, United States postmaster, assistant postmaster, postal

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supervisor, clerk of a postal service contract station or other individual authorized to administer oaths stating that:

- (a) the ballots were displayed to that individual unmarked;
- (b) the voter marked the ballots in that individual's presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them; and
- (c) if the voter was not previously registered, that the voter has provided proof of residence as required by section 201.061, subdivision 3.

The county auditor or municipal clerk shall affix first class postage to the return envelopes.

**History:** 1981 c 29 art 3 s 7; 1984 c 471 s 4

### 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.

Subd. 1a. **Electronic voting system authorized.** An electronic voting system approved and authorized for use under chapter 206 may be used for absentee voting when the voter applies in person to the municipal clerk for an absentee ballot and chooses to vote at the time of application. The municipal clerk designated under the provisions of section 203B.05 must give written notice to the county auditor prior to each state primary election that an electronic voting system will be used for absentee voting. The county auditor may provide that an electronic voting system approved and authorized for use under chapter 206 may be used for absentee voting when the voter applies in person to the county auditor for an absentee ballot and chooses to vote at the time of application. Paper ballots must be used when ballots are delivered to temporary or permanent residents or patients in a health care facility as provided in section 203B.11, or when applications are submitted by mail.

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:

- (a) The county auditor or municipal clerk who sent the ballots to the voter;
- (b) The clerk of the town or city in which the absent voter is eligible to vote; or
- (c) The appropriate election judges.

Subd. 3. **Procedures on receipt of ballots.** When absentee ballots are returned to a county auditor or municipal clerk, that official shall stamp and date the return envelope with an official seal of the office and place it in a secure location with other return envelopes received by that office. The county auditor or municipal clerk shall deliver them to the appropriate election judges on election day.

Subd. 3a. **Procedures for safeguarding electronically marked ballots.** When the voter has completed marking the ballot as authorized under subdivision 1a, the voter shall remove the ballot card from the electronic voting device, insert it in a security envelope, and place the security envelope in an absentee ballot return envelope which is to be signed by the voter and witnessed as provided in section 203B.07, subdivision

2. The return envelope in which a ballot card is returned shall be dated and initialed by hand by the auditor or clerk and placed in a secure location with other absentee ballot cards marked under subdivision 1a.

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

**203B.085 COUNTY AUDITOR'S OFFICE TO REMAIN OPEN DURING CERTAIN HOURS PRECEDING ELECTION.**

The county auditor's office in each county must be open for acceptance of absentee ballot applications and casting of absentee ballots between the hours of 1:00 to 3:00 p.m. on Saturday and 5:00 to 7:00 p.m. on Monday immediately preceding a primary or general election. 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*

**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 DELIVERY OF ABSENTEE BALLOT APPLICATIONS TO ELECTION JUDGES.**

On the day before an election:

(a) The county auditor shall deliver to the municipal clerks within that county the applications for absentee ballots theretofore received and endorsed as provided in section 203B.06, subdivision 5; and

(b) The municipal clerks shall deliver the applications received from the county auditor and the applications for absentee ballots filed with their respective offices and endorsed as provided in section 203B.06, subdivision 5, to the appropriate election judges. Applications received on election day pursuant to section 203B.04, subdivision 2, shall be promptly delivered to the election judges in the precincts or to the judges of an absentee ballot board.

*History: 1981 c 29 art 3 s 10; 1981 c 185 s 1; 1987 c 266 art 1 s 17; 1989 c 291 art 1 s 4*

**203B.11 HOSPITAL PATIENTS AND RESIDENTS OF HEALTH CARE FACILITIES.**

Subdivision 1. **Generally.** Each full-time municipal 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. 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. **Ten days before an election.** During the ten 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.

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*History: 1981 c 29 art 3 s 11; 1983 c 253 s 4*

### **203B.12 ELECTION JUDGES TO RECEIVE AND COUNT BALLOTS.**

**Subdivision 1. Receipt of return envelopes.** The election judges in each precinct or the judges of an absentee ballot board shall take possession of all return envelopes delivered to them in accordance with section 203B.08.

**Subd. 2. Examination of return envelopes.** Two or more election judges shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. If a ballot has been prepared under section 204B.12, subdivision 2a, or 204B.41, the election judges shall not begin removing ballot envelopes from the return envelopes until 8:00 p.m. on election day, either in the polling place or at an absentee ballot board established under section 203B.13.

The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges or a majority of them are satisfied that:

(a) the voter's signature on the return envelope is the genuine signature of the individual who made the application for ballots and the certificate has been completed as prescribed in the directions for casting an absentee ballot;

(b) the voter is registered and eligible to vote in the precinct or has included a properly completed registration card in the return envelope; and

(c) the voter has not already voted at that election, either in person or by absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

If all or a majority of the election judges examining return envelopes find that an absent voter has failed to meet one of the requirements prescribed in clauses (a) to (c), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," and return it to the county auditor.

**Subd. 3. Notation on polling place roster.** If the return envelope is marked with the word "Accepted," the election judges shall record the fact that the voter has voted by absentee ballot on the polling place roster. This must be done by placing the letters "A.B." in the appropriate space on the roster. After a registration record has been marked to record that an individual has voted by absentee ballot, the individual shall not be allowed to vote in person at that election.

**Subd. 4. Placement in container; opening and counting of ballots.** The ballot envelopes from return envelopes marked "Accepted" shall be placed by the election judges in a separate absentee ballot container. The container and each ballot envelope may be opened only after the last regular mail delivery by the United States postal service on election day. The ballots shall then be initialed by the election judges in the same manner as ballots delivered by them to voters in person and shall be deposited in the appropriate ballot box.

If more than one ballot of any kind is enclosed in the ballot envelope, none of the ballots of that kind shall be counted but all ballots of that kind shall be returned in the manner provided by section 204C.25 for return of spoiled ballots.

**Subd. 5. Electronic voting system precincts.** (a) Paper absentee ballots delivered to the election judges in precincts which use an electronic voting system shall be counted in the manner provided in this section. No duplicate ballot cards shall be prepared. The paper ballot vote totals for each candidate and on each question shall be added to the results obtained from the electronic tabulating equipment in each precinct.

(b) Absentee ballot cards marked using electronic voting machines as authorized under section 203B.08, subdivision 1a, shall be tabulated using the electronic tabulating equipment in each precinct.

**Subd. 6. Exception for municipalities or school districts with absentee ballot boards.** In municipalities or school districts with an absentee ballot board, the election judges in each precinct shall receive and process return envelopes and ballot envelopes as



## MINNESOTA ELECTION LAWS - 1991

provided in this section except that the ballot envelopes from return envelopes marked "Accepted" shall be delivered in an absentee ballot container to the absentee ballot board for the counting of ballots as soon as possible after processing. Other law to the contrary notwithstanding, the governing body of a municipality or the school board of a school district with an absentee ballot precinct may authorize the judges of the absentee ballot precinct to validate ballots in the manner provided in this section. The vote totals provided by the absentee ballot board shall be included in the vote totals on the summary statements of the returns for the precinct in which they were received.

**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

### NOTES AND DECISIONS

#### 203B.12

Absentee ballot may not be challenged after deposit in ballot box except for invalidity on the face of the ballot. *Bell v Ganaway*, 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).

#### 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 203B.12.

**History:** 1983 c 253 s 7

#### 203B.13 ABSENTEE BALLOT BOARDS.

Subdivision 1. **Establishment.** The governing body of any municipality may by ordinance, or the school board of any school district may by resolution, authorize an absentee ballot board. The board shall consist of a sufficient number of election judges appointed as provided in sections 204B.19 to 204B.22.

Subd. 2. **Duties.** The absentee ballot board may do any of the following:

(a) Receive from each precinct in the municipality or school district all ballot envelopes marked "Accepted" by the election judges; provided that the governing body of a municipality or the school board of a school district may authorize the board to examine all return absentee ballot envelopes and receive or reject absentee ballots in the manner provided in section 203B.12;

(b) Open and count the absentee ballots, tabulating the vote in a manner that indicates each vote of the absentee voter and the total absentee vote cast for each candidate or question in each precinct; or

(c) Report the vote totals tabulated for each precinct.

Subd. 3. **Compensation of members.** The municipal clerk shall pay a reasonable compensation to each member of the absentee ballot board for services rendered during each election.

Subd. 3a. **Absentee voter list.** If the election judges of an absentee ballot board are authorized to receive, examine, validate, and count absentee ballots, the county auditor or municipal clerk shall prepare a list of all persons who have applied for absentee ballots at the election and deliver it to the election judges of the absentee ballot board along with the applications for absentee ballots. The polling place rosters must include an indicator for all persons on the absentee voter list. The county auditor may provide a supplemental list for use by the election judges after the polling place rosters have been prepared. If a person on the absentee voter list appears in the polling place, the election judges shall notify the election judges of the absentee ballot board. When notified by the precinct election judges that the voter has voted in person, the election judges of the absentee ballot board shall make a notation on the absentee voter list that the voter has voted and no absentee ballot may be counted for that voter.

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Subd. 4. **Applicable laws.** Except as otherwise provided by this section, all of the laws applicable to absentee ballots and absentee voters and all other provisions of the Minnesota election law shall apply to an absentee ballot board.

**History:** 1981 c 29 art 3 s 13; 1981 c 185 s 3; 1986 c 444; 1987 c 266 art 1 s 19; 1989 c 291 art 1 s 7; 1990 c 585 s 23; 1991 c 320 s 2

### 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:

(a) Either in the military or the spouses or dependents of individuals serving in the military; or

(b) Temporarily outside the territorial limits of the United States.

Subd. 2. **Permanent residence outside United States.** Sections 203B.16 to 203B.27 provide the exclusive voting procedure for United States citizens who are living permanently 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 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.

**History:** 1981 c 29 art 3 s 16

#### NOTES AND DECISIONS

##### 203B.16

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).

### 203B.17 APPLICATION FOR BALLOT.

Subdivision 1. **Submission of application.** 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. 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. 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 last maintained residence in Minnesota.

An application for absentee ballots for a primary shall also constitute an application for absentee ballots for the ensuing general election. 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:

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(a) The voter's name, birthdate, and present address of residence in Minnesota, or 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; and

(f) The voter's military identification card number, passport number, or, if the voter does not have a valid passport or identification card, the signed statement of an individual authorized to administer oaths or a commissioned or noncommissioned officer of the military not below the rank of sergeant or its equivalent, certifying that the voter or other individual requesting absentee ballots has attested to the truthfulness of the contents of the application under oath.

A form for providing this information shall be prepared by each county auditor and shall be furnished to individuals who request it pursuant to this section.

**History:** 1981 c 29 art 3 s 17; 1985 c 72 s 1

### NOTES AND DECISIONS

#### 203B.17

Liberality should be exercised when considering request for ballots filed by soldiers. Op. Atty. Gen. 639E, March 24, 1944. 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.

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.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 a permanent register the voter's name, address of present or former residence in Minnesota, mailing address, school district number, and the category under section 203B.16, to which the voter belongs. After recording this information, the county auditor shall retain the application for two years after the date of the next general election. 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.

**History:** 1981 c 29 art 3 s 19; 1987 c 266 art 1 s 21

#### 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 or municipal clerk shall not be required to serve a copy of the petition and notice of hearing on the challenged voter. 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*

**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.

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.

Subd. 3. **Back of return envelope.** On the back of the return envelope an affidavit form shall appear with space for:

(a) The voter's address of present or former residence in Minnesota;

(b) A statement indicating the category described in section 203B.16 to which the voter belongs;

(c) A statement that the voter has not cast and will not cast another absentee ballot in the same election or elections;

(d) 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

(e) The voter's military identification card number, passport number, or, if the voter does not have a valid passport or identification card, the signature and certification of an individual authorized to administer oaths or a commissioned or noncommissioned officer of the military not below the rank of sergeant or its equivalent.

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*

**203B.22 MAILING BALLOTS.**

The county auditor shall mail 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 mailed. Only one set of ballots shall be mailed to any applicant for any election. Ballots to be sent outside the United States shall be given priority in mailing. A county auditor may make use of any special service provided by the United States government for the mailing of voting materials under sections 203B.16 to 203B.27.

*History: 1981 c 29 art 3 s 22*

**203B.23 APPLICATION RECORDS; DELIVERY TO ELECTION JUDGES.**

When election materials are transmitted to the municipal clerks as provided in section 204B.28, subdivision 2, the county auditor shall also transmit a certified copy of the record of applications compiled as provided in section 203B.19, for absentee ballots to be cast at that election in that town, school district, or city. A certified copy of the record of additional applications received by the county auditor after the ballots have been delivered shall also be delivered to the appropriate municipal clerk. Each municipal clerk shall in turn deliver to the election judges in the appropriate precincts the application records received from the county auditor.

*History: 1981 c 29 art 3 s 23; 1987 c 266 art 1 s 22*

**203B.24 DUTIES OF ELECTION JUDGES.**

Subdivision 1. **Check of voter eligibility; proper execution of affidavit.** 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 appearing on their copy of the application records to insure that the ballot is from a voter eligible to cast an absentee ballot under sections 203B.16 to 203B.27. Any discrepancy or disqualifying fact shall be noted on the envelope by the election judges. Failure to return unused ballots shall not invalidate a marked ballot, but a ballot shall not be counted if the affidavit 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.

Subd. 2. **Voting more than once.** The election judges shall compare the voter's name with the names appearing on their copy of the application records to insure that the voter has not already returned a ballot in the election. If a voter whose application has been recorded under section 203B.19 casts a ballot in person on election day, no absentee ballot shall be counted for that voter. If more than one return envelope is received from a voter whose application has been recorded under section 203B.19, the ballots in the return envelope bearing the latest date shall be counted and the uncounted ballots shall be returned by the election judges with the rejected ballots.

**History:** 1981 c 29 art 3 s 24

**203B.25 DEATH OF VOTER; INDIVIDUALS VOTING UNDER SPECIAL ABSENTEE PROCEDURES.**

If the election judges receive proof that a voter who has returned an absentee ballot as provided in sections 203B.16 to 203B.27, has died before the time when voting is scheduled to begin on election day, the ballot of that voter shall be returned by the election judges with the rejected ballots. Notwithstanding the other provisions of this section, the counting of the absentee ballot of a deceased voter shall not invalidate the election.

**History:** 1981 c 29 art 3 s 25

**203B.26 SEPARATE RECORD.**

A separate record of the ballots of absent voters cast under sections 203B.16 to 203B.27 shall be kept in each precinct.

**History:** 1981 c 29 art 3 s 26

**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

**GENERAL  
PROVISIONS**

## CHAPTER 204B

### ELECTIONS; GENERAL PROVISIONS

**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

**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**

See also: Minn. Const. art VII, s 6.

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.

Affidavit must be signed and sworn by candidate. Op. Atty. Gen. 911L, August 6, 1942.

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.

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.

**204B.04 CANDIDACY; PROHIBITIONS.**

**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, except as otherwise provided for partisan offices in section 204D.10, subdivision 2, and for nonpartisan offices in section 204B.13, subdivision 4.

**Subd. 3. Nomination for nonpartisan office.** No individual shall be nominated by nominating petition for any nonpartisan office except in the event of a vacancy in nomination as provided in section 204B.13.

**History:** 1981 c 29 art 4 s 4; 1991 c 320 s 4

**NOTES AND DECISIONS****204B.04**

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.

Nominating presidential electors can be accomplished under M.S. 202A.28. Op. Atty. Gen. 185B-3, January 15, 1960.

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.

Candidates for the office of United States senator may be nominated by petition. *Atten v. Holm*, 243 Minn. 96, 66 N.W. 2d 610 (1954).

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).

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).

**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 shall state that the candidate:

- (a) Is an eligible voter;
- (b) Has no other affidavit on file as a candidate for any office at the same primary or next ensuing general election; and
- (c) 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. **Presidential primary affidavit.** An affidavit of candidacy for the presidential primary must include the candidate's name, address, office sought, and the candidate's political party or principal in three words or less. The affidavit must include a statement that the candidate satisfies the federal constitutional requirements for holding office.

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. **Particular offices.** Candidates who seek nomination for the following offices shall state the following additional information on the affidavit:

- (a) for United States senator, that the candidate 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;
- (b) for United States representative, that the candidate 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;
- (c) 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;
- (d) for supreme court justice, court of appeals judge, or district court judge, that the candidate is learned in the law;
- (e) for county, municipal, school district, or special district office, that the candidate meets any other qualifications for that office prescribed by law;
- (f) 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.

**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

#### NOTES AND DECISIONS

##### 204B.06

See also: Minn. Const. art VII, s 6.  
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.

Affidavit must be signed and sworn by candidate. Op. Atty. Gen. 911L, August 6, 1942.  
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.  
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.

Candidate for office need not be a registered voter. Op. Atty. Gen. 1841, November 18, 1958.  
Officeholders must be 21 years of age when they assume office. *Jude v. Erdahl*, 207 N.W. 2d 715 (Minn. 1973).

##### 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 by nominating petition 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.** On petitions nominating presidential electors, 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.

**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

NOTES AND DECISIONS

204B.07

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.

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.

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.

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.

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).

"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).

Candidate for U.S. House of Representatives could not be certified on election ballot as "Shelvie Prolife Reitmann" 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).

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 state office voted on statewide or for United States senator, 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 or judicial district 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

NOTES AND DECISIONS

204B.08

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.** 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 70 days nor less than 56 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. Notwithstanding other law to the contrary, the affidavit of candidacy must

be signed in the presence of a notarial officer. Candidates for presidential electors may file petitions on or before the state primary day. 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. Affidavits and petitions for offices to be voted on in only one county shall be filed with the county auditor of that county. Affidavits and petitions for offices to be voted on in more than one county shall be filed with the secretary of state.

**Subd. 1a. Absent candidates.** A candidate for 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, 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.

**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. 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.

**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

#### NOTES AND DECISIONS

##### 204B.09

See also: Minn. Const. art VII, s 6.

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.

Affidavit must be signed and sworn to by candidate. Op. Atty. Gen. 911L, August 6, 1942.

In 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.

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.

Secretary of state may pass upon form and sufficiency of nominating petition, but has no authority to determine whether candidate is qualified to serv. op. Atty. Gen. 911J, September 15, 1970.

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.

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).

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.

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.

##### 204B.10 AFFIDAVITS OF CANDIDACY; NOMINATING PETITIONS; DUTIES OF ELECTION OFFICIALS.

**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 of the person; 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 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

#### NOTES AND DECISIONS

##### 204B.10

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.

##### 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, state treasurer, secretary of state, representative in congress, judge of the supreme court, judge of the court of appeals, judge of the district court, or judge of the county municipal court of Hennepin county, \$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 state treasurer.

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 332.50. 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 or 204B.13, subdivision 4, 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, county, or county municipal 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

NOTES AND DECISIONS

204B.11

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).

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 three days after the last day for filing for the office.

Subd. 2. [Repealed, 1983 c 303 s 24]

Subd. 2a. **After primary; candidates for constitutional office.** (a) A candidate for a constitutional office may withdraw from the general election ballot by filing an affidavit of withdrawal with the same official who received the affidavit of candidacy. The affidavit must request that official to withdraw that candidate's name from the ballot and must be filed no later than 16 days before the general election.

(b) A candidate for a constitutional office may withdraw after the deadline in paragraph (a) if:

(1) the candidate withdraws because of a catastrophic illness that was diagnosed after the deadline for withdrawal;

(2) the candidate's illness will permanently and continuously incapacitate the candidate and prevent the candidate from performing the duties of the office sought; and

(3) the candidate or the candidate's legal guardian files with the affidavit of withdrawal a certificate verifying that the candidate's illness meets the requirements of clauses (1) and (2), signed by at least two licensed physicians.

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

## NOTES AND DECISIONS

**204B.12**

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.**

Subdivision 1. **Death or withdrawal.** A vacancy in nomination may be filled in the manner provided by this section. A vacancy in nomination exists when:

(a) A major political party candidate or nonpartisan candidate who was nominated at a primary dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 2a; or

(b) A candidate for a nonpartisan office, for which one or two candidates filed, dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 1.

Subd. 2. **Partisan office; nomination by party.** (a) A vacancy in nomination for partisan office shall be filled as provided in this subdivision. A major political party has the authority to fill a vacancy in nomination of that party's candidate by filing a nomination certificate with the same official who received the affidavits of candidacy for that office.

(b) A major political party may provide in its governing rules a procedure, including designation of an appropriate committee, to fill vacancies in nomination for all offices elected statewide. The nomination certificate shall be prepared under the direction of and executed by the chair and secretary of the political party and filed within seven days after the vacancy in nomination occurs or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the candidate's death or catastrophic illness, the nomination certificate must be filed within seven days after the vacancy in nomination occurs but no later than four days before the general election. The chair and secretary when filing the certificate 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.

Subd. 3. [Repealed, 1991 c 320 s 16]

Subd. 4. **Nonpartisan office; filling vacancy by nominating petitions.** A vacancy in nomination in a nonpartisan office may be filled by nominating petition in the manner provided in sections 204B.06 to 204B.09. The petition shall be filed within one week after the vacancy in nomination occurs, but not later than four calendar days before the election.

An eligible voter is eligible to sign a nominating petition to fill a vacancy in nomination without regard to whether that eligible voter intends to vote or did vote for any candidate for that office at the primary or signed other nominating petitions for candidates for that office.

Subd. 5. **Candidates for governor and lieutenant governor.** (a) If a vacancy in nomination occurs in the race for governor, the candidate for governor determined under this section shall select the candidate for lieutenant governor. If a vacancy in nomination occurs in the race for lieutenant governor, due to a vacancy in nomination for governor or due to the withdrawal or death of the candidate for lieutenant governor, the candidate for governor shall select the candidate for lieutenant governor as provided in this subdivision.

(b) For a vacancy in nomination that occurs before the 16th day before the general election, the name of the lieutenant governor candidate must be submitted by the governor candidate to the filing officer within seven days after the vacancy occurs, or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the death or catastrophic illness of the candidate for lieutenant governor, 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 later than four days before the general election. If the vacancy in nomination occurs through the death or catastrophic illness of the candidate for governor, the new candidate for governor shall submit the name of the lieutenant governor candidate within seven days after the vacancy in nomination for governor is filled under section 204B.13, subdivision 2, but no later than four days before the general election.

Subd. 6. **Vacancy after deadline.** If a candidate withdraws after the 16th day before the general election but before four days before the general election, the secretary of state shall instruct the election judges to strike the name of the withdrawn candidate from the general election ballot and shall substitute no other candidate's name. Filing officers may not accept a nomination certificate for filing to fill a vacancy in nomination resulting from the filing of an affidavit of withdrawal by a candidate after the 14th day before the general election. Vacancies occurring through death or catastrophic illness after the 16th day before the general election are governed by section 204B.41.

**History:** 1981 c 29 art 4 s 13; 1986 c 444; 1991 c 320 s 8-12

#### NOTES AND DECISIONS

##### 204B.13

State central committee selects the candidate if a party nominee dies. Op. Atty. Gen. 47, September 22, 1948.

When a primary nominee for nonpartisan office is convicted of a felony, the next highest candidate succeeds him. Op. Atty. Gen. 28B-5, October 5, 1934.

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.

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.

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. 6, 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).

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.

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. 203A.36. Op. Atty. Gen. 28B-3, August 7, 1962.

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).

##### 204B.135 REDISTRICTING OF ELECTION DISTRICTS.

Subdivision 1. **Cities with wards.** A city that elects its council members by wards may not redistrict those wards before the legislature has been redistricted in a year ending in one or two. 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.

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. **Voters 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 the state 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 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, except for special elections conducted on the date of the school district general election. 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.

**History:** 1987 c 297 s 1; 1991 c 349 s 30

**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. **Separate precincts; requirements.** The following shall constitute at least one election precinct:

- (a) Each city ward; and
- (b) Each town and each statutory city, unless municipalities are combined for election purposes under subdivision 8. Notwithstanding any law to the contrary, each town and each statutory city located within the metropolitan area as defined in section 473.121, subdivision 2, shall constitute at least one election precinct.

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 seven 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 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 district.

Subd. 4. **Boundary change procedure.** Any change in the boundary of an election precinct shall be adopted at least 90 days before the date of the next election and 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 60 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 days prior to 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 may be established in the manner provided in the rules of the secretary of state.

**Subd. 5. Precinct boundaries; description; maps.** When a precinct boundary has been changed, the municipal clerk shall immediately notify the secretary of state. Upon receipt of this notice or a notice of annexation from the Minnesota municipal board, the secretary of state shall provide the municipal clerk with a base map on which the clerk shall note the boundary change. The clerk shall return the corrected base map to the secretary of state within 30 days after the boundary change was made. The secretary of state shall update the precinct boundary data base, prepare a corrected precinct map, and provide the corrected precinct map to the county auditor and the municipal clerk who shall make them available for public inspection. The county auditor shall prepare and file precinct boundary maps for precincts in unorganized territories, and the municipal clerk designated in the combination agreement shall prepare and file precinct boundary maps in the case of municipalities combined for election purposes under subdivision 8, 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, 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. Precinct boundaries to follow physical features.** The boundaries of election precincts shall follow visible, clearly recognizable physical features. If it is not possible to establish the boundary between any two adjacent precincts along such features, the boundary around the two precincts combined shall be established in the manner provided in the rules of the secretary of state to comply with the provisions of this subdivision. The maps required by subdivision 5 shall clearly indicate which boundaries do not follow visible, clearly recognizable physical features.

For the purposes of this subdivision, "visible, clearly recognizable physical feature" means a street, road, boulevard, parkway, river, stream, shoreline, drainage ditch, railway right-of-way, or any other line which is clearly visible from the ground. A street or other roadway which has been platted but not graded is not a visible, clearly recognizable physical feature for the purposes of this subdivision.

If the secretary of state determines that a precinct boundary does not comply with this subdivision, the secretary of state shall send a notice to the county auditor or municipal clerk specifying the action needed to correct the precinct boundary. If, after 60 days, the county or municipal governing body has not taken action to correct the precinct boundary, the secretary of state shall correct the precinct boundary and notify the county auditor or municipal clerk of the action taken.

If a visible, clearly recognizable physical feature is not available for use as a precinct boundary, an alternate boundary used by the United States Bureau of the Census may be authorized by the secretary of state.

**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, 3 and 6 apply to all municipalities.

**Subd. 8. Combined precinct.** (a) Up to four contiguous municipalities located entirely outside the metropolitan area as defined in section 473.121, subdivision 2, that are contained in the same legislative district, congressional district, and county commissioner district may enter into a combination agreement to form one precinct for state and county election

purposes, upon the approval of the county auditor. The governing body of each municipality proposing to enter into a combination agreement must provide the inhabitants of the municipality with published and posted notice of the proposed agreement three weeks before the second Tuesday in March. A combination agreement must be approved by resolutions of all of the governing bodies of the combining municipalities on or before the second Tuesday in March of an election year. A copy of the combination agreement must be submitted to the county auditor for approval, on or before May 1 of an election year.

(b) One or more of the municipalities in the combined precinct may withdraw from the combination by a resolution of the governing body of the withdrawing municipality, passed on or before the second Tuesday in March of an election year. The withdrawing municipality shall file the resolution with the county auditor no later than May 1 of an election year. The decision of any one municipality to withdraw from the combination agreement automatically dissolves the combination unless all the remaining municipalities continue to meet all the requirements of this subdivision.

(c) The combination agreement must specify the designated polling place and the municipal election officials or governing bodies responsible for appointing election judges and the chair of the election board, posting notices, preparing precinct maps, and carrying out other election duties required by law.

(d) In combining or separating, the municipalities must meet the time requirements specified in this section for changing precinct boundaries and in section 204B.16, subdivision 3, for designating a different polling place.

**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

#### NOTES AND DECISIONS

##### 204B.14

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.

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 data base of precinct and election district boundaries. The secretary of state shall revise the information in the data base 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.

**History:** 1991 c 349 s 35; 1993 c 208 s 3

### 204B.15 UNORGANIZED TERRITORY; ELECTION PRECINCTS.

A county board, at its meeting in either January or July, upon the petition of not less than ten eligible voters residing in unorganized territory more than ten miles from the polling place in any established precinct, shall establish a new election precinct. The board shall designate a polling place for the new precinct that is convenient for the individuals residing in it. No polling place designated under this section shall be located within ten miles of an existing polling place.

**History:** 1981 c 29 art 4 s 15

#### 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 473.121 shall be located within the boundaries of the precinct or within 3,000 feet of one of those boundaries unless a single polling place is designated for a city pursuant to 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 473.121, 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 polling place has been changed, the governing body establishing the polling place shall send each registered voter in the affected 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, who shall change the registrant's status to "challenged" in the statewide registration system. This subdivision does not apply to a polling place location that is changed on election day under section 204B.17.

Subd. 2. **Single polling place permitted.** The governing body of any city of the third or fourth class or any town having more than one precinct or of any city with territory in more than one county may by ordinance or resolution designate a single, accessible, centrally located polling place where all the voters of the city or town shall cast their ballots. A single polling place may also be established for two or more precincts combined in the manner provided in section 204B.14, subdivision 8. A single board of election judges may be appointed to serve at this polling place. The number of election judges appointed shall be determined by considering the number of voters in the entire city or town as if they were voters in a single precinct. Separate ballot boxes shall be provided and separate returns made for each precinct in the city or town.

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 30 days prior to an election.

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.

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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 handicapped.** Each polling place shall be accessible to and usable by elderly and physically handicapped individuals. 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 31 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 the physically handicapped to the voting booth.

(f) At least one handicapped parking space, 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 handicapped persons.

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

### NOTES AND DECISIONS

#### 204B.16

Generally a precinct may contain only one polling place. Op. Atty. Gen. 183Q, September 29, 1967.

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.

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.

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 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.

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.

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.18 POLLING PLACES; EQUIPMENT.**

Subdivision 1. **Booths.** Each polling place must contain a number of voting booths in proportion to the number of individuals eligible to vote in the precinct. Each booth 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 shall be provided with a door or curtains. Each accessible polling place must have at least one accessible voting booth or other accessible voting station. All booths or stations must be constructed so that a voter is free from observation while marking ballots. In all other polling places every effort must be made to provide at least one accessible voting booth or other accessible voting station. During the hours of voting, the booths must have instructions, a pencil, and other supplies needed to mark the ballots. If needed, a chair must be provided for elderly and handicapped voters to use while in the voting booth. All ballot boxes, voting booths, and election judges must be in open public view in the polling place.

Subd. 2. **Ballot boxes.** Each polling place shall be provided with one ballot box for each kind of ballot to be cast at the election. The boxes shall be substantially the same color as the ballots to be deposited in them. 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. When buff or goldenrod ballot boxes are required, a separate box must be provided for each school district for which ballots are to be cast at that polling place. The number and name of the school district must appear conspicuously on the top of each buff or goldenrod ballot box.

**History:** 1981 c 29 art 4 s 18; 1984 c 471 s 7; 1987 c 266 art 1 s 26

NOTES AND DECISIONS

**204B.18**

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.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 an election precinct is qualified to be appointed as an election judge for that precinct subject to this section. If the files of the appointing authority do not contain sufficient voters within a precinct who are qualified and willing to serve as election judges, election judges may be appointed who reside in another precinct in the same municipality, or for school district elections, in the same school district. If there are not sufficient voters within the municipality or school district who are qualified and willing to serve as election judges, election judges may be appointed who reside in the county where the precinct is located.

Subd. 2. **Individuals not qualified to be election judges.** No individual shall be appointed as an election judge for any precinct if that individual:

- (a) Is unable to read, write or speak the English language;
- (b) Is the spouse, parent, child or sibling of any election judge serving in the same precinct or of any candidate at that election; or
- (c) Is a candidate at that election.

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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 who has attained the age of 16 is eligible to be appointed as a without party affiliation trainee election judge in the municipality 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 and the requirement that the student must have completed or be enrolled in a course of study in government 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

### NOTES AND DECISIONS

#### 204B.19

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.

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.

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.

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).

Violation of statutes setting election judge qualifications not condoned. Hahn v. Graham, 225 N.W. 2d 385 (Minn. 1975).

#### 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 workforce at any single worksite.

**History:** 1983 c 126 s 2; 1986 c 444; 1991 c 237 s 3

**204B.20 ELECTION BOARD; CHAIR; 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 chair of the election board. The chair 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

**204B.21 APPOINTMENT OF ELECTION JUDGES.**

**Subdivision 1. Appointment lists; duties of political parties and county auditor.** On July 1 in a year in which there is an election for a partisan political office, the county or legislative district chairs of each major political party, whichever is designated by the state party, shall prepare a list of eligible voters to act as election judges in each election precinct in the county or legislative district. The chairs shall furnish the lists to the county auditor of the county in which the precinct is located.

By July 15, the county auditor shall furnish to the appointing authorities a list of the appropriate names for each election precinct in the jurisdiction of the appointing authority. Separate lists shall be submitted by the county auditor for each major political party.

**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 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. 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. If no lists have been furnished or if additional election judges are required after all listed names have been exhausted, the appointing authority may appoint any other individual to serve as an election judge subject to the same requirements and qualifications. The appointments shall be made at least 25 days before the election at which the election judges will serve.

**History:** 1981 c 29 art 4 s 21; 1983 c 303 s 8; 1986 c 444; 1987 c 212 s 5

**NOTES AND DECISIONS****204B.21**

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.

Where there was a complete failure to comply with statute in the appointment of election board the election was invalid. In reContest of Election of Vetsch 245 Minn. 229, 71 N.W. 2d 652 (1955).

**204B.22 ELECTION JUDGES; NUMBER REQUIRED.**

**Subdivision 1. Minimum number required.** A minimum of three election judges shall be appointed for each precinct. In a precinct of municipalities combined for election purposes under section 204B.14, subdivision 8, at least one judge must be appointed from each municipality in the combined precinct, provided that not less than three judges shall be appointed for each combined precinct. 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.

**Subd. 2. Additional election judges in paper ballot precincts.** In precincts using paper ballots, one election judge shall be appointed for each 150 votes cast in that precinct at the last similar election. At each state primary or state general election in precincts using paper ballots and in which more than 300 votes were cast at the last similar election, additional election judges shall be appointed to count the ballots and complete the returns in place of the election board that served while voting was taking place.

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Subd. 3. **Minimum number required in certain precincts.** At each state primary or state general election in precincts using lever voting machines or an electronic voting system with marking devices and in which more than 400 votes were cast at the last similar election, the minimum number of election judges is three plus one judge to demonstrate the use of the voting machine or device.

**History:** 1981 c 29 art 4 s 22; 1986 c 362 s 3; 1987 c 212 s 6

### NOTES AND DECISIONS

#### 204B.22

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.

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).

#### 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 chair of the election board.

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.

**History:** 1981 c 29 art 4 s 23; 1986 c 444

#### 204B.24 ELECTION JUDGES; OATH.

Each election judge shall sign the following oath before assuming the duties of the office:

"I ..... solemnly swear 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."

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

#### 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 a program for the training of 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.

**History:** 1981 c 29 art 4 s 25; 1987 c 266 art 1 s 28



**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*

**204B.27 DUTIES OF SECRETARY OF STATE.**

Subdivision 1. **Blank forms.** At least 25 days before every state election the secretary of state shall transmit to each county auditor a sufficient number of blank county abstract forms and other blank forms the secretary of state deems necessary for the conduct of 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 July 1 of every even 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. 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 election the secretary of state shall prepare and furnish to the county auditor of each county in which paper ballots are used, 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 in which paper ballots are used.

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.

*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*

**204B.28 CLERKS; ELECTION SUPPLIES; DUTIES.**

Subdivision 1. **Training program for election officials.** Before each state primary, each county auditor shall conduct a training program for local election officials. The county auditor may require the municipal clerks and the chairs of the election boards in the county to meet for this training program before the election at a time and place set by the county auditor. The training program shall include instruction in election procedures and the duties of municipal clerks and election judges. The chairs of the election boards shall be compensated by the municipalities for the incidental expenses incurred by them to attend a training program.

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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.

**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

### 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.**

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. 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.

*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*

**204B.32 ELECTION EXPENSES; PAYMENT.**

Subdivision 1. **Payment.** (a) The secretary of state shall pay the compensation for presidential electors, the cost of printing the pink paper ballots, 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 canary ballots, the white ballots, the pink 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 costs.** Municipalities or counties may allocate the costs of conducting elections to school districts for payment of their proportionate share of such expenses for elections held at the same time as the regular municipal or county primary and general election. Allocated costs include expenses for election equipment and supplies; polling locations; personnel (including election judge compensation and the portion of salaries of election administrative and technical employees attributable to the preparation and conduct of the election); transportation related to the conduct of the election; required election notices and newspaper publication of election information; communications devices; and postage (including mailings to election judges and for absentee voter applications and ballots).

**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

#### 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) Between June 1 and July 1 in each even numbered year, 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 two weeks 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

#### NOTES AND DECISIONS

##### 204B.33

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 officers to 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 officers to 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, county or county municipal 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

NOTES AND DECISIONS

204B.34

If last day for filing should fall on Monday, February 22, 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.

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.

Notice erroneously specifying term for which mayor is to be elected does not invalidate election. Op. Atty. Gen. 277A-4, February 3, 1956.

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.** Ballots necessary to fill applications of absentee voters shall be prepared and delivered at least 30 days before the election to the officials who administer the provisions of chapter 203B.

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

NOTES AND DECISIONS

204B.35

The statutes do not permit endorsed candidates to appear on primary election ballots as a slate or ticket. *Matson v. McKenna*, 222 N.W. 2d 273 (1974).

There is no statute specifying size and color of separate ballot on redistricting of county commissioners' districts under M.S. 375.025, reasonable size and distinct color recommended. Op. Atty. Gen. 798D, October 1, 1962.

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 same election that person was defeated for another office for which he filed. Op. Atty. Gen. 472B, January 11, 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.

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.

Ballot on proposed ordinance may contain explanatory statement clarifying issue of public importance submitted to electorate. Op. Atty. Gen. 28A-5, March 24, 1955.

Write-in votes are authorized for presidential electors. Op. Atty. Gen. 28C-5, October 5, 1968.

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.

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.

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).

**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 of the same color shall be substantially uniform in style of printing, size, thickness and shade of color. When the ballots of a particular color vary in shade, those used in any one precinct shall be of the same shade. All ballots shall be printed in easily readable type with suitable lines dividing candidates, offices, instructions and other matter printed on ballots. The name of each candidate shall be printed in capital letters. 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 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 a square in which the voter may designate a vote by a mark (X). Each square shall be the same size. Above the first name on each ballot shall be printed the words, "Put an (X) in the square opposite the name of each candidate you wish to vote for." At the same level with these words and directly above the squares shall be printed a small arrow pointing downward. 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 a square to the left of each word so that the voter may indicate by a mark (X) either a negative or affirmative vote. The ballot shall include instructions directing the voter to put an (X) in the square before the word "YES" if the voter desires to vote for the question, or to put an (X) 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 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 - supreme court";  
"Associate Justice (number) - supreme court";
- (b) In the case of the court of appeals:  
"Judge (number) - court of appeals"; or
- (c) In the case of the district court:  
"Judge (number) - (number) district court";

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 s 45

NOTES AND DECISIONS

**204B.36**

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.

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).

Former section 203A.33 requiring party-designated candidates' names be placed before independent candidates' names on partisan ballot held constitutional. Ulland v. Growe, 262 N.W. 2d 412, cert. den. Berg v. Growe, 436 U.S. 927 (1978).

The statutes do not permit endorsed candidates to appear on primary election ballots as a slate or ticket. Mattson v. McKenna, 222 N.W. 2d 273 (1974).

There is no statute specifying size and color of separate ballot on redistricting of county commissioners' districts under M.S. 375.025, reasonable size and district color recommended. Op. Atty. Gen. 798D, October 1, 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.

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 27, 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.

Write-in votes are authorized for presidential electors. Op. Atty. Gen. 28C-5, October 5, 1968.

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.

**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 surnames 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

NOTES DECISIONS

**204B.38**

Word St. Paul construed as one word. Op. Atty. Gen. 28B-2, July 8, 1938.

Auditor has no power to add upon his won initiative identifying words where surnames of candidates are identical. Op. Atty. Gen. 28B-2, April 30, 1946.

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.

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).

**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 and municipal clerks shall retain all election materials returned to them after any election for at least one year from the date of that election. All election materials involved in a contested election shall be retained for one year 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 open the sealed ballot envelopes and inspect the ballots for that election maintained by the county auditors, municipal clerks, or school district clerks for the purpose of monitoring and evaluating election procedures. No inspected ballot 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.

*History: 1981 c 29 art 4 s 40; 1987 c 175 s 7; 1989 c 291 art 1 s 10*

**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, 74, Stat.

**204B.41 VACANCY IN NOMINATION; CHANGING BALLOTS.**

When a vacancy in nomination occurs through the death or catastrophic illness of a candidate after the 16th day before the general election, the officer in charge of preparing the ballots shall prepare and distribute a sufficient number of separate paper ballots which shall be headed with the words "OFFICIAL SUPPLEMENTAL BALLOT." This ballot shall contain the title of the office for which the vacancy in nomination has been filled and the names of all the candidates nominated for that office. The ballot shall conform to the provisions governing the printing of other official ballots as far as practicable. The title of the office and the names of the candidates for that office shall be blotted out or stricken from the regular ballots by the election judges. The official supplemental ballot shall be given to each voter when the voter is given the regular ballot or is directed to the voting machine. Regular ballots shall not be changed nor shall official supplemental ballots be prepared as provided in this section during the three calendar days before an election. Absentee ballots that have been mailed prior to the preparation of official supplemental ballots shall be counted in the same manner as if the vacancy had not occurred. Official supplemental ballots shall not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were prepared.

*History: 1981 c 29 art 4 s 41; 1986 c 444; 1991 c 320 s 13*

**NOTES AND DECISIONS**

**204B.41**

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 at 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 PAPER COLOR FOR SAMPLE BALLOTS; PENALTY.**

No sample ballot shall be printed on paper of the same color as any official ballots except when printed in black ink on white paper and appearing in a newspaper as news matter. A violation of this section is a misdemeanor.

**History:** 1981 c 29 art 4 s 42

**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;
- (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, 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. 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

**NOTES AND DECISIONS****204B.44**

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 (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*, 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*, 221 N.W. 2d 562 (1974).

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).

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).

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).

See also: M.S. 204C.38; 204C.39.

**204B.45 MAIL BALLOTING.**

Subdivision 1. **Authorization.** Any statutory or home rule charter city or town 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 city, county, or state election with no polling place other than the office of 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.

Subd. 1a. **Experimental mail balloting; authorization.** The secretary of state may authorize Ramsey and Kittson counties to conduct elections entirely by mail on an experimental basis. A request from a county board seeking authorization to conduct an experimental mail election must be submitted to the secretary of state at least 90 days prior to the election. The county auditor must pay all costs related to mailing the ballots to and from the voters.

The secretary of state shall prepare a report to the legislature on the implementation of this subdivision by January 15, 1993.

Subd. 2. **Procedure.** Notice of the election and the special mail procedure must be given at least six weeks prior to the election. No earlier than 20 days or later than 14 days prior to the election, the auditor shall mail ballots by nonforwardable mail to all voters registered in the town or unorganized territory. 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 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

**204B.46 MAIL ELECTIONS; QUESTIONS.**

A county, municipality, or school district submitting questions to the voters at a special election may apply to the county auditor for approval of an election by mail with no polling place other than the office of the auditor or clerk. No more than two questions may be submitted at a mail election and no offices may be voted on. Notice of the election and the special mail procedure must be given at least six weeks prior to the election. No earlier than 20 or 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. Eligible voters not registered at the time the ballots are mailed may apply for ballots pursuant to chapter 203B.

**History:** 1987 c 213 s 1; 1989 c 291 art 1 s 11; 1993 c 223 s 11

**ELECTION DAY  
ACTIVITIES**

## CHAPTER 204C ELECTION DAY ACTIVITIES

### 204C.01 DEFINITIONS.

The definitions in chapter 200 apply to this chapter.

**History:** 1981 c 29 art 5 s 1

### 204C.02 APPLICATION.

This chapter applies to all elections held in this state except as otherwise provided by law.

**History:** 1981 c 29 art 5 s 2; 1987 c 266 art 1 s 34

### 204C.03 PUBLIC MEETINGS PROHIBITED ON ELECTION DAY.

Subdivision 1. **School districts; counties; municipalities.** No 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 school district, county, city or town.

Subd. 2. **State universities and community colleges.** Except for regularly scheduled classes, no state university or state community college 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

### 204C.04 EMPLOYEES; TIME OFF TO VOTE.

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 purpose of voting during the morning of 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 state primary or general election, an election to fill a vacancy in the office of United States senator or United States representative, or a presidential primary as described in section 207A.01 unless it is conducted by mail.

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

#### 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).

### 204C.05 STATE ELECTIONS; HOURS FOR VOTING.

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 473.121, subdivision 2, 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.** 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.

**History:** 1981 c 29 art 5 s 5; 1983 c 303 s 13; 1985 c 169 s 6

#### 204C.06 CONDUCT IN AND NEAR POLLING PLACES.

Subdivision 1. **Lingering 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 shall stand within 100 feet of the entrance to a polling place. The entrance to a polling place is the doorway or point of entry leading into the room or area where voting is occurring.

Subd. 2. **Individuals allowed in polling place.** (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, unless lawfully authorized to do so by an election judge.

(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.

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

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(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 nonintoxicating malt liquor into a polling place, to drink intoxicating liquor or nonintoxicating 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.

**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; 1993 c 223 s 12

### NOTES AND DECISIONS

#### 204C.06

Standing in line by non-voters constitutes a gross misdemeanor. Op. Atty. Gen. 182, October 26, 1964.

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.

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.

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 sections M.S. 204C.07, 204C.19 and 204C.21.

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).

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.

Section applies to village and town elections. Op. Atty. Gen. 490C, November 19, 1954.

#### 204C.07 CHALLENGERS.

**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, the 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.

**Subd. 4. Restrictions on conduct.** 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.

**History:** 1981 c 29 art 5 s 7; 1986 c 444; 1987 c 266 art 1 s 36

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## NOTES AND DECISIONS

### 204C.07

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. **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. 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. 3. **Locking of ballot boxes.** Immediately before the time when voting is scheduled to begin, one of the election judges shall open the ballot boxes in the presence of the individuals assembled at the polling place, turn the boxes upside down to empty them, lock them, and deliver the key to another election judge. The boxes shall not be reopened except to count the ballots after the hours for voting have ended and all voting has been concluded. The boxes shall be kept in public view at all times during voting hours. After locking the ballot boxes, 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 boxes, 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 metal 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 metal 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

## 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. **Initialing.** 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

## 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.

An individual seeking to vote shall sign a polling place roster 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, certifies residence at the address shown, is

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not under guardianship of the person, has not been found by a court of law to be legally incompetent to vote or convicted of a felony without having civil rights restored, is registered and has not already voted in the election. A judge may, before the applicant signs the roster, confirm the applicant's name, address, and date of birth. After the applicant signs the roster, 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 judges shall destroy the voters' receipts at the end of the day.

**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

**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.** The challenger shall state the ground for the challenge, and an election judge shall administer to the challenged individual the following oath:

"Do you solemnly swear 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 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 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

### NOTES AND DECISIONS

#### **204C.12**

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, 1974.

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 773 (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).



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### 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 and folding 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 and 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) A mark (X) shall be placed in the square opposite the printed name of each candidate for whom the individual desires to vote, and in the square 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 ballot shall be counted.

(d) An individual who spoils a ballot may return it to the election judges and receive another.

Subd. 4. **Folding ballots.** After marking the ballots, the voter shall fold each of them separately to conceal the face and all marks on it, and to expose only the initials of the election judges on the back of the ballot.

Subd. 5. **Deposit of ballots in ballot boxes.** The voter shall then withdraw from the voting booth with the ballots and hand them to the election judge in charge of the ballot boxes. That election judge shall immediately deposit each ballot in the proper 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.12, 203B.24 and 203B.25, and shall dispose of any absentee ballots not received or deposited in the manner provided in section 203B.12. 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

### NOTES AND DECISIONS

#### 204C.13

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. *John v. Swenson*, 246 Minn. 449, 119 N.W. 2d 723 (1963). But see Sections M.S. 204C.16, 204C.18.

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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 characters which evidenced the voter's intent to identify it. *Marshall v. Stepka*, 259 Minn. 533, 108 N.W. 2d 614 (1961).

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).

### 204C.14 UNLAWFUL VOTING; 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 and color 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;
- (f) Aid, abet, counsel or procure another to do any act in violation of this section.

A violation of this section is a felony.

**History:** 1981 c 29 art 5 s 14; 1986 c 444

### 204C.15 ASSISTANCE TO VOTERS.

Subdivision 1. **Interpreters; physical assistance in marking ballots.** A voter who claims under oath 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. If the voter is deaf or cannot speak English or understand it when it is spoken, the election judges may select two individuals who are members of different major political parties to act as interpreters. The interpreters shall take an oath similar to that taken by election judges, and shall assist the individual in marking the ballots. A voter in need of assistance may alternatively obtain the assistance of any individual the voter chooses. The individual who assists the voter shall take an oath of eligibility to do so. 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. **Lever machine precincts.** An individual who is unable to enter a polling place where a lever voting system is used may register and vote without leaving a motor vehicle. Two election judges who are members of different political parties shall assist the voter to register. They shall provide the voter with the necessary ballots, a ballot envelope and an absentee ballot return envelope, which shall be completed by the voter, returned to the election judge, and processed pursuant to section 203B.12.

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An individual who is unable to enter a voting machine booth in a precinct where a lever voting system is used shall be provided with the necessary ballots, a ballot envelope, and an absentee ballot return envelope, which shall be completed by the voter and returned to the election judge and processed pursuant to section 203B.12.

**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

### NOTES AND DECISIONS

#### 204C.15

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.

Former section 204A.34 held to apply to village and town elections. Op. Atty. Gen. 490E, November 19, 1954.

#### 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

### NOTES AND DECISIONS

#### 204C.17

Spoiled ballots should not be included in determining result of question of public importance requiring a percentage of the vote cast at such election. Op. Atty. Gen. 434C-5, April 7, 1948.

#### 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

#### 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

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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 one box at a time in the following order: the white box, the pink box, the canary box, the light green box, the blue box, the buff box, the goldenrod box, the gray box, and then the other kinds of ballots voted at the election. If enough election judges are available to provide counting teams of four or more election judges for each box, more than one box may be opened and counted at the same time. 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

### NOTES AND DECISIONS

#### 204C.19

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.*

Absentee ballot may not be challenged after deposit in ballot box except for invalidity on the face of the ballot. *Bell v. Ganaway, 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 N.W. 2d 355 (1963).*

#### 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. 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 than 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 and 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

#### 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 (X) 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 (X) 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.

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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 (X) in the square 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 (X) marks in squares opposite them, not exceeding the whole number to be elected. When fewer names than the number to be elected are marked with an (X) 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 other than (X) which clearly indicates an intent to mark a name or to mark yes or no on a question, and the voter does not use (X) 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

### NOTES AND DECISIONS

#### 204C.22

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.

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.

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.

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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. *Marshal v. Stepka*, 259 Minn. 533, 108 N.W. 2d 955 (1961).

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).

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.*

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.*

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. *Fitzgerald v. Morlock*, 264 Minn. 520, 120 N.W. 2d 339 (1963).

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).

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.*

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).

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. *Sperl v. Wegwerth*, 1963, 265 Minn. 47, 120 N.W. 2d 355.

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.*

Ballots which had crossmarks both in pencil and in ink on same ballot were properly counted. *Fitzgerald v. Morlock*, 264 Minn. 520, 120 N.W. 2d 339 (1963).

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.*

Appearance of marks which trial court may reasonably consider to be tentative or accidental should not destroy ballot. *Sperl v. Wegwerth*, 265 Minn. 47, 120 N.W. 2d 355 (1963).

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. *Fitzgerald v. Morlock*, 264 Minn. 520, 120 N.W. 2d 339 (1963).

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 cause 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 thereon 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.*

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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.

### 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. 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 votes each candidate received or the number of yes and no votes on each question, the number of undervotes or partially blank ballots, and the number of overvotes or partially defective ballots with respect to each office or question;

(b) the number of totally blank ballots, the number of totally defective ballots, the number of spoiled ballots, and the number of unused ballots;

(c) the number of individuals who voted at the election in the precinct;

(d) the number of voters registering on election day in that precinct; and

(e) 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.

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

### NOTES AND DECISIONS

#### 204C.24

New residents voting for president pursuant to former M.S. 208.21-208.35 shall not be included in total number of electors counted as voting in election to determine adoption of state constitutional amendment. Secretary of state shall include spaces on materials furnished election officials segregating votes of new residents. Op. Atty. Gen. 86A, June 10, 1968.

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 23, 1953.

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.

### 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 marked or printed to distinguish the color of the ballots contained, 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 and kind 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

**204C.26 SUMMARY STATEMENTS AND ENVELOPES FOR BALLOT RETURNS; ELECTION OFFICIALS TO FURNISH.**

Subdivision 1. **Summary statements.** Each official responsible for printing ballots shall furnish three or more blank summary statement forms for the returns of those ballots for each precinct. 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 white ballot and the summary statement of the returns for the state pink 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.** On or before July 1 of 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

**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).

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 23, 1953.*

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.*

**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 white, pink, canary, and gray ballots; and the envelopes containing the white, pink, canary, and gray 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

#### NOTES AND DECISIONS

##### 204C.27

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 23, 1953.

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.

#### 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. 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 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

#### 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. **Delivery of summary statements to secretary of state.** The county auditor shall promptly deliver to the secretary of state one of the sets of summary statements received from each precinct.

Subd. 2. [Repealed, 1984 c 560 s 26]

**History:** 1981 c 29 art 5 s 30

#### NOTES AND DECISIONS

##### 204C.30

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 23, 1953.

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.

### 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 or the court of appeals, 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

#### NOTES AND DECISIONS

##### 204C.31

Clerk of court and auditor may serve on canvassing board even though candidates for reelection. Op. Atty. gen. 183E, November 1, 1950.

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.

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.

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.

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.

Canvassing board does not determine whether write-in candidate has qualifications for position. Op. Atty. Gen. 399E, December 3, 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.32 CANVASS OF STATE PRIMARIES.

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office at 10:00 a.m. on or before the 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 evening of the sixth day following the election 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 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.

Subd. 2. **State canvass.** The state canvassing board shall meet at the secretary of state's office on the second Friday after the state primary to canvass the certified copies of the county canvassing board reports received from the county auditors. No later than two days after the canvassing board declares the results, the secretary of state shall certify the names of the nominees to the county auditors and 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

#### NOTES AND DECISIONS

##### 204C.32

Clerk of court and auditor may serve on canvassing board even though candidates for reelection. Op. Atty. Gen. 183E, November 1, 1950.

When the county auditor inadvertently fails to include the congressional candidates' name 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.

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.

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.

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.

Canvassing board does not determine whether write-in candidates has qualifications for position. Op. Atty. Gen. 399E, December 3, 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 on or before the third day 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.

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 promptly certify to the secretary of state the vote reported by the county canvassing board for candidates voted for in more than one county.

**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 second 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

NOTES AND DECISIONS

204C.33

Clerk of court and auditor may serve on canvassing board even though candidates for reelection. Op. Atty. gen. 183E, November 1, 1950.

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.

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.

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.

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.

Canvassing board does not determine whether write-in candidate has qualifications for position. Op. Atty. Gen. 339E, December 3, 1962.

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.

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 section 204C.38.

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.

This section does not apply to election contests pending in the Congress of the United States pursuant to U.S. Const. art 1, s4, 5. Odegard v. Olson, 264 Minn. 439, 119 N.W. 2d 717 (1963).

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 LEGISLATIVE AND JUDICIAL RACES.**

Subdivision 1. **Automatic recounts.** In a state primary when the difference between the votes cast for the candidates for nomination to a legislative office or to a district judicial office is 100 or less, the difference is less than ten percent of the total number of votes counted for that nomination, and the difference determines the nomination, the canvassing board with responsibility for declaring the results for that office shall recount the vote. In a state general election when the difference between the votes of a candidate who would otherwise be declared elected to a legislative office or to a district judicial office and the votes of any other candidate for that office is 100 or less, the canvassing board shall recount the votes. A recount shall not delay any other part of the canvass. The results of the recount shall be certified by the canvassing board as soon as possible. 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. A losing candidate may waive a recount required pursuant to this section by filing a written notice of waiver with the canvassing board.

Subd. 2. **Optional recount.** A losing candidate for nomination or election to a legislative office or to a district, county, or county municipal court 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 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. 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; the costs of computer operation, preparation of ballot counting equipment, 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.

**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

**204C.36 RECOUNTS IN COUNTY, SCHOOL DISTRICT, AND MUNICIPAL ELECTIONS.**

Subdivision 1. **Required recounts.** 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:

- (a) Five votes or less when the total vote cast for nomination or election to that office is 100 votes or less;
- (b) Ten votes or less when the total vote cast for nomination or election to that office is more than 100 but not more than 500 votes;
- (c) Twenty votes or less when the total vote cast for nomination or election to that office is more than 500 but not more than 2,000 votes;
- (d) One percent of the votes or less when the total vote cast for nomination or election to that office is more than 2,000 but less than 10,000 votes; or
- (e) One hundred votes or less when the total vote cast for nomination or election to that office is 10,000 votes or more.

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 during the time for notice of contest of the primary or election for which a recount is sought.

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 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 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.

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, clauses (a) to (e). 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. If the difference between the votes for and the votes against the question is greater than the difference provided in subdivision 1, clauses (a) to (e), 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; the costs of computer operation, preparation of ballot counting equipment, 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.

**History:** 1981 c 29 art 5 s 36; 1987 c 266 art 1 s 47; 1989 c 291 art 1 s 15

#### 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.

The secretary of state shall adopt rules according to the Administrative Procedures 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.

**History:** 1983 c 253 s 18; 1989 c 291 art 1 s 16; 1990 c 426 art 1 s 25

**204C.37 COUNTY CANVASS; RETURN OF REPORTS TO SECRETARY OF STATE.**

Two copies of the reports required by sections 204C.32, subdivision 1 and 204C.33, subdivision 1 shall be certified under the official seal of the county auditor. Each 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 copies shall be mailed or delivered to the secretary of state and, if mailed, shall be forwarded by different mails. If neither copy is 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*

**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**

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*, 252 N.W. 2d 851 (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*, 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*, 221 N.W. 2d 562 (1974).

Candidate for election by petition held included by inference in former section. *Williams v. Donovan* 253 Minn. 493, 92 N.W., 2d 915 (1958).

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).

**204C.39 CORRECTION OF OTHER OBVIOUS ERRORS.**

**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 mail of the action of the county canvassing board.

**History:** 1981 c 29 art 5 s 39; 1986 c 444

#### NOTES AND DECISIONS

#### 204C.39

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 candidate declared elected by the county canvassing board, and the secretary of state shall prepare a certificate for every candidate declared elected by 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 in Congress the filing officer 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 filing officer 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. In case of a contest, an election certificate shall not be issued until a court of proper jurisdiction has finally determined the contest. This subdivision shall not apply to candidates elected to the office of state senator or representative.

**History:** 1981 c 29 art 5 s 40; 1986 c 475 s 15; 1991 c 227 s 18

**NOTES AND DECISIONS**

**204C.40**

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.

Former section held not to apply to election contests pending in the Congress of the United States pursuant to U.S. Const. art I, s4, 5. Odegard v. Olson, 264 Minn. 439, 119 N.W. 2d 717 (1963).

**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 as not been otherwise expressly provided for by law, is guilty of a felony.

**History:** 1981 c 29 art 5 s 41; 1986 c 444

PARTICULAR  
ELECTIONS

## 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, district, county and county municipal courts, 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

**204D.03 TIME OF STATE ELECTIONS.**

Subdivision 1. **State primary.** The state primary shall be held on the first Tuesday after the second Monday in September 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.

**History:** 1981 c 29 art 6 s 3

**NOTES AND DECISIONS****204D.03**

Primary elections are intended to reduce number of candidates to not more than two for each office. State ex rel. Hennepin County Barr Ass'n v. Amdahl 264 Minn. 350, 119 N.W. 2d 169 (1963).

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. 797, 805 (1968).

**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.** 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. The instructions shall be approved by the legal advisor of the official before delivery to the printer. Before a contract exceeding \$1,000 is awarded for printing ballots, the printer shall furnish 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

**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**

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.

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.

Name adopted or used by candidate may be printed on official ballot. Op. Atty. Gen. 28B-2, April 21, 1938.

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.

**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

**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.

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

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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 highest 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 highest 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 on canary paper. The names of candidates for nomination to the supreme court, court of appeals, district, county and county municipal courts 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

### NOTES AND DECISIONS

#### 204D.08

See M.S. 204D.05 and notes thereunder.  
Placement of candidates' names on ballots. See *Ulland v. Growe*, 262 N.W. 2d 412, cert. den. 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*, 207 N.W. 2d 715, 296 Minn. 200 (1973).

#### 204D.09 SAMPLE PRIMARY BALLOTS.

At least two weeks before the state primary the county auditor shall prepare a sample state partisan primary ballot and a sample state and county nonpartisan primary ballot for public inspection. The names of all 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 alphabetically according to the surname. Only one sample state partisan primary ballot and one sample state and county nonpartisan ballot shall be prepared for any county. 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

### NOTES AND DECISIONS

#### 204D.09

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, except as otherwise provided in subdivision 2.

Subd. 2. **Party primary; ten percent requirement.** If at the state primary any individual seeking a major political party's nomination for an office receives a number of votes equal to ten percent of the average of the votes cast at the last state general election for state officers of that major political party within the district for which the office is voted, then all candidates of that major political party who receive the highest vote for an office are the nominees of that major political party. If none of the candidates of a major political party receive the required ten percent, then no candidates are nominated, and all the candidates of that major political party may be nominated by nominating petition as provided in sections 204B.07 to 204B.09. For the purposes of this subdivision, "state officers" mean the governor, lieutenant governor, secretary of state, state auditor, state treasurer, and attorney general.

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*

**204D.11 STATE GENERAL ELECTION BALLOTS; CANDIDATES; OFFICIAL IN CHARGE; RULES; REIMBURSEMENT.**

Subdivision 1. **White ballot; rules.** The names of the candidates for all partisan offices voted on at the state general election shall be placed on a single ballot printed on white paper which shall be known as the "white 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 white ballot.

Subd. 2. **Pink ballots.** Amendments to the state constitution shall be placed on a ballot printed on pink paper which shall be known as the "pink ballot." The pink ballot shall be prepared by the county auditor, in the manner provided in the rules of the secretary of state.

Subd. 3. **Canary ballot.** All questions and the names of all candidates for offices to be voted on at the state general election which are not placed on the white ballot shall be placed on a single ballot printed on canary paper which shall be known as the "canary ballot." The canary ballot shall be prepared by the county auditor in the manner provided in the rules of the secretary of state.

Subd. 4. **Special federal white 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 "special federal white ballot." This ballot shall be prepared by the county auditor in the same manner as the white ballot and shall be subject to the rules adopted by the secretary of state pursuant to subdivision 1. The special federal white 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 as provided by Public Law Number 94-203 and Minnesota Statutes, chapter 203B.

Subd. 5. **Ballot headings.** The white, pink and special federal white ballot shall be headed with the words "State General Election Ballot." The canary ballot shall be headed with the words "County and Judicial Nonpartisan General Election Ballot."

Subd. 6. **Gray ballot.** When the canary ballot would be longer than 30 inches or when it would not be possible to place all offices on a single ballot card, the judicial offices that should be placed on the canary ballot may be placed instead on a separate gray ballot.

The gray ballot shall be prepared by the county auditor in the manner provided in the rules of the secretary of state.

The gray ballot must be headed with the words: "Judicial Nonpartisan General Election Ballot." Separate ballot boxes must be provided for these gray 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

#### 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

#### 204D.13 WHITE BALLOT; PARTISAN OFFICES.

Subdivision 1. **Order of offices.** The candidates for partisan offices shall be placed first on the white ballot and shall appear 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 white 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 succeeding 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.

On voting machines the first name printed for each office means the position nearest the top or left edge of the machine, whichever applies.

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 white ballot after the names of the candidates for that office who were nominated at the state primary. Candidates nominated by petition shall be placed on the ballot in the order in which the petitions were filed. 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 white ballot by nominating petition.

**History:** 1981 c 29 art 6 s 13; 1983 c 253 s 20

#### NOTES AND DECISIONS

##### 204D.13

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. den. 36 U.S. 927 (1978).



**204D.14 CANARY BALLOTS; NONPARTISAN OFFICES.**

Subdivision 1. **Rotation of names.** The names of candidates for nonpartisan offices on the canary 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. **Uncontested offices.** County offices for which there is only one candidate shall appear after all contested county offices on the canary ballot. Judicial offices for which there is only one candidate shall appear after all contested judicial offices on the canary ballots.

**History:** 1981 c 29 art 6 s 14; 1983 c 303 s 19; 1986 c 362 s 5

**204D.15 PINK BALLOT; FORM; DISTRIBUTION; SAMPLE BALLOT.**

Subdivision 1. **Titles for constitutional amendments.** The secretary of state shall provide an appropriate title for each question printed on the pink 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. **Distribution.** The pink ballot shall be provided in groups of 50. At least 25 days before the state general election the secretary of state shall forward to the county auditor of each county sufficient ballots to enable the county auditor to comply with the absentee voting provisions of section 204B.28, subdivision 2. The county auditor shall give a receipt to the secretary of state stating the number of pink ballots and the date when they were received.

Subd. 3. **Sample pink ballot.** Four weeks before the state general election the secretary of state shall file sample copies of the pink ballot in the secretary of state's office for public inspection. Three weeks before the state general election the secretary of state shall mail sample copies of the pink 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

**NOTES AND DECISIONS****204D.15**

See M.S. 204D.09 and notes thereunder.

**204D.16 SAMPLE GENERAL ELECTION BALLOTS; POSTING; PUBLICATION.**

Two weeks before the state general election the county auditor shall prepare sample copies of the white and canary ballots and shall post copies of these sample ballots and a sample of the pink ballot in the auditor's office for public inspection. No earlier than 15 days and no later than two days before the state general election the county auditor shall cause the sample white and canary ballots 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

**204D.165 SAMPLE BALLOTS TO SCHOOLS.**

Notwithstanding any contrary provisions in section 204D.09 or 204D.16, the county auditor, two weeks before the applicable primary or general election, shall provide one copy of the sample partisan primary, nonpartisan primary, canary, white, or pink 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

**204D.17 REPRESENTATIVE IN CONGRESS; STATE SENATOR; STATE REPRESENTATIVE; VACANCY IN OFFICE; SPECIAL ELECTION.**

Subdivision 1. **Special elections; exceptions.** A vacancy in the office of representative in congress or 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 congress or 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

**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).

**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 congress or 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 congress or 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 33rd day prior to the opening day of session in the succeeding even-numbered year, when a vacancy occurs and the congress or 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 28 days after the issuance of the writ.

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 Congress or of the legislature, or at the reconvening of a session of the Congress or 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. **Prohibition.** No special election shall be held under this section on the second Tuesday in December.

**History:** 1981 c 29 art 6 s 19; 1993 c 375 s 6

**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 without reference to the ten percent requirement of section 204D.10, subdivision 2.

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

**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.**

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 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

**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 the seventh day 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

**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 presidential primary, 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

**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. 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

**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 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 county auditor of any county or 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 county auditor or the secretary of state to the individual declared elected by the county or state canvassing board 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.

**History:** 1981 c 29 art 6 s 27; 1986 c 444; 1989 c 291 art 1 s 19; 1993 c 223 s 20

#### **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 four weeks before the first Tuesday after the first Monday in November 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 six weeks before the regular state primary preceding that election. If the vacancy occurs less than six 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 ten weeks before the special primary, except that if the vacancy occurs ten 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 six 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 four 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

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).





**CHAPTER 205**  
**MUNICIPAL ELECTIONS**

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

**205.01 DEFINITIONS.**

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

Subd. 2. "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 this section and sections 205.065, subdivisions 2 to 7; 205.07 to 205.121; and 205.175 and 205.185 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

**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 PRIMARY ELECTIONS.**

Subdivision 1. **Cities of first class.** A municipal primary for the purpose of nominating elective officers may be held in any city of the first class on the second or third Tuesday in March of any year in which a municipal general election is to be held for the purpose of electing officers.

If the majority of the governing body of a city of the first class adopted a resolution after June 24, 1957, establishing the second or third Tuesday in March for holding its municipal primary in any year in which its municipal general election is held, and if the city clerk or other officer of the city charged with keeping the minutes and records of the governing body filed a certified copy of the resolution with the secretary of state and another certified copy of the resolution with the county recorder of the county in which the city is located, the time established by the resolution for holding the municipal primary is fixed, and the governing body of the city may not change the time unless the authority to make the change is conferred on the governing body by the legislature, or by an amendment to the charter of the city duly ratified and accepted by the eligible voters of the city, in accordance with the constitution of the state of Minnesota and other applicable law.

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Subd. 2. **Resolution or ordinance.** The governing body of a city of the second, third, or fourth class or a town containing a statutory city may, by ordinance or resolution adopted at least three months before the next municipal general election, elect to choose nominees for municipal offices by a primary as provided in subdivisions 2 to 7. The resolution or ordinance, when adopted, is effective for all ensuing municipal elections until it is revoked. Subdivisions 2 to 7 do not apply to a city the charter of which specifically prohibits or provides for a municipal primary.

Subd. 3. **Date.** The municipal primary shall be held at a time designated by the governing body in the ordinance or resolution adopting the primary system, but no later than six weeks before the general election. The clerk shall give notice of the primary in the manner provided in section 205.16.

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.

Subd. 5. **Results.** The municipal primary shall be conducted and the returns made in the manner provided for the state primary so far as practicable. Within two days after the primary, 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.

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. **Vacancy in nomination.** When a vacancy occurs in a nomination made at a municipal primary, the vacancy shall be filled in the manner provided in section 204B.13.

**History:** 1983 c 62 s 2; 1987 c 62 s 6,7; 1989 c 209 art 1 s 19

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

### NOTES AND DECISIONS

205.07

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.

### 205.07 CITY GENERAL ELECTION.

Subdivision 1. **Date.** The municipal general election in each statutory 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 statutory city may, by ordinance passed at a regular meeting held before September 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 which was a village on January 1, 1974 and before that date provided for a system of biennial elections in the odd-numbered year shall continue to hold its elections in that year until changed in accordance with this section. 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 so as to conform as soon as possible to the regular schedule provided in section 412.02, subdivision 1.

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.

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

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 CITY SPECIAL ELECTIONS.

Subdivision 1. **Questions.** Special elections may be held in a statutory or home rule charter city 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 city 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 in conjunction with municipal general elections to fill vacancies in elective city offices as provided in section 412.02, subdivision 2a.

Subd. 3. **Prohibition.** No special election shall be held under this section on the second Tuesday in December.

**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 s 7

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

NOTES AND DECISIONS

205.121

Under former 202D.28, where no person filed for a nonpartisan office, no person could be nominated by petition. Write-in votes permitted. Op. Atty. Gen. 28B-3, August 24, 1962. But see M.S. 204B.04, 204B.13.

Nominating presidential electors, see Op. Atty. Gen. 195B-3, January 15, 1960, and M.s. 204B.07.

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.

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).

Petition for independent candidate for Congress containing fewer than the required number of valid signatures was fatally defective. *William v. Donovan* 253 Minn. 493, 92 N.W. 2d 917 (1958).

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

NOTES AND DECISIONS

205.13

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.

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.

205.13 CANDIDATES, FILING.

Subdivision 1. **Affidavit of candidacy.** Not more than

(1) eight nor less than six weeks in the case of a town, or

(2) not more than ten nor less than eight weeks, in the case of a city, before the municipal primary, or before the municipal general election if there is no municipal primary, an individual who is eligible and desires to become a candidate for an office to be voted for at the election shall file an affidavit of candidacy with the municipal clerk. The affidavit shall be in substantially the same form as that in section 204B.06, subdivision 1. 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. The filing dates contained in this subdivision do not apply to any home rule charter city whose charter provides for earlier filing dates.

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.

Subd. 3. **Filing fees.** Unless the charter of a city provides the amount of the fee for filing an application or affidavit of candidacy for city office, the filing fee for a municipal office is as follows:

- (a) In first class cities, \$20;
- (b) In second and third class cities, \$5; and
- (c) In fourth class cities and towns, \$2.

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

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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 by 12 o'clock noon of the day 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

- 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 statutory city and home rule charter city, the charter of which does not provide the manner of giving notice of a municipal election, the city 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 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 city clerk shall also post a copy of the notice in the clerk's office for public inspection.

Subd. 2. **Sample ballot, publication.** In all statutory and home rule charter cities, for every municipal election, the city clerk shall, at least one week before the election, publish a sample ballot in the official newspaper of the city, except that the governing body of a fourth class city may dispense with publication.

Subd. 3. **Sample ballot, posting.** For every municipal election, the municipal clerk shall at least four days before the election post a sample ballot in the clerk's office for public inspection, and post a sample ballot in each polling place on election day.

Subd. 4. **Notice to auditor.** At least 45 days prior to every municipal election, the municipal clerk shall provide a written notice to the county auditor, including the date of the election and the offices and questions to be voted on at the election.

**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; 1979 c 29 art 7 s 38; 1983 c 62 s 6; 1989 c 291 art 1 s 20; 1991 c 227 s 21

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

### 205.17 BALLOTS.

Subdivision 1. **Second, third, and fourth class cities; towns.** In all statutory and home rule charter cities of the second, third and fourth class, and in all towns, for the municipal general election, the municipal clerk shall have printed on light green paper the official ballot containing the names of all candidates for municipal offices. The ballot shall be printed in blocks of 50, 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 white ballot used at the state general election. 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 alphabetically according to the candidates' surnames.

Subd. 2. **First class cities.** In all cities of the first class, for the municipal general election, the city clerk shall have printed in blocks of 50 a partisan ballot upon which the names of all candidates for the office of mayor and for the city council are printed, and a nonpartisan ballot upon which the names of all candidates for all other city offices are

printed. The partisan ballot shall be printed on light orange paper and shall be headed "City Partisan General Ballot." The nonpartisan ballot shall be printed on light green paper and shall be headed "City Nonpartisan General Ballot." Both ballots shall state the name of the city and the date of the election and conform in all other respects to the white ballot used at the state general election. The names of the candidates on the nonpartisan ballot shall be rotated in the manner prescribed for the rotation of names on nonpartisan ballots in state general elections.

On the partisan ballot the names of the candidates for mayor shall be placed first. The order of the names of the candidates shall be in the manner prescribed for state general elections in section 204D.13.

**Subd. 3. Primary ballots.** The municipal primary ballot in cities of the second, third and fourth class and towns and the nonpartisan primary ballot in cities of the first class shall conform as far as practicable with the municipal general election ballot except that it shall be printed on light green paper. No blank spaces shall be provided for writing in the names of candidates. The partisan primary ballot in cities of the first class shall conform as far as practicable with the state partisan primary ballot.

**Subd. 4. Blue ballots; questions.** All questions relating to the adoption of a city charter or charter amendments or a proposition for the issuance of bonds, and all other questions relating to city affairs submitted at an election to the voters of the municipality, shall be printed on one separate blue ballot and shall be prepared, printed and distributed under the direction of the city clerk at the same time and in the same manner as other municipal ballots. The ballots, when voted, shall be deposited in a separate blue ballot box provided by the local authorities for each voting precinct. The ballots shall be canvassed, counted, and returned in the same manner as other municipal ballots. The returns shall provide appropriate blank spaces for the counting, canvassing and returning of the results of the questions submitted on the blue ballot.

**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 ....."

**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

## 205.175 VOTING HOURS.

**Subdivision 1. Cities.** In all statutory and home rule charter city elections the governing body of the city, by resolution adopted prior to giving notice of the election, may designate the time, in no event less than three hours, during which the polling places will remain open for voting at the next succeeding and all subsequent municipal elections, until the resolution is revoked. Cities covered by this subdivision shall certify their election hours to the county auditor upon adoption of the resolution giving notice of the election.

**Subd. 2. Metropolitan area towns.** At any election of town officers, in a town which is located within a metropolitan county as defined by section 473.121, the town board, by resolution adopted prior to 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 subsequent town 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 town board.

**Subd. 3. Other towns.** In any election of town officers in a town other than a town described in subdivision 2, the town board, by resolution adopted prior to giving notice of

the election, may designate the time, in no event less than three hours, during which the polling places will remain open for voting at the next succeeding and all subsequent town elections. The resolution shall remain in force until it is revoked by the town 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 town election, is presented to the town clerk no later than 30 days prior to the town election, then the polling places for that election shall open at 10:00 a.m. and close at 8:00 p.m. The town clerk shall give ten days notice of the changed voting hours and notify the county auditor of the change. Towns 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

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

**205.18 MUNICIPAL PRIMARIES.**

Subdivision 1. **Cities of first class; primaries.** As hereinafter provided, a municipal primary for the purpose of nominating municipal elective officers may be held in any city of the first class on the second or third Tuesday in March of any year in which a general municipal election is to be held for the purpose of electing municipal officers.

Subd. 2. **Resolution of governing body.** Not less than 60 days after April 25, 1957, the governing body of any city of the first class may, by a majority vote of all the members of such body, adopt a resolution fixing and establishing the second or third Tuesday in March for the holding of such municipal primary in any year in which a general municipal election is to be held in such city. If and when the governing body of any such city adopts a resolution fixing and establishing the time of the holding of a municipal primary, as provided for in this section, the city clerk or other officer of such city charged with the duty of keeping the minutes and records of the governing body of such city, shall forthwith file a duly certified copy of such resolution with the secretary of state and another duly certified copy of such resolution with the county recorder of the county in which such city is located; and thereupon, the time fixed and established by such resolution for the holding of such municipal primary shall become fixed, and no power shall thereafter exist in the governing body of any such city to change the time of the holding of such municipal primary unless the authority to make such change is thereafter conferred upon such governing body by an act of the legislature, or by an amendment to the charter of such city duly ratified and accepted by the qualified electors of such city, in accordance with the constitution of the state of Minnesota and all applicable acts thereunto enabling.

**History:** 1943 c 408 s 1; 1951 c 206 s 1; 1955 c 733 s 1; 1957 c 613 s 1; 1976 c 181 s 2; 1981 c 29 art 7 s 38; 1989 c 209 art 1 s 20

**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, so far as practicable.

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** Within two days after an election, the governing body shall canvass the returns and declare the results of the election. 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. In case of a tie vote, the governing body shall determine the result by lot. The 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.

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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

205.19 [Repealed, 1983 c 62 s 12]

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

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

### 205.20 UNIFORM MUNICIPAL ELECTION DAY.

Subdivision 1. **Establishment.** There is hereby established a uniform municipal election day for home rule charter cities. The uniform municipal election day shall be the first Tuesday after the first Monday in November in odd-numbered years. Officials elected on that date shall take office on the first business day of January next succeeding their election for the term which is provided by law. The governing body of a home rule charter city may designate a date for the municipal primary which is not less than 14 days before the uniform municipal election day.

Subd. 2. **Adoption by city.** Notwithstanding any provision of law or municipal charter to the contrary, and subject to the provisions of this section, the governing body of a home rule charter city may adopt by ordinance the uniform municipal election day as its municipal election day.

Subd. 3. **Modification of terms of office.** If the uniform municipal election day is adopted, the terms of all incumbents who at the time of adoption of the ordinance hold offices filled by municipal election and whose terms end at a different date are extended to the first business day in January of the even-numbered year first following the date the term would otherwise expire, unless this extension would be longer than 13 months. If the extension would be longer than 13 months, the terms of those incumbents are shortened so as to end on the first business day in January of the even-numbered year first preceding the date the term would otherwise expire.

Notwithstanding any provision of law or municipal charter to the contrary, the governing body of a home rule charter city adopting the uniform municipal election day shall designate in the adopting ordinance a new term for each office to be filled where the term for the office at the time of the ordinance is an odd number of years. The new terms shall be for an even number of years and for no more than one year longer than the term in effect at the time of the adoption of the ordinance. At the time of any election, the governing body may also provide that one or more members of a multimember body shall be elected for a shorter term than is otherwise provided, if and in the manner necessary to achieve staggered terms on the multimember body so that, to the extent possible, an equal number of members is chosen at each election, exclusive of those chosen to fill vacancies for unexpired terms.

Subd. 4. **Effect of ordinance; referendum.** An ordinance adopting the uniform municipal election day is effective 90 days after passage and publication or at a later date fixed in the ordinance. Within 60 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 five percent of the total number of votes cast in the city at the last state general election. If the city has a system of permanent registration of voters, only registered voters are eligible to sign the petition. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by a at least 55 percent 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:** 1967 c 710 s 1; 1969 c 405 s 1,2; 1973 c 123 art 5 s 7; 1976 c 44 s 14,15; 1981 c 29 art 7 s 14,15; 1983 c 62 s 10

205.21-205.83 MS 1957 [Repealed, 1959 c 675 art 13 s 1]



**205.84 WARDS IN CERTAIN CITIES.**

Subdivision 1. **General provisions.** In a statutory 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 a change in ward boundaries does not disqualify a council member from serving for the remainder of a term.

Subd. 2. **Redefining ward boundaries.** The governing body of the city may by ordinance redefine ward boundaries after a municipal general election. The council shall hold a public hearing on the proposed ordinance before its adoption. One week's published notice of the hearing shall be given. 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. Ward boundaries established at other times become effective 90 days after the adoption of the ordinance.

**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

**SCHOOL DISTRICT  
ELECTIONS**

## 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 120.02.

**History:** 1987 c 266 art 1 s 48

### 205A.02 ELECTION LAW APPLICABLE.

Except as provided in this chapter, the Minnesota election law applies to school district elections, as far as practicable. Elections in common school districts shall be governed by section 123.11.

**History:** 1987 c 266 art 1 s 49

### 205A.03 PRIMARY ELECTIONS.

Subdivision 1. **Resolution.** The school board of a school district may, by resolution adopted at least 12 weeks before the next school district general election, decide to choose nominees for school district elective offices by a primary as provided in subdivisions 1 to 6. The resolution, when adopted, is effective for all ensuing elections of board members in that school district until it is revoked.

Subd. 2. **Date.** The school district primary must be held at a time designated by the school board in the resolution adopting the primary system, but no later than six weeks before the school district general election. The clerk shall give notice of the primary in the manner provided in section 205A.07.

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 the number of individuals to be elected to a school district elective office file for nomination for the 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.

Subd. 4. **Results.** The school district primary must be conducted and the returns made in the manner provided for the state primary as far as practicable. Within two days after the primary, the school board of the school district 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, 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.

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. **Vacancy in nomination.** When a vacancy occurs in a nomination made at a school district primary, the vacancy must be filled in the manner provided in section 204B.13.

**History:** 1987 c 266 art 1 s 50

### 205A.04 GENERAL ELECTION.

Subdivision 1. **School district general election.** Except as may be provided in a special law or charter provision to the contrary, the general election in each school district must be held on the third Tuesday in May, unless the school board provides by resolution for holding the school district general election on the first Tuesday after the first Monday in November. When the time of a school district's general election is changed from May to November,

the terms of all board members shall be lengthened to expire on January 1; when the time of a school district's general election is changed from November to May, the terms of all board members shall be shortened to expire on July 1. Whenever the time of a school district election is changed, the school district clerk shall immediately notify in writing the county auditor or auditors of the counties in which the school district is located and the secretary of state of the change of date.

**Subd. 2. Experimental election; authorization.** The school board in independent school district No. 271 may, by resolution, designate the first Tuesday after the first Monday in November of either the odd-numbered or the even-numbered year as the date for its general election, and may reduce the existing terms of school board members to provide for staggered four-year terms thereafter. The resolution shall provide that, to the extent mathematically possible, the same number of board members is chosen at each election, exclusive of those chosen to fill vacancies for unexpired terms. Whenever the year of a school district election is changed, the school district clerk shall immediately notify in writing the county auditors of Hennepin and Scott counties and the secretary of state of the change of date. The secretary of state shall report to the legislature by January 15, 1993, on the implementation of this subdivision.

**History:** 1987 c 266 art 1 s 51; 1991 c 227 s 22

#### 205A.05 SPECIAL ELECTIONS.<sup>1</sup>

**Subdivision 1. Questions.** 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 of 50 or more voters of the school district or five percent of the number of voters voting at the preceding regular school district election, 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. A special election may not be held during the 30 days before and the 30 days after the state primary or state general election, or on the second Tuesday in December. In addition, a special election may not be held during the 20 days before and the 20 days after any regularly scheduled election of a municipality wholly or partially within the school district. 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 shall be held in school districts in conjunction with school district primary and general elections to fill vacancies in elective school district offices.

**History:** 1987 c 266 art 1 s 52; 1990 c 453 s 12; 1993 c 375 s 8

#### 205A.06 CANDIDATES, FILING.

**Subdivision 1. Affidavit of candidacy.** Not more than ten nor less than eight weeks before a school district primary, or before the school district general election if there is no school district primary, 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 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 except in the event of a vacancy in nomination as provided in section 205A.03, subdivision 6. Upon

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receipt of the proper filing fee, the clerk shall place the name of the candidate on the official ballot without partisan designation.

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 by 12:00 noon of the day 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

### 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 45 days prior to 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 and the offices and questions 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 prior to receipt of a review and comment from the commissioner of education and prior to actual initiation of the election.

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

### 205A.08 BALLOTS.

Subdivision 1. **Buff ballot.** The names of all candidates for offices to be voted on at a school district general election must be placed on a single ballot printed on buff paper and known as the "buff 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

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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. **Goldenrod ballots; questions.** All questions relating to a proposition for the issuance of bonds, and all other questions relating to school district affairs submitted at an election to the voters of the school district, shall be printed on one separate goldenrod ballot and shall be prepared, printed, and distributed under the direction of the school district clerk at the same time and in the same manner as other school district ballots. The ballots, when voted, shall be deposited in a separate goldenrod ballot box provided by the local authorities for each voting precinct. The ballots shall be canvassed, counted, and returned in the same manner as other school district ballots. The returns shall provide appropriate blank spaces for the counting, canvassing, and return of the results of the questions submitted on the goldenrod ballot.

**History:** 1987 c 266 art 1 s 55

### 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 as defined by section 473.121, 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, in no event less than three hours, during which the polling places will remain open for voting at the next succeeding and all later school district elections. 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

### 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 name of each candidate for office shall be rotated with the names of the other candidates for the same 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 the group of candidates for that office.

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 an absentee ballot board established pursuant to section 203B.13 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; 204C.15; 204C.19; 206.63; 206.74, subdivision 3; 206.75; and 206.83 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.** Within seven days after a school district election other than a recount of a special election conducted under section 124A.03, subdivision 2, 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 124A.03, subdivision 2, 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 124A.03, subdivision 2, 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

**205A.11 PRECINCTS; POLLING PLACES.**

The precincts and polling places for school district elections are those precincts or parts of precincts and polling places set in sections 204B.14 to 204B.16, except that at a school district election not held on the day of a statewide election, the school board may, in the manner specified in this section, combine several precincts into a single combined precinct with one polling place and one set of election judges. The school board shall establish combined precincts and polling places for an election by resolution adopted at least 30 days before the election, post a map of the combined precincts, file a copy of the map and resolution with the county auditor, and cause notice of the election to be published in the official newspaper of the district, which notice must include information concerning each established combined precinct and polling place. At school district elections not held on the day of a statewide election, precincts located in separate counties may be combined into a single combined precinct with one polling place and one set of election judges if duplicate voter registration files are maintained for the voters of each county.

**History:** 1987 c 266 art 1 s 58; 1990 c 453 s 17

**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 as many separate election districts as there are members of the board, which 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. One and only one member of the board shall be elected from each election district. 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. 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.

*History: 1987 c 266 art 1 s 59; 1991 c 349 s 39*

**205A.13 REQUIREMENTS FOR PETITIONS.**

Any petition to a school board authorized in this chapter or sections 124A.03 and 275.125, or any other law which requires the board to submit an issue to referendum or election, shall meet the following requirements to be valid.

(1) Each page of the petition shall contain a heading at its top which specifies the particular action the board is being petitioned to take. The signatures on any page which



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does not contain such a heading shall all be invalidated. All pages of the petition shall be assembled and filed with the board as a single instrument.

(2) Each page of the petition shall contain an authentication signed by the circulator of the petition specifying as follows:

"I personally have circulated this page of the petition. All signatures were made in my presence. I believe that the signers signed their own names and that each person who has signed is eligible to vote in a school district election according to Minnesota election law.

Signed: .....

Signature of Petition Circulator

Date: ....."

The signatures on any page which does not contain such an authentication shall all be invalidated.

(3) Signers of the petition shall personally sign their own names in ink or indelible pencil and shall indicate after the name the place of residence by street and number, or other description sufficient to identify the place. Except as provided in clause (4), any signature which does not meet these requirements shall be invalidated.

(4) Individuals who are unable to write their names shall be required to make their marks on the petition. The circulator of the petition shall certify the mark by signing the individual's name and address and shall thereafter print the phrase "mark certified by petition circulator."

(5) A petition, to be valid, must contain the minimum number of valid signatures of eligible voters specified in the law authorizing the petition and election.

**History:** 1987 c 266 art 1 s 60

VOTING MACHINES

## CHAPTER 206

### VOTING MACHINES

- 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 VOTING MACHINES, ACCESSIBILITY OF BALLOT.

Items appearing on the ballot on a voting machine must be positioned as low as possible on the machine so that individuals not able to reach the voting levers at the top of the machine may vote to the greatest extent possible without assistance.

*History: 1984 c 471 s 13*

- 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. Op. Atty. Gen. 28A-9, July 1, 1974.

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.

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.

- 206.075** [Repealed, 1984 c 447 s 32]  
**206.08** MS 1957 [Repealed, 1959 c 675 art 13 s 1]  
**206.08** 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]

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- 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

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.

City clerk may open voting machines used in general election for inspection by county canvassing board. Op. Atty. Gen. 183C, November 15, 1962.

- 206.185** [Repealed, 1984 c 447 s 32]  
**206.19** MS 1957 [Repealed, 1959 c 675 art 13 s 1]  
**206.19** MS 1983 Supp [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 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** 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 lever voting machines and electronic voting systems is governed by sections 206.55 to 206.87 and by all other provisions of the Minnesota election law which are not inconsistent with sections 206.55 to 206.87.

**History:** 1984 c 447 s 1

#### 206.56 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in chapter 200 and in this section apply to sections 206.55 to 206.87.

Subd. 2. **Automatic tabulating equipment.** "Automatic tabulating equipment" includes apparatus necessary to automatically examine and count votes designated on ballot cards, and data processing machines which can be used for counting ballots and tabulating results.

Subd. 3. **Ballot.** "Ballot" includes ballot strips, ballot cards, ballot booklets, and paper ballots.

Subd. 4. **Ballot booklet.** "Ballot booklet" means the material which contains the titles of offices, names of candidates, party designation in a partisan primary or election, and a statement of any question accompanied by the words "Yes" and "No," and which is used with the marking device in an electronic voting system.

Subd. 5. **Ballot card.** "Ballot card" means a ballot which is voted by the process of punching or which is marked so that votes may be counted by automatic tabulating equipment.

Subd. 6. **Ballot strips.** "Ballot strips" means that portion of the cardboard, paper, or other material within the ballot frame on a lever voting machine which contains the names of candidates, the title of offices, party designation in a partisan primary or election, and a statement of any question, accompanied by the words "Yes" and "No."

Subd. 7. **Counting center.** "Counting center" means a place selected by the governing body of a municipality where an electronic voting system is used for the automatic processing and counting of ballots.

Subd. 8. **Electronic voting system.** "Electronic voting system" means a system in which the voter records votes by means of marking or punching a ballot, which is designed so that votes may be counted by automatic tabulating equipment at a counting center.

Subd. 9. **Marking device.** "Marking device" means either an apparatus in which ballot cards are inserted and used in connection with a punch instrument for the piercing of the ballot cards by the voter or any approved device for marking a paper ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment. The mark made by the marking device may be in the form of a round dot, a square, or any other shape that will clearly indicate the intent of the voter.

Subd. 10. **Operating lever.** "Operating lever" means the lever on a lever voting machine which the voter must move to the right in order to close the curtains of the machine and unlock the machine for voting, and which the voter must move to the left in order to open the curtains of the machine and record a vote.

Subd. 11. **Primary lever.** "Primary lever" means the lever on a lever voting machine which the voter must operate in a political party primary to unlock the voting levers assigned to the candidates of the political party in whose primary the voter wishes to vote.

Subd. 12. **Protective counter.** "Protective counter" means the separate counter built into a lever voting machine which cannot be reset and which records the total number of movements of the operating mechanism.

Subd. 13. **Public counter.** "Public counter" means the counter which shows during a period of voting the total number of voters who have operated a lever voting machine during the period of voting.

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. **Voting lever.** "Voting lever" means the lever on a lever voting machine which the voter must turn down over the name of the candidate and leave down in order to cast a vote for the candidate.

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

## 206.57 EXAMINATION OF NEW VOTING SYSTEMS.

Subdivision 1. **Examination and report by secretary of state; approval.** A vendor of a lever voting machine or electronic voting system may apply to the secretary of state to examine the machine or 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 machine or 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 lever voting machine or electronic voting system before its adoption, use, or purchase and before its continued use after significant changes have been made in an approved machine or system. The examina-

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tion must include the ballot programming, vote counting, and vote accumulation functions of each voting machine or system.

If the report of the secretary of state or the secretary's designee concludes that the kind of machine or system examined complies with the requirements of sections 206.55 to 206.90 and can be used safely, the machine or 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 machine or 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 and emergency rules consistent with sections 206.55 to 206.90 relating to the examination and use of voting machines and 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 shall be deposited in the state treasury. The expenses of administering this section shall be paid from the appropriations made to the secretary of state.

**Subd. 3. Advisory task force.** The secretary of state may appoint a nonpartisan advisory task force to assist in the examining and reporting duties prescribed in this section.

The task force expires and the terms, compensation, and removal of members are as provided in section 15.059.

**Subd. 4. Vendor bonds.** Vendors of lever voting machines or electronic voting systems shall certify to the secretary of state that they will not offer for sale any voting machine or 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.

**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

### 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 lever voting machines or, by the affirmative vote of two-thirds of its members, may provide for the use of an electronic voting system, in one or more precincts and at all elections in the precincts. 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 machine or device in a public place for the six weeks immediately prior to the first election at which the new voting system will be used.

If a machine is designed in a way that does not allow voting on all candidates and issues pursuant to this chapter, the machines may be used to the extent compliance with this chapter is possible and paper ballots complying with election laws shall be used for all other offices and issues. No machine or system shall be adopted or used unless it has been approved by the secretary of state pursuant to section 206.57.

**Subd. 2. May use experimental machines.** The governing body of a municipality may provide for the experimental use of lever voting machines or an electronic voting system in one or more precincts without formal adoption of the machines or system. Use of the machines or system at an election shall be as valid for all purposes as if the machines or system had been permanently adopted.

When the governing body of a municipality decides to use lever voting machines or 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 206.87 for using the machine or 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 shall be posted prominently in the polling place and shall 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 lever voting machines in one or more precincts of the county at all elections. The governing body of a county containing a city of the first class, at a regular meeting or at a special meeting called for the purpose, may provide for the use of lever voting machines or, by the affirmative vote of two-thirds of its members, may provide for the use of an electronic voting system, in one or more municipalities of the county, at all elections. The governing body of the municipality shall give approval before a voting machine or electronic voting system may be adopted or used in the municipality under the authority of this section. No machine or 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 machines.** When a municipality adopts the use of lever voting machines or an electronic voting system, it is the duty of the municipal clerk to certify to the secretary of state within 30 days from the date of adoption that lever voting machines or 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

#### **206.59 PAYMENT FOR MACHINES.**

Payment for lever voting machines or an electronic voting system may be provided for in the manner deemed in the best interests of the political division adopting and purchasing them. 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 shall be a charge upon the municipality or county adopting and purchasing the lever voting machines or 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 voting machines or 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

#### **206.60 PRECINCTS MAY BE CHANGED.**

The precincts in which lever voting machines or an electronic voting system are to be used may be enlarged, reduced, or reformed in the manner prescribed in sections 204B.14 and 204B.15, so that each precinct, when formed, shall contain not more than 600 registered voters for each voting machine or marking device to be used in the precinct. More than one voting machine or marking device may be used in a precinct.

**History:** 1984 c 447 s 6

#### **206.61 BALLOTS; DIAGRAMS FOR VOTING MACHINES.**

Subdivision 1. **Official responsible for providing ballots.** The official charged with providing paper ballots when they are used shall provide all ballot strips and ballot cards, ballot booklets, diagrams, sample ballots, precinct summary statements, and other necessary supplies needed for lever voting machines or electronic voting systems, except as otherwise provided by this section.

At general elections and primaries the county auditor of each county in which lever voting machines or an electronic voting system are used shall provide all ballot strips, ballot cards, ballot booklets, and other necessary printed forms and supplies needed for the lever

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voting machines or 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. Printing on ballots.** A ballot strip or ballot booklet must have printed on its face the words "Official Ballot" and the date of the election. Except as otherwise provided in sections 206.55 to 206.87 all ballot strips and ballot booklets shall be printed in black ink in as plain, clear type as size permits, on material of the same color as is required for paper ballots and of a size which will fit the ballot frame of a lever voting machine or the marking device of an electronic voting system. In a prominent place on ballot strips for constitutional amendments or that portion of the ballot booklet containing constitutional amendments shall be printed a notice stating that failure to vote on a constitutional amendment is, in effect, a vote in the negative. The county auditor may use one inch or more space between the partisan and nonpartisan ballot strip or portions of the ballot booklet.

**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 strip or ballot booklet.

**Subd. 4. Order of candidates.** On the "State Partisan Primary Ballot" prepared for primary elections, and on the white 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.

**Subd. 5. Alternation.** The provisions of the election laws requiring the alternation of names of candidates shall be observed as far as practicable by changing the order of the names on the lever voting machines or 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 shall be the same on all lever voting machines or marking devices used in the same precinct. When 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.

**Subd. 6. Presidential candidates.** On the ballot strip under or adjacent to a single lever or in the ballot booklet shall be the names of the candidates for president and vice-president of a party or other political group, preceded by the party's or group's name. A vote registered or recorded by the use of the lever machine or device shall be counted for each of the candidates for presidential electors of that party or group.

**Subd. 7. Candidates for governor and lieutenant governor.** On lever voting machines and electronic voting systems, candidates for governor and lieutenant governor shall appear so that a single vote will apply to both offices and instructions to voters shall state that they are to vote for "one team." The full names of candidates for governor and lieutenant governor as they appear on their filing papers shall appear in type set as large as the majority of the other names on the partisan ballot.

**Subd. 8. Ballots used upon adoption or rejection of an ordinance.** In a city of the first class operating under a home rule charter, where lever voting machines or an electronic voting system are used, when there is a question of the adoption or rejection of an ordinance proposed by petition of the voters, when an ordinance passed by the council has been referred for submission to the voters by petition of the voters, or when by voluntary reference the council submits an ordinance to the vote of the people, as provided in the home rule charter, the ballot strip or ballot booklet used in voting on the question must state briefly the general nature of it without the necessity of setting forth the full title of the ordinance.

**History:** 1984 c 447 s 7; 1987 c 175 s 13



**206.62 SAMPLE BALLOTS.**

The officials who prepare ballot strips or ballot booklets shall provide each polling place with at least two sample ballots which are facsimiles of the ballot strip or ballot booklet to be voted on in that precinct. Candidates' names may not be rotated on the sample ballots but must be arranged in alphabetical order for all offices where rotation of names on the official ballots is required by law. The sample ballots may be either in full or reduced size. They must contain suitable illustrated directions for voting on a lever voting machine or for operating a marking device, or illustrated instructions must be provided on a separate poster placed adjacent to each sample ballot. 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

**206.63 PAPER BALLOTS TO BE AVAILABLE.**

When lever voting machines or an electronic voting system are used in an election, a reasonable supply of paper ballots and ballot boxes must be maintained by the official charged with providing ballot strips or ballot booklets and ballot cards for a polling place where lever voting machines or an electronic voting system is used. If one or more of the voting machines or marking devices in a polling place fails to function during the election, the official in charge of elections may dispatch paper ballots and ballot boxes to the polling place in the quantity the official deems necessary to avoid undue delay occasioned by the machine or marking device failure. If paper ballots are used in an election pursuant to this section, they must be handled, counted, and canvassed in the same manner as absentee ballots. When notification of machine or marking device failure is received, the official in charge of supplying ballots shall notify the county headquarters of the major political parties with an office in the county or the county chairs of the major political parties without delay and before paper ballots are distributed.

**History:** 1984 c 447 s 9; 1986 c 444

**206.64 ACCESSIBILITY; INSTRUCTIONS; ASSISTANCE TO VOTERS.**

**Subdivision 1. General provisions for lever machine voting and electronic system voting.** Each lever voting machine and 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 machine or booth after determining that the individual is eligible to vote. Voting by lever voting machine or electronic voting system shall be secret, except as provided in this section 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 shall be removed by the election judges. An election judge shall inspect the face of each lever voting machine and marking device after each voter has voted to determine that the ballot strips and ballot booklets are in the proper places and that the machine or device has not been injured or tampered with. During voting hours the door or other compartment of a lever voting machine may not be unlocked or opened, nor may the counters be exposed except by a custodian or other authorized person, who shall make and sign a statement of explanation to be attached to the election returns.

**Subd. 2. Voter instruction at the polls.** For the instruction of the voters there shall be, so far as practicable in each polling place where lever voting machines or an electronic voting system are used, at least one mechanical model of a portion of the face of the voting machine or a demonstrator model of the electronic system. The model must be located during voting hours in a place which the voter must pass to reach the voting booth. Each voter before entering the voting booth shall be instructed in its operation. The instructions shall be illustrated on the model, and the voter shall be given the opportunity to operate the model. The voter's attention shall also be called to the sample ballot so that the voter becomes familiar with the location of the questions and the names of the offices and candidates. At least one election judge shall remain with the instruction model and diagram

and shall be available at all times to instruct voters. A voter who asks for additional instruction in operating a lever voting machine or marking device after entering the voting booth shall be instructed by two judges belonging to opposite major political parties. After giving the instruction the election judges shall retire from the voting booth, and the voter shall proceed to vote alone and in secrecy.

**History:** 1984 c 447 s 10

**206.66 VIOLATIONS; PENALTIES.**

Subdivision 1. **Injuring voting machines.** An individual who intentionally injures or attempts to injure or render ineffectual a lever voting machine or 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 lever voting machines or an electronic voting system are 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 voting machines, 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

**206.68 LEVER VOTING MACHINES.**

A lever voting machine adopted by a county or municipality must be constructed to automatically register and count all votes cast; to insure every voter an opportunity to vote in secret; to conceal the number of votes for each candidate and upon each question during the hours of voting; to permit a voter to vote once and only once for all the candidates and upon all the questions for whom or upon which the voter is legally entitled to vote; to permit a voter to vote by means of devices connected with the mechanism of the machine for any person for any office elective by the voters of the voter's precinct at an election, even if the person's name does not appear upon the machine as a candidate for the office; to prevent a voter from voting for more than one person for an office, unless the voter is lawfully entitled to vote for more than one person, and in that event to limit the voter to the number to be elected to the office; to prevent a primary voter from voting for the nomination of candidates of more than one party, or for a person whose name is not on the primary ballot; and to prevent a voter from voting for a candidate or upon a proposed question for whom or upon which the voter is not lawfully entitled to vote. Lever voting machines may be used which are not constructed to permit a voter to change from one party to another in a party primary or to retract a write-in vote. In these cases the voter must follow the procedure provided in section 206.74, subdivision 2 in order to change a vote.

**History:** 1984 c 447 s 12; 1986 c 444

**206.685 VOTING MACHINES OR ELECTRONIC VOTING DEVICES AT SCHOOL ELECTIONS.**

Where lever voting machines or electronic voting devices are used in precincts containing more than one school district or more than one school election district, separate voting machines or devices must be used and must be allocated between the school districts or school election districts in proportion to the number of voters eligible to vote in the precinct from each district.

**History:** 1987 c 266 art 1 s 63

**206.69 BOND FOR UPKEEP OF MACHINES.**

Payment may not be made upon the purchase price of a lever voting machine until the vendor has filed with the secretary of state a bond with sufficient sureties, identifying each machine by its number, and conditioned to keep the machine in good working order, at the vendor's expense, for five years. The penalty of the bond must be at least \$200, and upon a breach of the bond's conditions the amount of the penalty is the measure of damages recoverable by the purchaser.

*History: 1984 c 447 s 13*

**206.70 CUSTODIAN OF MACHINES.**

Subdivision 1. **Appointment; duties.** Immediately after the installation of lever voting machines in a municipality or county the governing body shall appoint, to serve at its pleasure, as many custodians as necessary to prepare the machines for elections and to repair, store, and care for them. The custodians, under the direction of the governing body and the officials in charge of elections, shall represent these authorities during the preparation of the voting machines. After the machines have been prepared for the election, the custodians shall have the machines delivered to the polling places at least 12 hours before the opening of the polls and shall set them in proper manner for use at the election. The custodians of voting machines shall be paid for their services commensurate with the work required, and their compensation shall be fixed by the governing body of the municipality or county which appoints them.

Subd. 2. **Voting machine keys.** The custodians shall keep secure all keys to voting machines. A public official who by law is authorized to have custody of a voting machine may have the keys to a machine which is in the official's custody. Election officials entrusted with keys for election purposes may not retain them longer than necessary to accomplish these purposes. It is unlawful for an unauthorized person to possess the keys of a voting machine.

*History: 1984 c 447 s 14; 1986 c 444*

**206.71 CANDIDATES, ARRANGEMENT OF NAMES.**

Subdivision 1. **Placement.** On lever voting machines the titles of offices must be arranged either horizontally with the names of the candidates arranged vertically under the title of the office, or vertically with the names of the candidates arranged horizontally opposite the respective titles. The names of all candidates of a political party must be placed in the same row or column. If for any office there is no candidate of a party named at the primary, so that a blank space will appear on the ballot strip, the blank space must contain a notice in the same type size and style as names of candidates, indicating that names of candidates for the office appear (above and) below, or to the (left and) right, of the space, whichever applies.

Subd. 2. **Candidates for governor and lieutenant governor.** If two spaces or frames in the candidates' column are necessary to accommodate the names comprising each team, only the voting lever opposite the name of the candidate for governor may be operable on machines on which candidates' names are arranged vertically. On machines where the candidates' names are arranged horizontally, the name of the candidate for governor must appear immediately above the corresponding candidate for lieutenant governor and only the voting lever on the right above that team may be operable. Voters shall be informed when a voting lever will not be operable.

Subd. 3. **Questions.** When a question is to be voted upon on a lever voting machine, the question must occupy an area no smaller than three inches by four inches in the space provided for that purpose and be arranged in the manner which construction of the machine requires. A prominent notice of the question must follow the last office title, or, if there is inadequate space, appear in the next available column or row. The notice must contain at least one arrow pointing toward the question and must contain language in the same type

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size as used for office titles, directing the voter to the location on the machine where the question is to be found.

Subd. 4. **Inadequate space on machine.** When the number of offices and questions to be voted on exceeds the maximum number that can be included on the lever voting machines in use in any precinct, a separate gray paper ballot shall be prepared as provided in section 204D.11, subdivision 6. Separate ballot boxes must be provided for these gray ballots.

So far as is practicable, gray ballots must be distributed to voters, handled, counted, and canvassed in the manner provided by law for precincts using only paper ballots. The canvass of the gray paper ballots must not delay the canvass of votes recorded on the voting machines. A separate summary statement may be provided for reporting of the canvass of the gray paper ballots. The returns from the voting machines may be filed as provided in section 206.75, subdivision 2, before the canvass of the gray paper ballots is completed. Additional or replacement election judges may be appointed to count the gray paper ballots.

**History:** 1984 c 447 s 15; 1986 c 475 s 19

### 206.72 INSTRUCTIONS TO JUDGES AND VOTERS.

Subdivision 1. **Training for election judges.** Not more than 30 days before the primary or before the general election if no primary is held at which a lever voting machine is to be used, the official in charge of elections shall conduct a meeting or meetings to instruct election judges about the operation of the lever voting machine and the duties of election judges when lever voting machines are used. Each election judge serving in a precinct where lever voting machines are used shall attend at least one meeting prior to either the primary or the general election in which the judge is to serve, and shall receive a certificate showing attendance at an instruction meeting and a finding of qualification to serve. Each judge who attends an instruction meeting and qualifies and serves at an election shall receive at least \$1 for the time spent in receiving instruction, plus transportation costs for going to and from the meeting, which shall be paid at the same time and in the same manner as the payment for serving on election day. A training certificate may only be issued to an individual who has attended an instruction meeting and has been found qualified to serve as an election judge. No one is eligible to serve as judge who has not received a training certificate. In case of emergency, when an insufficient number of certified judges is available, election judges may be appointed to conduct the election who have not received the required certificate.

Subd. 2. **Sample voting machine.** Before an election at which lever voting machines will be used, the official in charge of elections shall have placed in one or more convenient locations a voting machine with sample ballot strips for the purpose of instructing voters in the operation of the machine. If the ballot strips used for this purpose are the same that will be used for the election, the counting mechanism of the machine must be concealed from view until the machine is prepared for the election; if the machine is not used at the election, the counting mechanism must remain concealed from view until after the election.

**History:** 1984 c 447 s 16; 1986 c 444

### 206.73 OFFICIALS TO PREPARE LEVER MACHINES FOR USE.

The official in charge of elections shall examine all lever voting machines before they are sent out to the polling places to see that all the registering counters are set at zero (000), to lock all voting machines so that the counting mechanism cannot be operated, to seal each voting machine with a numbered seal, and to make a written record of the seal.

Before the voting machines are prepared for an election, written notices must be mailed to the chair of the county committee of each political party, if the name of the chair is on file with the county auditor, stating when and where the voting machines will be prepared, and at which times and places one representative of each political party, designated by the chair of the county committee of the party, may be present to see that the machines are properly prepared and placed in condition for use at the election. In nonpartisan primaries

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and elections each candidate may designate one representative who shall have the same powers as the political party representatives.

When the machines have been prepared for the election, it is the duty of the custodians and the political party or the candidate representatives at their discretion, to make a certificate in writing, which must be filed in the office of the official in charge of elections in the municipality, stating the serial number of each machine, whether or not all registering counters have been set at zero (000), the number registered on the protective counter, and the number on the metal seal with which the machine is sealed.

**History:** 1984 c 447 s 17; 1986 c 444

### **206.74 LEVER VOTING MACHINES ON ELECTION DAY.**

**Subdivision 1. Preparation of machines.** The election judges shall meet at the polling place at least one hour before the time for opening the polls. Not later than one hour before the polls open, the keys to the voting machines shall be delivered to one of the judges in a sealed envelope on which is recorded the location and number of the voting machine, the number of the seal, and the number registered on the protective counter as reported by the custodian. The election judges shall examine the envelope containing the keys to determine that it has not been opened and to ascertain that the number registered on the protective counter and the numbers on the seals with which the machine is sealed correspond with the numbers recorded on the envelope containing the keys. If the envelope appears to have been opened, if the numbers do not agree, if the numbered metal seal is broken or has been tampered with, or if any other discrepancy is found, the election judges shall immediately notify the custodian or other authorized person, who shall come to the polling place, reexamine the machine and, if it is found to be so, certify that it is in order. If the numbers on the seals and on the protective counter agree with the numbers on the envelope, the judges shall open the door concealing the registering counters, carefully examine every counter to see that it registers zero (000) and allow the challengers to examine them. If the machine is equipped with a device for printing, embossing, or photographing the registering counters, in lieu of opening the machine, the election judges shall operate it to produce a printed, embossed, or photographed record in order to determine that every counter registers zero (000). The judges shall allow the challengers to examine the record. The election judges shall then compare the ballot strips on the voting machine with the summary statements furnished, to determine that the names and numbers, and letters, if any, on the ballot strips agree with the summary statement. The judges shall then sign a certificate showing the delivery of the keys in a sealed envelope, the number on the seal or seals, the number registered on the protective counter, that all the registering counters are set at zero (000), and that the ballot strips are properly placed in the machine.

**Subd. 2. Changing party choice or retracting vote.** A voter at a primary who has entered the voting machine booth, set the primary lever of a major political party to release the candidates of the party for voting, and turned down levers over the names of candidates, but has not yet recorded votes for any candidates, may enter the primary of a different major political party by so informing the election judges. In a general election, a voter who has cast a write-in vote may retract it by informing the judges. In either case all the judges shall go to the machine and shall see that all voting levers have been returned to the unvoted position or that any write-in vote has been removed, crossed out, or erased, so that no votes may be cast for any candidates or on any questions. The voter shall then be permitted to return the operating lever to its original position and start from the beginning. A change from one major political party to another in a primary or the retraction of a write-in vote in a general election shall be noted by the election judges. In each of these cases all the election judges shall sign a certificate stating what was done, and the certificate shall be included with the official returns of the primary.

**Subd. 3. Assistance in preparing ballots.** When a voter states under oath that the voter cannot read English or is physically unable to operate the voting machine, the voter may call for aid from two election judges of different major political party affiliation, who shall

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prepare the voter's ballot on the machine as the voter desires in as secret a manner as circumstances permit. If a voter states that the voter cannot speak the English language or understand it when spoken, the judges may select two persons from different major political parties to act as interpreters. The interpreters shall take an oath similar to that taken by the judges and shall assist the voter in voting. A voter who prefers may call for aid from another voter of the same precinct, who, unaccompanied by a judge, may retire with the voter to the voting booth and prepare the voter's ballot on the voting machine; but no person shall prepare the ballot of more than three voters at one election. Before registering a vote the voter may show the ballot, as prepared for recording, privately to a judge to ascertain that it is prepared as directed. No judge or other person assisting a voter shall in any manner request, persuade, induce, or attempt to persuade the voter to vote for or against a particular political party, candidate, or question but shall only prepare the ballot as requested, and shall not reveal to any one the name of any candidate for whom the voter has voted, or anything that took place while the judge or other person assisted the voter.

**Subd. 4. Lost, destroyed, stolen, or misdelivered ballots.** If the official ballots at a precinct at which a lever voting machine is to be used are not delivered on time or if after delivery they are lost, destroyed, or stolen, the election judges shall immediately notify the municipal clerk or county auditor to have other ballots prepared as nearly as practicable in the form of the official paper ballot. The judges shall use these substituted ballots in the same manner as the official ballots.

**Subd. 5. Inoperative voting machine.** If a lever voting machine being used in an election becomes out of order during the election, it must be repaired if possible or another machine substituted as promptly as possible. If substitution or repair cannot be made, printed or written paper ballots in any suitable form, including machine sample ballots, may be used for voting.

**Subd. 6. Write-in ballots.** Ballots not cast by the use of the lever on the voting machine must be designated write-in ballots.

**History:** 1984 c 447 s 18; 1986 c 444

### 206.75 MACHINES; LOCKING, OPENING, CUSTODY, AND CARE.

**Subdivision 1. Reading and recording results.** As soon as voting has ended, the election judges shall lock or lock and seal each voting machine against voting. The judges shall then sign a certificate stating that each machine has been locked or locked and sealed against voting, the number of voters as shown on the public counter, the number on the seal, and the number registered on the protective counter. The judges shall then open the counter compartment in the presence of the challengers and any other persons who are lawfully present in the polling place, permitting a full view of all the counter numbers. If the machine is equipped with a device for printing, embossing, or photographing the registering counters, the judges shall produce a printed, embossed, or photographed record of the counters. One election judge, under the scrutiny of a judge of a different major political party, shall read and announce in distinct tones the designation on each counter for each candidate's name, the result as shown by the counter numbers, and then the votes recorded for each office on the write-in ballots, in the order that the offices appear on the machine. The judge shall in the same manner announce the vote on each question. As each vote total is announced from the counter of the machine, or as a printed, embossed, or photographed record of it is produced, it must immediately be entered on the statement of results, in figures only, in ink, by two judges of different major political parties in the space which has the same designation as the vote total being announced. The figures must then be verified by being called off from the counters by an election judge who recorded the totals on a statement of results during the original count of the results. The judge who recorded the totals on a statement of results during the original count shall act as watcher at the machine counters during the verification of the results. Each judge shall then sign a certificate which is a part of the statement of results, indicating that the results shown are the true and correct results of the election and that the count has been completed in accordance with law. After

the proclamation of the vote, ample opportunity shall be given to any person lawfully present to compare the results announced with the counter dials of the machine, or the printed, embossed, or photographed record. Necessary corrections shall then and there be made by the judges. If absent voters' ballots have been voted, those ballots shall be counted and the vote for each candidate announced and added to the vote recorded on the statement of results of votes cast by machine. Absent voters' ballots and write-in ballots, enclosed in separate properly sealed and endorsed packages, shall be filed with the original statement of results. In precincts using only one voting machine, if the machine is equipped with a device for printing, embossing, or photographing the registering counters, two copies of the printed, embossed, or photographed record, signed by the judges, together with a statement of write-in votes and absentee votes, if any, may constitute the statement of results for the precinct. The election judge filing the returns shall deliver to the official from whom they were received, the keys to each voting machine, enclosed in a sealed envelope bearing a certificate on which the judges state the number of each machine, the district where it was used, the number of the seal, if any, and the number of the protective counter.

**Subd. 2. Statement of results.** In each precinct where voting machines are used, a statement of results must be printed to conform to the type of lever voting machine used. The designation on the counter for each candidate must be printed next to the candidate's name on the statement of results. The arrangement of the names on the statement of results for each precinct must conform exactly to the arrangement of the names on the voting machines to be used in the precinct. The statement of results must provide for the entry of the number of votes for each candidate and the number of "yes" and "no" votes on each question as shown on each machine used in the precinct, the number of absentee ballots, and the total number of votes by absentee ballots and machine, for each candidate and upon each question. Upon completion of the count the election judges shall enclose the statements of results in sealed envelopes. The statements of results may be opened by the authorities in charge of elections before the official canvass for the purpose of checking the addition and compiling the unofficial returns and preparing the official records. Statements of results must be in the form prescribed by the secretary of state.

**History:** 1984 c 447 s 19

**206.76 CANVASSING BOARD TO INSPECT MACHINES.**

When the canvassing board in a municipality where lever voting machines are used convenes to canvass the election returns, and before it proceeds with the canvass, the board shall inspect the registering counter or other recording device on the voting machine which shows the number of votes cast for each candidate or question voted on at the election and any write-in ballots recorded on the machine. The canvassing board shall also compare the number of votes shown by each voting machine to have been cast for each candidate and on each question with the statement of results made by the election judges of the precincts in which the voting machines were used. If there is a discrepancy between the statement of results and the number of votes shown by the voting machines at the inspection, the canvassing board shall correct the statement of results, so that it conforms to the vote shown by the machines at the inspection. The statement of results as corrected by the canvassing board shall be deemed the true return of the number of votes cast for each candidate and on each question in the precinct. For the purpose of inspecting voting machines the canvassing board may adjourn its sessions from time to time as necessary and may hold its sessions at any place within the county where the voting machines are usually stored. After correcting the statements of results the canvassing board shall proceed to the performance of its duties as provided by law.

In case of an election contest the statements of results, as corrected by the canvassing board, are prima facie evidence of the vote cast for each candidate and on each question at an election, in the same manner as are the summary statements of the election judges in precincts where lever voting machines are not used.

**History:** 1984 c 447 s 20

**206.77 SECURITY OF MACHINES; RETENTION OF BALLOTS.**

Subdivision 1. **Opening of machines.** Lever voting machines shall remain locked against use until all automatic recounts have been verified by the appropriate election office and the time for filing a contest of election has passed. When a contest of election has been filed, the voting machines shall remain locked until the voting machine count has been verified in accordance with the orders of the appropriate court.

Subd. 2. **Write-in ballots.** Write-in ballots must be preserved for one year after an election and may be opened and examined only upon an order of a judge of a court having jurisdiction. After one year the ballots may be disposed of in the discretion of the official in charge of them.

**History:** 1984 c 447 s 21

**206.80 ELECTRONIC VOTING SYSTEMS.**

(a) 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) rejects by means of the automatic tabulating equipment, 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; and

(6) rejects, by means of the automatic tabulating equipment, all votes cast in a primary election by a voter when the voter votes for candidates of more than one party, except as provided in paragraph (b).

(b) A punch card electronic voting system may not be employed at a partisan primary election unless it permits a voter at a partisan primary election to select the party for which the voter wishes to vote by punching out an indicator for one of the parties only, and must reject, by means of the automatic tabulating equipment, all votes cast in a partisan primary election by a voter for candidates of a party other than the one chosen by the voter from the party indicators.

**History:** 1984 c 447 s 22; 1987 c 222 s 4; 1988 c 646 s 9

**206.81 ELECTRONIC VOTING SYSTEMS; EXPERIMENTAL USE.**

The secretary of state may license an electronic voting system for experimental use at an election prior to its approval for general use. Experimental use shall be observed by the secretary of state or the secretary's designee and the results observed shall be considered at any subsequent proceedings for approval for general use. The secretary of state may adopt rules consistent with sections 206.55 to 206.87 relating to experimental use. The extent of experimental use shall be determined by the secretary of state.

**History:** 1984 c 447 s 23; 1986 c 444

**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. Prior to July 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 department of administration 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

### 206.83 TESTING OF VOTING SYSTEMS.

The official in charge of elections shall have the voting system tested to ascertain that the system will correctly count the votes cast for all candidates and on all questions (1) within five days prior to election day, for punch card voting systems, or (2) within 14 days prior to election day, for optical scan voting systems. 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 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 to reject those votes. 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. The test for punch card voting systems must be repeated immediately before the start of the official count of the ballots, in the manner provided in this section. After the completion of the count, 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

### 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 marking devices.

**Subd. 2. Sample marking device.** Before an election at which an electronic voting system will be used, the official in charge of elections shall have placed in one or more convenient locations a marking device with a sample ballot booklet for the purpose of

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instructing voters in the operation of the marking device. Official ballot cards may not be used for instructional purposes.

Subd. 3. **Ballots.** The ballot information, whether placed on the ballot card or on the ballot booklet must, as far as practicable, 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.

The pages of a partisan primary ballot booklet must be different colors for different parties. The colors available for partisan primary ballot booklet pages are purple, orange, and buff. The chairs of the major political parties shall choose from among those colors in a random drawing conducted by the secretary of state. A color chosen by a party is permanently assigned to that party.

A partisan primary ballot booklet must be designed to include a form of party indicator by which the voter may choose the party in whose primary the voter intends to vote.

All pages of a party's primary ballot must be consecutive, without the insertion of pages from another party. Partisan primary ballot booklets must contain a prominent notice of the effect of attempting to vote in more than one party's primary. A separate ballot booklet may also be used for each party in a partisan primary.

Ballots for all questions must be provided in the same manner. Where ballot booklets are placed in a marking device, they shall be arranged on or in the marking device in the places provided. Ballot cards may contain special printed marks and holes 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. **Write-in ballots.** If write-in space is not provided on the ballot card, a separate write-in ballot, which may be in the form of a paper ballot, card, or envelope in which the voter places a ballot card after voting, must be provided when write-in voting is authorized so that voters may write in the names of persons whose names are not on the ballot.

Subd. 5. **Voting booths.** In precincts where an electronic voting system is used, one voting booth or compartment must be provided for each marking device. The booths or compartments shall be arranged in the manner provided in precincts where paper ballots are used. At a primary, separate marking devices may be provided in each booth or compartment for use with the separate partisan primary ballot booklets permitted by this section, except that separate ballot booklets may not be used if they would impair the right to vote in secret.

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 marking devices 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 booklets used with the sample ballots 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 206.87, 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

**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 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

**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 marking devices 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 process the ballot cards in the same manner as paper ballots are processed in section 204C.20, subdivision 2. 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. If ballot cards are used, all ballot envelopes 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

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votes on ballot cards containing invalid votes must be counted as provided in subdivision 5. If paper ballots are used, the judges, before counting the write-in votes, shall compare the write-in votes with the votes cast elsewhere on the ballot card. If the total number of votes for an office involving a write-in vote exceeds the number allowed by law, a notation to that effect must be entered on the back of the ballot. Valid votes on the rest of such a ballot must be tallied by the judges at the precinct, on a form provided for the purpose. The ballot must then be placed in an envelope marked "defective ballots" and returned to the counting center. The total number of defective ballots must be added to the totals for the respective precincts and the defective ballots disposed of as provided by section 204C.25.

**Subd. 2. Transportation of ballot cards.** The judges shall place all voted ballot cards, envelopes with write-in ballots, 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

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

#### **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

#### **206.90 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 writing instrument 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.** For the purposes of section 206.63, "paper ballots" includes ballot cards which are voted by marking with a pencil or other writing instrument and on which are printed 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." 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 as long as an appropriate marking instrument is supplied 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.

**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 or buff colored material except that marks not to be read by the automatic tabulating equipment may be printed in another color ink. If more than one ballot card is required, the cards must, so far as practicable, be of the same color as is required for paper ballots.

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 constitu-

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tional amendments; county offices and questions; municipal offices and questions; school district offices and questions; special district offices and questions; and judicial offices.

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 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.

Subd. 9. **Spoiled ballot cards.** Automatic tabulating equipment capable of examining a ballot card for defects and returning it to the voter before it is counted and deposited into the ballot box 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

PRESIDENTIAL  
ELECTIONS

## CHAPTER 207A PRESIDENTIAL PRIMARY

### 207A.01 PRESIDENTIAL PRIMARY.

A presidential primary must be held on the first Tuesday in April of each year in which a president and vice president of the United States are to be nominated and elected, at which the voters of this state may express their preference among the candidates of the major political party of their choice, for that party's nomination to be president of the United States or may vote for uncommitted delegates to the national party convention. For the purposes of sections 207A.01 to 207A.07, "political party" or "party" means a political party as defined in section 200.02, subdivision 7.

*History: 1989 c 291 art 2 s 1; 1990 c 603 s 4*

### 207A.02 CANDIDATES ON BALLOT.

Subdivision 1. **Required listing.** The following individuals must be listed as candidates on the appropriate major political party presidential ballot with a separate ballot for each major political party:

(1) any individual who files an affidavit of candidacy pursuant to section 204B.06 and submits the appropriate filing fee or petition in place of filing fee pursuant to section 204B.11; and

(2) any individual nominated as a candidate for the presidential nomination of a political party by a petition submitted not later than ten weeks before the primary and bearing the names of 1,000 eligible voters from each congressional district.

In addition, each major political party's ballot must contain a place for a voter to indicate a preference for having delegates to the party's national convention remain uncommitted, and 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.

The candidates must be listed on the appropriate major political party ballot in the order that the affidavits of candidacy or nominating petitions for the candidates are filed with the secretary of state.

Subd. 1a. **Time for filing; fee.** The period for filing an affidavit of candidacy for the presidential primary must begin 16 weeks before the primary and end 14 weeks before the primary. The filing fee is \$500. The period for signing nominating petitions must begin 16 weeks before the primary and end ten weeks before the primary.

Subd. 2. **Announcing candidates.** Candidates who have filed an affidavit of candidacy pursuant to subdivision 1, clause (1), for each political party on the presidential primary ballot must be announced by the secretary of state the day after filings close for the purpose of giving voters sufficient time to nominate other candidates by petition.

Subd. 3. **Announcement.** The determination of which candidates must be listed on the presidential primary ballot must be made by the secretary of state not later than eight weeks before the presidential primary. The secretary of state shall certify to the county auditor of each county the names of all candidates in the presidential primary at least seven weeks before the primary.

Subd. 4. **Notification.** Not later than three days after the last day for filing a nominating petition pursuant to subdivision 1, clause (2), the secretary of state shall notify each individual whose name is to be listed on the presidential primary ballot that the individual's name will be listed unless the individual submits an affidavit stating that the individual is not a candidate for the presidential nomination, does not intend to become a candidate, and would not accept the nomination. The affidavit must be submitted to and received by the secretary of state no later than eight weeks before the presidential primary.

*History: 1989 c 291 art 2 s 2; 1990 c 603 s 5; 1993 c 223 s 23*



**207A.03 PRESIDENTIAL PRIMARY; HOW CONDUCTED.**

Subdivision 1. **General rule.** Except as otherwise provided in sections 207A.01 to 207A.07, the presidential primary must be conducted, and the results canvassed and returned in the manner provided by law for the state primary. If a municipality which uses lever voting machines or an electronic voting system determines that the use of the machines or voting system would not be practical in the presidential primary, the municipality may use a paper ballot for the presidential primary.

Subd. 2. **Voter certification; ballot.** An individual seeking to vote at the presidential primary shall request the ballot of the party for whose candidates the individual wishes to vote. The voter registration certificate or duplicate registration file for the presidential primary must list the names of the political parties appearing on the ballot at the presidential primary. Before receiving a ballot, a voter shall sign the voter's certificate or duplicate registration file and shall place a check mark beside the name of the political party whose ballot the voter requested.

**History:** 1989 c 291 art 2 s 3; 1990 c 603 s 6

**207A.04 AUDITOR FURNISHED INFORMATION BY SECRETARY OF STATE; BALLOT PREPARATION.**

Subdivision 1. **Notice of filing period.** Twenty weeks before a presidential 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 primary. Within ten days after notification by the secretary of state, each county auditor shall provide notice of the date of the presidential primary to each municipal clerk in the county.

Subd. 2. **Notice of primary.** At least 15 days before the date of the presidential primary, each municipal clerk shall post a public notice stating the date of the presidential primary, the location of each polling place in the municipality, and the hours during which the polling places in the municipality will be open. 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.

Subd. 3. **Ballot preparation.** The secretary of state shall prepare paper ballots, absentee ballot envelopes, ballot return envelopes, election return envelopes, and summary statements for use in the presidential primary. The ballots must be printed on white paper with a separate ballot for the names of the candidates of each political party.

**History:** 1989 c 291 art 2 s 4; 1990 c 603 s 7

**207A.05** [Repealed, 1990 c 603 s 12]

**207A.06 SELECTION OF DELEGATES; NATIONAL CONVENTION BALLOTING.**

Subdivision 1. **Apportionment of votes.** The delegates to the national convention of each political party appearing on the presidential primary ballot who are chosen on the basis of their support for particular presidential candidates must be apportioned among the various candidates of that party receiving votes in the presidential primary, in proportion to their respective vote totals.

The secretary of state shall certify to the state chair of each political party appearing on the presidential primary ballot the number of delegates to which each presidential candidate is entitled.

Subd. 2. **Chosen delegates.** Delegates to the national convention of each political party appearing on the presidential primary ballot must be chosen by the state convention or congressional district convention of that party, except as otherwise provided in this subdivision. The secretary of each party's state convention or congressional district convention shall promptly notify the secretary of state of the names of the delegates to the national convention chosen as supporters of each presidential candidate.

Subd. 3. **Delegate votes.** At the national convention, delegates chosen because of their support for a presidential candidate shall vote for that candidate on the first ballot, unless they have been released from that obligation by the candidate. This subdivision does not apply to delegates to the extent that it is inconsistent with the rules of the national party or state party.

**History:** 1989 c 291 art 2 s 6; 1990 c 603 s 8

#### 207A.07 USE OF VOTING MACHINES.

The county auditor of each county in which lever voting machines or electronic voting systems are used shall provide all ballots, ballot labels, ballot cards, and other necessary printed forms and supplies needed to place the ballots required by sections 207A.01 to 207A.07 on the voting machines which otherwise are provided by the state when paper ballots are used. The total cost of printing and providing the forms must be paid by the state.

**History:** 1989 c 291 art 2 s 7

#### 207A.08 INFORMATION ON PARTY CHOICE.

Notwithstanding section 204C.18, subdivision 1, or other law to the contrary, a person entitled to inspect the duplicate registration file or receive a copy of a current precinct list under section 201.091 must also be informed of the party choice of any voter who voted in the most recent presidential primary under this chapter.

**History:** 1990 c 603 s 9

#### 207A.09 RULEMAKING AUTHORITY.

The secretary of state shall adopt rules to implement the provisions of this chapter as follows:

- (1) to implement section 207A.08;
- (2) to determine a method for verifying the signatures on nominating petitions and petitions in place of filing fees for the presidential primary;
- (3) to determine the format of the presidential primary ballots; and
- (4) to determine the manner of paying or reimbursing the costs to the counties of conducting the presidential primary.

**History:** 1990 c 603 s 10

#### 207A.10 REIMBURSEMENT OF ELECTION EXPENSES

Subdivision 1. **Duties of secretary of state.** The secretary of state shall reimburse the counties and municipalities for expenses incurred in the administration of the presidential primary from the funds appropriated by the legislature for this purpose, as provided in this section. Up to \$7,500 of the appropriation for reimbursement of election expenses may be retained by the secretary of state to administer the reimbursement program.

Subd. 2. **Reimbursable expenses.** The following expenses are eligible for reimbursement: salaries of election judges; postage for absentee ballots; preparation of polling places, in an amount not to exceed \$25 per polling place; preparation of electronic voting systems or lever voting machines, in an amount not exceed \$50 per precinct; compensation of county canvassing board members; publication of the sample ballot; and compensation for temporary staff or overtime payments.

Subd. 3. **Certification of costs.** The county auditor shall certify to the secretary of state the costs incurred by the county for the presidential primary. The municipal clerk shall certify to the secretary of state the costs incurred by the municipality for the presidential primary. If the total amount certified by all units for temporary staff and overtime payments exceeds \$480,000, the secretary of state shall reduce those amounts so that they do not exceed \$480,000. The secretary of state shall provide each county and municipality with the appropriate forms for this certification. The secretary of state may require that the county auditor or municipal clerk provide documentation of actual expenditures made for

the presidential primary. The certification of costs must be submitted to the secretary of state no later than 60 days after the presidential primary. No reimbursement of expenses must be made unless the certification of costs has been submitted as provided in this subdivision

Subd. 4. **Apportionment of reimbursements.** If the total amount of requests for reimbursement of expenses exceeds the total amount appropriated to the secretary of state for this purpose, the secretary of state shall proportionately reduce the reimbursements so that they do not exceed the amount appropriated.

**History:** 1992 c 511 art 1 s 4; 1993 c 223 s 24

**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 1

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

**208.02 ELECTION OF PRESIDENTIAL ELECTORS.**

Presidential electors 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

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

**208.03 NOMINATION OF PRESIDENTIAL ELECTORS.**

Presidential electors 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. On or before primary 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 and the names of the party candidates for president and vice-president.

**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

**NOTES AND DECISIONS**

**208.03**

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.

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.

Presidential and vice-presidential "candidates" nominated by petition have right to withdraw. Op. Atty. Gen. 28C-5, September 26, 1968.

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

**208.04 PREPARATION OF BALLOTS.**

Subdivision 1. When presidential electors 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 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 white ballot, before the party designation. To the left of, and on the same line with the surnames, 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.

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Subd. 2. The rules for preparation, state contribution to the cost of printing, and delivery of presidential ballots are the same as the rules for white 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

### NOTES AND DECISIONS

#### 208.04

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, cf. 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 second Tuesday after each state general election shall open and canvass the returns made to the secretary of state for presidential electors, 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 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

### 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 TO MEET AT CAPITOL; FILLING OF VACANCIES.

The 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. If any elector named therein fails to appear before 9:00 a.m. on the day, and at the place, fixed for voting for president and vice-president of the United States, the electors present shall, in the presence of the governor, immediately elect by ballot a person to fill the vacancy. If more than the number of persons required have the highest and an equal number of votes, the governor, in the presence of the electors attending, shall decide by lot which of those persons shall be elected.

**History:** 1959 c 675 art 9 s 6; 1979 c 251 s 5

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

#### 208.07 CERTIFICATE OF ELECTORS.

Immediately after the vacancies have been filled, the original electors present shall certify to the governor the names of the persons elected to complete their number, and the governor shall at once cause written notice to be given to each person elected to fill a vacancy. The persons so chosen shall be presidential electors and shall meet and act with the other electors.

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**History:** 1959 c 675 art 9 s 7; 1979 c 251 s 6

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

**208.08 ELECTORS TO MEET AT STATE CAPITOL.**

The original and substituted presidential electors, at 12:00 M., shall meet in the executive chamber at 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.

**History:** 1959 c 675 art 9 s 8; 1979 c 251 s 7

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]



**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, state treasurer, secretary of state, chief justice or associate justice of the supreme court, judge of the court of appeals, United States senator, or presidential elector.

**History:** 1959 c 675 art 10 s 1; 1986 c 408 s 1

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

**209.02 CONTESTANT; GROUNDS.**

Subdivision 1. 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**

Judicial election could not be set aside solely on basis of judicial code violations. *Burns v. Valen*, 400 N.W. 2d (Minn. Ct. App. 1987).

**209.021 NOTICE OF CONTEST.**

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. 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 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



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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 or other question voted on statewide, 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 or other question voted on statewide or voted on in more than one county, 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

### NOTES AND DECISIONS

#### 209.021

"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).

Party to election contest may not save notice of election contest. *Stransky v. Indep. Schl. Dist. 761*, 439 N.W. 2d 408 (Minn. Ct. App. 1989).

**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.

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**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

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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

**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.

**History:** 1961 c 607 s 6; 1971 c 733 s 6; 1986 c 408 s 9; 1986 c 444

**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, a constitutional amendment, or other question voted

on statewide. 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

**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.

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(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

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

**209.11** MS 1984 [Repealed, 1986 c 408 s 13]

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

### **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

**209.13-209.22** MS 1957 [Repealed, 1959 c 675 art 13 s 1]

### **PRIOR CHAPTER 209**

#### **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.

#### **NOTES AND DECISIONS**

##### **209.02**

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.

Strict compliance with procedural requirements necessary under this chapter. O'Loughlin v. Otis, 276 N.W. 3d 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, 207 N.W. 2d 343 (Minn. 1973), Holmen v. Miller, 206 N.W. 2d 916 (Minn. 1973).

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.

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.

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).

Statements made in good faith, after investigation, and essentially true were proper and did not invalidate election. 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 (1953). But see O'Loughlin v. Otis, 276 N.W. 2d 38 (Minn. 1979).

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

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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 of 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*, 225 N.W. 2d 385 (1975).

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 School District No. 46 of Jackson County*, 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 thereat, election proceedings will be held invalid and election results nullified. *Id.*

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 thereat were properly rejected. *Id.*

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).

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).

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).

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).

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*, 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.*

For discussion of this section see *Youngdale v. Eastvoid*; 232 Minn. 1234; 44 N.W. 2d 459 (1950); *Phillips v. Erickson* 248 Minn. 452, 80 N.W. 2d 513 (1957).

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).

Court was without jurisdiction to entertain contest involving nomination or election to office of representative in Congress on grounds of near error. *youngdale v. Eastvoid*, 232 Minn. 134, 44 N.W. 2d, 459 (1950).

### NOTES AND DECISIONS

#### 209.04

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).

For application of rules of civil procedure to contest, see *O'Loughlin v. Otis*, 276 N.W. 2d 38 (Minn. 1979).

### 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.

### NOTES AND DECISIONS

#### 209.09

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.

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).

Scope of review on appeal, see *Matter of Ryan*, 303 N.W. 2d 462 (Minn. 1981).

### 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).

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

#### 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 name and address of the person responsible for filing the report;
- (3) the total amount of receipts and expenditures for the period from the last previous report to five days before the current report is due;
- (4) the purpose for each expenditure; and



(5) the name of any individual or committee that during the year has made one or more contributions that in the aggregate are equal to or greater than \$500.

**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.

**History:** 1988 c 578 art 2 s 2; 1989 c 291 art 1 s 30

#### NOTES AND DECISIONS

##### 211A.02

In absence of campaign finance disclosure statute applicable to municipality, ordinance providing for such regulation is permissible. Id.

##### 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

##### 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; 1992 c 513 art 3 s 79

##### 211A.05 FAILURE TO FILE STATEMENT.

**Subdivision 1. Penalty.** A candidate who intentionally fails to file a report required by section 211A.02 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 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 fails to file a report on the date it is due, the filing officer shall immediately notify the county attorney of the county where the candidate resides or where the committee headquarters is located. The county attorney shall then 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 county attorney shall proceed under section 211A.08.

**History:** 1988 c 578 art 2 s 5; 1989 c 291 art 1 s 31

## NOTES AND DECISIONS

**211A.05**

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

**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 COUNTY ATTORNEY INQUIRY.**

**Subdivision 1. Duties of county attorney.** A county attorney who is notified of an alleged violation of this chapter shall promptly investigate. If there is probable cause to institute a prosecution, the county attorney shall proceed by complaint or present the charge with whatever evidence has been found to the grand jury. 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. The county attorney, under penalty of forfeiture of office, shall prosecute all violations of this chapter except for a violation of this section; if, however, a complainant desires to withdraw a complaint under this chapter, the county attorney is not required to proceed with prosecution.

**Subd. 2. Associate counsel.** Anyone except the person under investigation or the person's agent may employ an attorney to assist the county attorney in the investigation and prosecution of a violation of this chapter. The county attorney and the court shall recognize the attorney as associate counsel for the proceeding. A prosecution, action, or proceeding may not be dismissed without notice to the associate counsel. If the associate counsel objects to the dismissal, the county attorney's reasons for dismissal and the associate counsel's objections must be filed with the court and heard within the time period the court requires.

**History:** 1986 c 444; 1988 c 578 art 2 s 8

## NOTES AND DECISIONS

**211A.08**

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.

County attorney may proceed by complaint and information rather than impaneling grand jury. Op. Atty. Gen. 627B-1, August 18, 1966.

**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. (Effective January 1, 1994)

A candidate may not accept aggregate contributions made or delivered by an individual or committee in excess of \$300 in an election year for the office sought and \$100 in other years; except that a candidate 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 \$500 in an election year for the office sought and \$100 in other years.

**History:** 1993 c 318 art 2 s 46

#### 211A.13 PROHIBITED TRANSFERS (Effective January 1, 1994)

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 5. 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

**CAMPAIGN  
PRACTICES**

## 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 tending to influence 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

#### NOTES AND DECISIONS

##### 211B.01

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.

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.

Committee formed to support constitutional amendment must file statement of receipts and disbursements. Op. Atty. Gen. 627B-2, August 26, 1952.

Act applies to city charter election. Op. Atty. Gen. 627B-1, August 18, 1966.

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).

### 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

Prominent political leaders are not "units of political party. *Graves v. Meland*, Minnesota Supreme Court, March 24, 1978.

### 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.

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*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), in support of .....(insert name of candidate or ballot question)" for material prepared and paid for by a person or committee other than a principal campaign committee.

(c) In the case of broadcast media, the required form of disclaimer is: "Paid for by the ..... committee."

(d) Campaign material that is not circulated on behalf of a particular candidate or ballot question must also include in the disclaimer either that it is "in opposition to .....(insert name of candidate or ballot question.....)"; or that "this publication is not circulated on behalf of any candidate or ballot question."

(e) This section does not apply to objects stating only the candidate's name and the office sought, fundraising tickets, or personal letters that are clearly being sent by the candidate.

(f) This section does not modify or repeal section 211B.06.

*History: 1988 c 578 art 3 s 4; 1991 c 227 s 24*

### NOTES AND DECISIONS

#### **211B.04**

Absence of authorship clause on cards held trivial. *Miske v. Fisher*, 193 Minn. 514, 259 N.W. 18 (1935).

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.

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.

Emery boards must bear name and address of author. *Op. Atty. Gen. 627F-1*, September 24, 1948.

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.

Name of person or persons on committee who authorize insertion of advertisement must be stated. *Op. Atty. Gen. 627C-5*, October 1, 1938.

### **211B.045 NONCOMMERCIAL SIGNS EXEMPTION.**

In any municipality with an ordinance that regulates the size of noncommercial signs, notwithstanding the provisions of that ordinance, all noncommercial signs of any size may be posted from August 1 in a state general election year until ten days following the state general election.

*History: 1990 c 585 s 30*

### **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. 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

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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

### 211B.06 FALSE POLITICAL AND CAMPAIGN MATERIAL; PENALTY; EXCEPTIONS.

**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, whether or not defamatory, or with respect to the effect of a ballot question, that the person knows or has reason to believe is false and that is designed or tends to elect, injure, or defeat a candidate for nomination or election to a public office or to promote or defeat a ballot question.

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, if defamatory, or with respect to the effect of a ballot question, that the person knows is false and which is designed or tends to elect, injure, or defeat any candidate for nomination or election to a public office or to promote or defeat a ballot question.

**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

### NOTES AND DECISIONS

#### 211B.06

False representation regarding source of information is not violation of election laws as long as information is true. *Grotjohn v. McCollar*, 291 Minn. 344, 191 N.W. 2d (1971).

Candidate who denied prior knowledge of the details and method of publishing alleged falsehood did not violate Fair Campaign Practices Act. In re County Commissioner for Wright County, 289 Minn. 523, 185 N.W. 2d 277 (1971).

Although defamatory of supporters of a candidate, a campaign document held not defamatory of candidate himself and so no violation of Corrupt Practices Act. *Dart v. Erickson*, 188 Minn. 344, 191 N.W. 2d 396 (1971).

Campaign circular containing earlier laudatory statements about a candidate is not defamatory and, therefore, does not violate this section. *Graves v. Meland*, 264 N.W. 2d 401 (Minn. 1978).

### 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

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## NOTES AND DECISIONS

### 211B.07

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 judgement directed that contestee's election be annulled and set aside. *Fritz v. Hanfler*, 195 Minn. 640 263 N.W. 10 (1935).

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.

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.*

### 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

### 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.).

### 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. 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*

### 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.

Subd. 2. **Election day campaigning.** A person may not broadcast, circulate, or distribute campaign material, or cause campaign material to be broadcast, circulated, or distributed on the day of a primary or election. This subdivision does not modify or repeal section 211B.07.

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*

#### NOTES AND DECISIONS

##### 211B.11

Prohibition of section 211B.11, subd. 1, violates U.S. and state constitutions. *State v. Quam*, No. 97939-1 (Hennepin Dist. Ct. November 1, 1988).

Provisions of section 211B.11, subd. 2 are unconstitutional. *Op. Atty. Gen.* 627H, August 28, 1989.

County attorneys are not required to institute prosecutions of alleged violations of section 211B.11, subd. 2. *Id.*

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.

Erection of political signs before an election and not removing them before election day is not a violation of this section. *Op. Atty. Gen.* 627H, January 11, 1963.

The distribution of campaign cards by a candidate on election day, in the event of his election, forfeits his right to the office. *In re Election Contest of Christian*, 170 Minn. 465, 213 N.W. 48 (1927).

Mailing campaign literature before election for delivery on election day is unlawful. *Op. Atty. Gen.* 627H, April 1, 1932.

Stickers may not be distributed at or within the polling place or within one hundred feet thereof on election day. Distribution at distance greater than one hundred feet may not be for purpose of soliciting votes. *Op. Atty. Gen.* 627B-8, March 9, 1945.

Newspaper ad for campaign purposes comes within the provisions of this section. *Op. Atty. Gen.* 627K-5, October 22, 1948.

Stickers may not be left in an election polling place on election day. *Op. Atty. Gen.* 28A-8, August 7, 1942.

Hiring persons to distribute stickers on election day is a violation of Fair Campaign Practices Act. *Op. Atty. Gen.*, November 2, 1932.

##### 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 10c. 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 \$50 to any charity annually; 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

## 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.

## 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 of nominal value 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

## NOTES AND DECISIONS

## 211B.13

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*.

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*.

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*.

## 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.

**History:** 1988 c 578 art 3 s 14; 1993 c 223 s 26

## 211B.15 CORPORATE POLITICAL CONTRIBUTIONS.

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 under similar laws of another state, that does business in this state.

Subd. 2. **Prohibited contributions.** 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 major political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. 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.

Subd. 3. **Independent expenditures.** 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. For the purpose of this subdivision, "independent expenditure" means an expenditure that is not made with the authorization or expressed or implied consent of, or in cooperation or concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate.

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.** An officer, manager, stockholder, member, agent, employee, attorney, or other representative of a corporation acting in behalf of the corporation who violates 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 corporation convicted of 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. 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. **Reports required.** The total amount of an expenditure or contribution for any one project permitted by subdivisions 9 and 11 that is more than \$200, together with the date, purpose, and the names and addresses of the persons receiving the contribution or expenditures, must be reported to the secretary of state. The reports must be filed on forms provided by the secretary of state on the dates required for committees under section 211A.02. Failure to file is a misdemeanor.

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 a corporation that:

- (1) cannot engage in business activities;

(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.

**History:** 1988 c 578 art 3 s 15; 1989 c 209 art 2 s 26; 1993 c 318 art 2 s 49

#### NOTES AND DECISIONS

##### 211B.15

See M.S. 72A.12, subd. 5 (1988), pertaining to insurance companies.

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).

This section does not apply to nonprofit corporations. Id.

##### 211B.16 COUNTY ATTORNEY INQUIRY; ASSOCIATE COUNSEL.

Subdivision 1. **County attorney inquiry.** A county attorney who is notified of an alleged violation of this chapter shall promptly investigate. If there is probable cause for instituting a prosecution, the county attorney shall proceed by complaint or present the charge, with whatever evidence has been found, to the grand jury. 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 forfeits the office. The county attorney, under the penalty of forfeiture of office, shall prosecute all violations of this chapter except violations of this section. If, however, a complainant withdraws an allegation under this chapter, the county attorney is not required to proceed with prosecution.

Subd. 2. **Associate counsel.** Anyone except the person under investigation or the person's agent may employ an attorney to assist the county attorney in the investigation and prosecution of a violation of this chapter. The county attorney and the court shall recognize the attorney as associate counsel for the proceeding. A prosecution, action, or proceeding must not be dismissed without notice to the associate counsel. If the associate counsel objects to the dismissal, the county attorney's reasons for dismissal and the associate counsel's objections must be filed with the court and heard within the time period the court requires.

**History:** 1988 c 578 art 3 s 16

#### NOTES AND DECISIONS

##### 211B.16

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.

County attorney may proceed by complaint and information rather than impaneling grand jury. Op. Atty. Gen. 627B-1, August 18, 1966.

##### 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

#### **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

#### **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.** 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 filed for election to public office or to campaign workers accompanied by the candidate, if the candidate and workers seeking admittance to the facility do so solely for the purpose of campaigning. 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, denial of permission to visit certain persons for valid health reasons;

(4) limiting visits by candidates or workers 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

**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*

RELATED LAWS

## RELATED LAWS

**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*

**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*

**97A.485 ISSUANCE OF LICENSES.**

Subdivision 1. **Commissioner.** The commissioner shall issue and sell licenses. The commissioner shall furnish licenses and applications to agents authorized to issue licenses.

Subd. 1a. **Deer license; absentee ballot application.** The commissioner and agents shall have available for each person purchasing a license to take deer with firearms or by archery, sold or issued during a general election year, an application for an absentee ballot. At the time of purchase, the commissioner or the commissioner's agent shall ask whether the person purchasing the license wants an application for an absentee ballot. The commissioner shall obtain absentee ballot application forms from the secretary of state and distribute them to the commissioner's agents.

**History:** 1986 c 386 art 1 s 70; 1987 c 404 s 132; 1988 c 437 s 3; 1989 c 287 s 4; 1989 c 335 art 1 s 124; 1990 c 608 art 7 s 1; 1991 c 227 s 1; 1991 c 254 art 2 s 33

**103C.305 GENERAL ELECTION OF SUPERVISORS.**

Subdivision 1. **Time for election.** Except for elections under section 103C.301 held after the organization of the district, elections must be held at the state general election specified in section 204D.03, subdivision 2. A primary may not be held.

Subd. 2. **Nominating petition.** (a) The district secretary shall immediately submit the names of the candidates and the terms for which each candidate is nominated to the county auditor.

(b) Nominating petitions conforming to section 103C.301, subdivision 1, shall be filed with the secretary of the district at least 60 days before the general election.



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Subd. 3. **Ballots.** Ballots shall be prepared by the county auditor. The names of candidates shall be placed on the "canary ballot" described in section 204D.11, subdivision 3.

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 60 days before the next general election, the district board shall fill the vacancy by appointment. The supervisor appointed shall hold office until December 31 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 60 days before the next general election, the district board shall fill the vacancy by appointment. The appointed supervisor shall hold office until the expiration of the term or until December 31 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.

**History:** 1990 c 391 art 3 s 14 122.23 MS 1953 Repealed, 1957 c 947 art 9 s 9

### 123.33 BOARDS OF INDEPENDENT SCHOOL DISTRICTS.

Subdivision 1. The care, management, and control of independent districts shall be vested in a board of directors, to be known as the school board. The term of office of a member shall be three years and until a successor qualifies. The membership of the school board shall consist of six elected directors together with such ex officio member as may be provided by law. But the board may submit to the electors at any school election the question whether the board shall consist of seven members and 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 three-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, two members instead of three members shall be elected at the next election of the board of directors and thereafter the board shall consist of six members.

Subd. 2. A vacancy in any board occurs when a member (a) dies, or (b) resigns, or (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. 3. 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 such ill or absent member is again able to resume duties as a member of the board, the board shall by resolution so determine and declare such person

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to be again a member of the board, and the member appointed by the board to be no longer a member thereof.

Subd. 4. Any other vacancy in a board shall 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 the vacancy occurs before the first day to file affidavits of candidacy for the next school district general election and more than two years remain in the unexpired term, a special election shall be held in conjunction with the school district general election. The appointed person shall serve until the qualification of the successor elected to fill the unexpired part of the term at that special election. If the vacancy occurs on or after the first day to file affidavits of candidacy for the school district general election, or when less than two years remain in the unexpired term, there shall be no special election to fill the vacancy and the appointed person shall serve the remainder of the unexpired term and until a successor is elected and qualifies at the school district election.

Subd. 5. 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. 6. The board shall make and when deemed advisable change or repeal rules relating to the organization and management of the board and the duties of its officers.

Subd. 7. The board shall superintend and manage the schools of the district; adopt rules for their organization, government, and instruction; keep registers; and prescribe textbooks and courses of study. The board may enter into an agreement with a post-secondary institution for secondary or post-secondary nonsectarian courses to be taught at a secondary school or a nonsectarian post-secondary institution.

Subd. 8. 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.

Subd. 9. [Repealed, 1975 c 162 s 42]

Subd. 10. The school board of any school district of this state by a two-thirds vote may become a member of the Minnesota school boards association or the Minnesota association of public schools, or the metropolitan area school board association, and appoint one or more of its members to attend its annual meeting. The amount of annual membership dues in the association and actual and necessary expense incurred in attending such meeting shall be paid as other expenses of the district are paid.

Subd. 11. The board shall cause its official proceedings to be published once in the official newspaper of the district. Such publication shall be made within 30 days of the meeting at which such proceedings occurred. If the board determines that publication of a summary of the proceedings would adequately inform the public of the substance of the proceedings, the board may direct that only a summary be published, conforming to the requirements of section 331A.01, subdivision 10.

Subd. 11a. **Mailing of proceedings.** If a school board of a district that has no newspaper with its known office of issue or a secondary office located within the boundaries of the district and no newspaper that is distributed to more than one-third of the residences in the district determines that mailing a summary of its proceedings would be more economical than publication of the proceedings and that it would adequately inform the public, it may mail a summary of its proceedings to each residence in the district that can be identified as a homestead from the property tax records and to each other residence in the district that the board can identify. The county shall make the property tax records available to the board for this purpose. The board shall keep a copy of the summary of the proceedings as

part of its records. The decision of a school board to mail summaries, rather than publish the proceedings under this subdivision shall be presumed valid, subject to challenge by a court action.

Subd. 12. The clerk, treasurer, and superintendent of any district shall receive such compensation as may be fixed by the board. Unless otherwise provided by law, the other members of the board shall also receive such compensation as may be fixed by the board. All members of the board may receive reimbursement for transportation at the rate provided for in section 471.665.

Subd. 13. [Repealed, 1975 c 162 s 42]

Subd. 14. A school board, including a school board as defined in section 136C.02, subdivision 8, by a two-thirds vote may become a member of a vocational association and may appoint one or more of its members to attend the annual meeting of such association. The amount of annual membership dues in the association and actual and necessary expenses incurred in attending such meeting shall be paid as other expenses of the district are paid.

Subd. 15. Any school district, or group of school districts, may become a member of, and pay dues to, any nonprofit corporation organized prior to the passage of Laws 1973, chapter 263 under and pursuant to the provisions of the Minnesota nonprofit corporation act, whose purposes are to promote the improvement of teacher education through student teaching, internships, and research.

Subd. 16. Any action undertaken or moneys expended by a school district, group of school districts, or nonprofit corporation for the purposes and under the authority of subdivision 15, but prior to its enactment, is hereby ratified and confirmed.

**History:** *Ex 1959 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*

#### 124A.03 REFERENDUM REVENUE.

Subd. 2. **Referendum revenue.** (a) The revenue authorized by section 124A.22, 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 school board or shall be called by the school board upon written petition of qualified voters of the district. Unless the referendum is conducted by mail under paragraph (g), the referendum must be held on the first Tuesday after the first Monday in November. The ballot shall state the maximum amount of the increased revenue per actual pupil unit, the estimated net tax capacity rate in the first year it is to be levied, and that the revenue shall be used to finance school operations. The ballot may state that existing 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 authority. The ballot shall designate the specific number of years, not to exceed five, for which the referendum authorization shall apply. 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 actual pupil unit times the actual 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 school board shall prepare and deliver by first class mail at least 15 days but no more than 30 days prior to the day of the referendum to each taxpayer a notice of the referendum and the proposed revenue increase. The school board need not mail more than one notice to any taxpayer. For the purpose of giving mailed notice under this subdivision,

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owners shall 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 shall be 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 and annual percentage 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, if any, in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district. The notice must include the following statement: "Passage of this referendum will result in an increase in your property taxes."

(c) A referendum on the question of revoking or reducing the increased revenue amount authorized pursuant to paragraph (a) may be called by the school board and shall be called by the school board upon the written petition of qualified voters of the district. A referendum to revoke or reduce the levy amount must be based upon the dollar amount, local tax rate, or amount per actual pupil unit, that was stated to be the basis for the initial authorization. Revenue approved by the voters of the district pursuant to paragraph (a) must be received 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) A petition authorized by paragraph (a) or (c) shall be effective if signed by a number of qualified voters in excess of 15 percent of the registered voters of the school district on the day the petition is filed with the school board. A referendum invoked by petition shall be held on the date specified in paragraph (a).

(e) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(f) At least 15 days prior to the day of the referendum, the district shall submit a copy of the notice required under paragraph (b) to the commissioner of education. Within 15 days after the results of the referendum have been certified by the school board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district shall notify the commissioner of education of the results of the referendum.

(g) 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 paragraph (b) to the contrary, in the case of a referendum conducted by mail under this paragraph, the notice required by paragraph (b) shall be prepared and delivered by first class mail at least 20 days before the referendum.

Subd. 2a. **School referendum levy; market value.** Notwithstanding the provisions of subdivision 2, a school referendum levy approved after November 1, 1992, for taxes payable in 1993 and thereafter, shall be levied against the market value of all taxable property. Any referendum levy amount subject to the requirements of this subdivision shall be certified separately to the county auditor under section 275.07.

The ballot shall state the maximum amount of the increased levy as a percentage of market value, the amount that will be raised by that new school referendum tax rate in the first year it is to be levied, and that the new school referendum tax rate shall be used to finance school operations.

If approved, the amount provided by the new school referendum tax rate applied to the market value for the year preceding the year 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.

All other provisions of subdivision 2 that do not conflict with this subdivision shall apply to referendum levies under this subdivision.

Subd. 3. [Repealed, 1987 c 398 art 1 s 27 subd 1]

Subd. 3a. [Repealed, 1988 c 486 s 102]

Subd. 4. [Repealed, 1987 c 398 art 1 s 27 subd 1]

Subd. 5. [Repealed, 1Sp1985 c 12 art 1 s 37 subd 1; art 8 s 65]

Subd. 6. [Repealed, 1987 c 398 art 1 s 27 subd 1]

**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;; 1993 c 44 s 1*

**NOTE:** *Subdivisions 1c, 1f, 1g, and 1h, as added by Laws 1991, chapter 265, article 1, section 10, are effective July 1, 1992. See Laws 1991, chapter 265, article 1, section 34.*

**NOTE:** *Subdivision 2, as amended, and subdivision 2a, as added, by Laws 1991, chapter 291, article 1, sections 5 and 6, are effective for referenda held after November 1, 1992, for taxes payable in 1993 and thereafter. See Laws 1991, chapter 291, article 1, section 65.*

### 124B.03 REFERENDUM LEVIES.

Subdivision 1. **Member district referendum levies.**

(a) As of the date that an education district first certifies general education revenue, the authorization for a referendum levy previously approved by the voters of a member district in that education district under section 124A.03 is canceled.

(b) The education district may certify to the department of education an amount equal to the combined dollar amount of the referendum authorized by each of the member districts for the year before the date that the education district first certifies general education revenue, unless the amount of revenue that the education district may certify is modified under subdivision 2.

(c) If the referendum levy authorizations for each of the member districts is limited to a specified number of years, the referendum levy authorization for the education district may continue for a period of time equal to the longest period authorized for any member district. If the referendum levy authorization of any member district is not limited to a specified number of years, the referendum levy authorization for the education district is not limited to a specified number of years.

Subd. 2. **Referendum levy.** (a) The amount of general education revenue certified by an education district board under section 124B.10 may be increased in any amount that is approved by the voters of the education district at a referendum called for the purpose. The referendum may be called by the education district board or must be called by the education district board upon written petition of qualified voters of the education district. The referendum must be held on the first Tuesday after the first Monday in November. The ballot shall state the maximum amount of the increased levy per actual pupil unit, the total amount that will be raised in the first year it is to be levied, and that the proceeds of the levy must be used to finance school operations. The ballot shall designate a specific number of years for which the referendum authorization applies which may not exceed five years. The

ballot may contain a text with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the levy proposed by (petition to) the board of ....., Education District No. ..., be approved?"

(b) An approved amount per actual pupil unit times the number of actual pupil units in the education district for the fiscal year before the year the levy is certified is authorized for certification for the number of years approved or until revoked or reduced by the voters of the education district at a later referendum.

(c) The education district board shall prepare and deliver by first class mail at least 15 days but no more than 30 days prior to the day of the election to each taxpayer at the address listed on each member district's current year's assessment roll, a notice of the referendum and the proposed levy increase. For the purpose of giving mailed notice under this subdivision, owners shall 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 shall be 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 and annual percentage for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the education district.

(d) The notice must include the following statement: "Passage of this referendum will result in an increase in your property taxes."

(e) A referendum on the question of revoking or reducing the increased levy amount authorized under paragraph (a) may be called by the education district board and must be called by the education district board upon the written petition of qualified voters of the education district. A levy approved by the voters of the education district under paragraph (a) must be made at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one election may be held to revoke or reduce a levy for any specific year and for later years.

(f) A petition authorized by paragraph (a) or (e) shall be effective if signed by a number of qualified voters in excess of 15 percent of the average number of voters at the two most recent district wide school elections in all the member school districts. A referendum invoked by petition must be held on the day specified in paragraph (a).

(g) The approval of 50 percent plus one of those voting on the question is required to pass a referendum.

(h) At least 15 days before the referendum, the education district shall submit a copy of the notice required under paragraph (c) to the commissioner of education. Within 15 days after the results of the referendum have been certified by the education district board, or in the case of a recount, after the certification of the results of the recount by the canvassing board, the education district shall notify the commissioner of education of the results of the referendum.

(i) The department shall allocate the amount certified by the education district board under paragraph (a) or subdivision 1 proportionately among the member districts based on net tax capacity. The member districts may levy an amount up to the amount allocated.

*History: 1Sp1989 c 1 art 2 s 11; 1990 c 562 art 6 s 30; 1991 c 130 s 23; 1991 c 265 art 6 s 46*

#### **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

### 275.60 LEVY OR BOND REFERENDUM; BALLOT NOTICE.

Notwithstanding any general or special law or any charter provisions, any question submitted to the voters by any local governmental subdivision at a general or special election after the day of final enactment, authorizing a property tax levy or tax rate increase, including the issuance of debt obligations payable 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."

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.

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

### 289A.08 FILING REQUIREMENTS FOR INDIVIDUAL INCOME, FIDUCIARY INCOME, CORPORATE FRANCHISE, MINING COMPANY, AND ENTERTAINMENT TAXES.

Subd. 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 11 s 3

### 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, before it has been accepted by resolution of the body or board or a written acceptance of the officer authorized to receive it.

**History:** (6952) *RL s 2666; 1987 c 200 s 2*

### **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*

### **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*

### **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*

### **358.11 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*

### 365.51 ANNUAL MEETING; NOTICE, BUSINESS, ELECTIONS.

Subdivision 1. **When; bad weather.** 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 there is bad weather on the day of the meeting and election, the town board shall set the meeting and election for the third Tuesday in March. If there is bad weather on the third Tuesday in March, the town board shall set another date for the meeting and election within 30 days of the third Tuesday in March. 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.

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; 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. 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*

### 365.52 SPECIAL MEETING; VACANCY, OTHER WORK, ELECTION.

Subdivision 1. **How, why called.** A special town meeting may be held for an election to fill a vacancy when the town board has failed to fill the vacancy by appointment. A special meeting may also be held to do other lawful business. To call a special meeting, the supervisors and town clerk, or any two of them, together with at least 12 other town freeholders, 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*

**NOTE:** See also section 367.03, subdivision 2.

**367.03 OFFICERS ELECTED AT ANNUAL ELECTION; VACANCIES.**

Subdivision 1. **Officers, terms.** Except in towns operating under option A, three supervisors shall be elected in each town as provided in this section. 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. 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. Except in towns operating under option B or option D, or both, 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. 2. **Vacancies.** When a vacancy occurs in a town office, the town board shall fill the vacancy by appointment. The person appointed shall hold office until the next annual town election, when a successor shall be elected for the unexpired term. A vacancy in the office of supervisor shall be filled by the remaining supervisors and the town clerk until the next annual town election, when a successor shall be elected for the unexpired term. 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. Law enforcement vacancies shall be filled by appointment by the town board.

Subd. 3. [Repealed, 1988 c 563 s 8]

Subd. 4. [Repealed, 1983 c 359 s 151]

**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

**NOTE:** See also section 365.52.

**367.033 SERVICE ON SCHOOL BOARDS; INCOMPATIBILITY OF OFFICES**

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

**367.25 OATH OF OFFICE; BOND; FILING; PENALTIES.**

Subdivision 1. **Requirement, fee.** Every person elected 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. 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

**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 more than 15 weeks before the state primary in a year ending in two that seeks to affect elections held in a year ending in two must be filed with the district court within three weeks but no later than 14 weeks before the state primary in the year ending in two. If a plan for redistricting a county is filed less than 14 weeks before the state primary in a year ending in two, any application for revision of the plan that seeks to affect an election in the year ending in two shall be filed with the district court within one week after the plan has been filed with the county auditor. 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 30 days 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 June 15 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

**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. A vacancy in the office of county commissioner shall be filled at a special election not less than 30 nor more than 60 days after the vacancy occurs. The special primary or special election may be held on the same day as a regular primary or regular election but the special election shall be held not less than 14 days after the special primary.

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. If the vacancy occurs less than 60 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. In addition to the events specified in section 351.02, absence from the county for six consecutive months shall create a vacancy.

**History:** 1975 c 280 s 2; 1984 c 629 s 2

**375.20 QUESTIONS SUBMITTED TO VOTE; BALLOT.**

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: "In favor of (here state the substance of the resolution to be submitted), Yes ..... No.....," with a square opposite each of the words "yes" and "no," in one of which the voter shall mark an "X" to indicate a choice. The county board may call a special county election upon a question to be held within 60 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*

**375A.12 METHOD OF ADOPTING OPTIONS.**

Subdivision 1. 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 chapter 372, as nearly as possible 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:

- (...) FOR the proposal (describe briefly the change proposed)
- (...) AGAINST the proposal (describe briefly the change proposed)

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

**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;

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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

### 410.20 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

412.02 MS 1945 [Repealed, 1949 c 119 s 110]

### 412.02 CITY ELECTIONS; OFFICERS, TERMS, VACANCIES.

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

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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	Four	Three each election members	Every statutory optional plan city with a council of seven

Subd. 2. Terms of elective officers shall commence on the first business day of 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. 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 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 shall be no special election to fill the vacancy and the appointed person shall serve until the qualification of a successor elected at a regular city election.

Subd. 3. 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. The offices of clerk and treasurer may be reestablished by ordinance. If the offices of clerk and treasurer are combined as provided by this section, 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.

Subd. 4. [Repealed, 1973 c 34 s 7]

Subd. 5. [Repealed, 1983 c 359 s 151]

Subd. 6. 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

**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

**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 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 December 31 of the next even-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 December 31 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 December 31 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 30 days before and the 30 days after the state primary or state general election, or during the 20 days before and the 20 days after the regularly scheduled election of any municipality



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.

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 ten days 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 ten weeks nor less than eight weeks before the election. 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 12:00 p.m. on the day 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 contain the names of the proposed candidates for each office, the length of the term of each office, and an additional blank space for the insertion of another name by the voter. 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 or on a different ballot. The hospital board may also authorize the use of voting machines subject to chapter 206. Enough election judges may be appointed to receive the votes at each polling place. They may be paid by the district at a rate set by the board. 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. 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 any thing 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

**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 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

**475.58 OBLIGATIONS; ELECTIONS TO DETERMINE ISSUE.**

Subdivision 1. **Approval by majority of 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, which obligation is payable wholly or partly from the proceeds of special assessments levied upon property specially benefited by the improvement, 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 is to be assessed against benefited property 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 pursuant to section 475.52, subdivision 6; and
- (8) under a capital improvement plan under section 373.40.

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 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.

**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

**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

**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. 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, 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, 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 PARTICULAR WORDS AND PHRASES.

Subdivision 1. **Meanings ascribed.** 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. 3a. Repealed, 1976 c 44 s 70

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 18.

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.

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. 14. **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.

Subd. 15. **May.** "May" is permissive.

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.

**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

**CHAPTER 8200  
SECRETARY OF STATE  
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 and the duties assigned to the county auditor by parts 8200.8100 to 8200.8300. The auditor may delegate the responsibility to accept voter registrations, but a delegation of this responsibility does not relieve the auditor of the duty to accept voter registrations.

**Statutory Authority:** *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

**History:** *12 SR 2215*

**8200.0400 FILING RULES WITH SECRETARY OF STATE.**

If a county auditor adopts rules for the delegation of assigned voter registration duties under part 8200.0300, the auditor shall file a copy of the rules with the secretary of state no later than five working days before the effective date of the rules.

**Statutory Authority:** *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

**History:** *12 SR 2215*

**REGISTRATION FILES**

**8200.0700 MAINTENANCE OF VOTER REGISTRATION FILE.**

Voter registration files must be maintained by street address or alphabetically by voter's last name. Whichever system of arrangement is used, it must be used consistently throughout the political subdivision.

**Statutory Authority:** *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

**History:** *12 SR 2215*

**8200.0800 DELIVERY OF VOTER REGISTRATION RECORDS FOR ELECTIONS.**

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; 204B.25; 204C.361; 206.57*

**History:** *12 SR 2215*

**VOTER REGISTRATION CARDS**

**8200.1100 PRINTING SPECIFICATIONS.**

Voter registration cards printed for the purpose of distribution and mailing must be printed pursuant to items A to E.

A. The size must be six inches by 8-3/4 inches, including a three-fourths inch stub.

B. The paper must be at least 100-pound white offset.

C. Red ink must be used on the card for printing the X's and the following words: "Name," "Township or City of Legal Residence," "Complete Address of Legal Residence," "Date of Birth," "Address of Your Last Registration or Check if NONE," and "Legal Signature of Voter." The certification must also be printed in red ink on the card. The remainder of the form must be printed in blue ink. The secretary of state may approve alternate forms of voter registration cards to be attached to or included in tax booklets and



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forms used by state agencies if the forms contain the information required in Minnesota Statutes, section 201.071.

D. The card must have two 1/16-inch perforations that result in the two equal-sized six-inch by four-inch cards.

E. The top stub must have a substance applied to it so that the card can be sealed when it is folded together for mailing.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.09; 204B.25; 204C.35; 204C.361; 204D.11 subd 1; 206.57*

**History:** 8 SR 1348; 12 SR 2215

### **8200.1200 REGISTRATION CARD; FORMAT.**

Subpart 1. **Form.** The voter registration card must be in the form shown in part 8200.9910.

Subp. 2. **Box for office use only.** In the upper right-hand corner of the card there must be a box marked for "office use only" which contains "W \_\_," "P \_\_," and "S.D. No. \_\_." These initials 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 "office use only" box.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.09; 204B.25; 204C.35; 204C.361; 204D.11 subd 1; 206.57*

**History:** 8 SR 1348; 12 SR 2215

**8200.1300** [Repealed, 12 SR 2215]

### **8200.1400 INSTRUCTION CARD; FORM.**

The instruction card must be in the form shown in part 8200.9919.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** 8 SR 1348

### **8200.1500 REVERSE SIDE.**

Subpart 1. **Required format.** The reverse side of the registration card must be in the form in subpart 2.

Subp. 2. **Form of reverse side of registration card.**

Post office will not  
deliver without first  
class postage

RETURN TO:

(here the county auditor  
shall supply the address)

**Statutory Authority:** *MS s 201.022; 201.221; 203B.09; 204B.25; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690; 12 SR 2215

**8200.1600** [Repealed, 12 SR 2215]

### **8200.1700 PRINTING AND DISTRIBUTING REGISTRATION CARDS.**

Each county auditor shall have printed and shall maintain an adequate number of voter registration cards in compliance with chapter 8200 and Minnesota Statutes, chapter 201. An election official who causes voter registration cards to be printed shall print the cards in a form prescribed by chapter 8200 and Minnesota Statutes, chapter 201. The auditor shall provide voter registration cards to any person or group who requests a reasonable number of cards for the purpose of distribution. In those areas having preelection day registration, the auditor shall encourage preelection day registration by making registration cards available to persons and groups for distribution.

**Statutory Authority:** *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

History: 12 SR 2215

**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; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**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 cards. The county auditor or a designee shall be on duty in the designated building and the person on duty shall transmit completed registration cards, or a record of them if the county auditor does not maintain the registration file, within two working days after receipt to the county auditor.

**Statutory Authority:** *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

**History:** 12 SR 2215

**8200.2200 BUILDINGS FOR REGISTRATION.**

Each political subdivision shall have at least one building where voter registration cards may be obtained and deposited, for every 30,000 residents of the political subdivision. The auditor may designate more buildings than are required by law.

**Statutory Authority:** *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

**History:** 12 SR 2215

**8200.2300 [Repealed, 10 SR 1690]**

NOTIFICATIONS

**8200.2600 PROPERLY COMPLETED REGISTRATIONS.**

If a county auditor determines that a registration card is not faulty or defective, the auditor shall file the card and enter the registration on the state registration system. The county auditor shall maintain the file in an orderly manner. The county auditor shall have a card notice mailed to each newly registered voter indicating the voter's name, address, precinct, and polling place. The card must require that it be returned if not deliverable.

**Statutory Authority:** *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

**History:** 12 SR 2215

**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 REGISTRATIONS RECEIVED FEWER THAN 20 DAYS BEFORE ELECTION.**

When an auditor receives correctly completed registrations during the period when registrations cannot be accepted for an election, the auditor shall notify the applicant that the applicant must register on election day to vote at the upcoming election. Included in this notification must be information to the voters concerning the manner in which they may register to vote on election day at the polls. In the notice to the applicant the auditor shall explain that the registration card received by the auditor makes the applicant an eligible voter at the next election following the upcoming election.

**Statutory Authority:** *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

History: 12 SR 2215

**8200.2900 FAULTY OR DEFICIENT REGISTRATIONS.**

When a person attempts to register prior to election day and the county auditor determines that the registration is faulty or defective, the auditor shall notify the person attempting to register that his registration was not correctly completed. The auditor shall attempt to obtain the needed information by mail or telephone. If a registration card is faulty or defective and the address or the telephone number cannot be determined, the registration card shall be removed from the files and maintained separately for one year. The applicant shall be allowed to vote only after correctly completing a registration card.

When the auditor notifies a person of an incorrectly completed registration, the auditor shall also notify the applicant of the dates on which registrations cannot be accepted for an election and of the procedures for election day registration. In the notice to the applicant the auditor shall explain that a correctly completed registration received by the auditor during the period when registrations cannot be accepted for the upcoming election will make the applicant an eligible voter at the next election following the upcoming election.

When an auditor receives a faulty or deficient registration during the period when registrations cannot be accepted for an election, the auditor shall notify the applicant that he must register at the polling place of the precinct in which he resides on election day to vote at the election. The auditor shall also notify the applicant of the procedures for election day registration. In the notice to the applicant the auditor shall explain that a correctly completed registration received by the auditor during the period when registrations cannot be accepted for the upcoming election will make the applicant an eligible voter at the next election following the upcoming election.

**Statutory Authority:** *MS s 201.221*

**8200.3000 REGISTRATION IN WRONG COUNTY.**

When a county auditor receives a registration card from a person who the auditor has reason to believe is a resident of another county, the auditor shall within two working days forward the registration card to the auditor of the proper county if it can be ascertained.

**Statutory Authority:** *MS s 201.221*

**8200.3100 NOTICE OF INEFFECTIVE REGISTRATION.**

Subpart 1. **Conditions requiring.** Upon receipt of a voter registration card that is faulty or defective, filed with the wrong office, or filed during a period when preelection day voter registrations cannot by law be accepted, the notice of ineffective registration in subpart 2 shall be mailed to the person requesting to become registered. The notice shall require that it be returned if not deliverable.

Subp. 2. **Notice of ineffective registration.**

**NOTICE OF INEFFECTIVE REGISTRATION  
IMPORTANT INFORMATION  
ABOUT YOUR VOTER REGISTRATION**

To: \_\_\_\_\_

Your Voter Registration cannot be accepted by this office for the following reason(s):

1.  Incomplete: \_\_\_\_\_

2.  Your registration was received fewer than 20 days before the upcoming election. It will be effective on \_\_\_/\_\_\_/\_\_\_ (day after next election).

You may register to vote at the polling place on election day by presenting either:

(a) this mailed notice;

(b) a valid Minnesota Driver's License, Learner's Permit or receipt for either that contains the voter's valid address in the precinct;

(c) a Minnesota Identification Card or receipt thereof that contains the voter's valid address in the precinct;

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(d) a current student identification card that contains the student's valid address in the precinct;

(e) a current student fee statement that contains the student's valid address in the precinct;

(f) a copy of a current student registration card that contains the student's valid address in the precinct;

(g) a registered voter in your precinct who can attest to your address; or

(h) a valid registration in the same precinct under a different address.

Your Polling Place is \_\_\_\_\_,

\_\_\_\_\_ County Auditor (signature), \_\_\_/\_\_\_/\_\_\_ (date)

Statutory Authority: MS s 201.221

8200.3200 NOTIFICATION OF PRIOR REGISTRATION IN ANOTHER COUNTY.

When a county auditor receives a registration card listing a prior registration in another county, the auditor shall promptly notify the auditor of the other county, but in no case shall the notice be sent later than three months from the date the registration was received or postmarked.

Statutory Authority: MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1

History: 8 SR 1348

8200.3300 AUDITOR'S NOTIFICATION OF PRIOR REGISTRATION IN ANOTHER COUNTY.

Subpart 1. When required. When a registration is received by a county auditor and the person requesting to register indicates he was previously registered to vote, the county auditor shall notify the county auditor in the county of previous residence that the voter has changed residency. The form for notification shall be as in subpart 2.

The county auditor who sends the form may attach a reproduction of the original registration card rather than fill in "voter's name" and "voter's former address."

Subp. 2. Form of notification of prior registration in another county. To the Auditor of \_\_\_\_\_ County

County Courthouse  
\_\_\_\_\_, Minnesota  
(county seat)

The following person has registered to vote in \_\_\_\_\_ County. You are hereby requested to check your registration files and remove the person's name if it should appear in your file.

Voter's name \_\_\_\_\_

Address of voter's former registration \_\_\_\_\_

\_\_\_\_\_  
Date of voter's new registration \_\_\_\_\_

Auditor of \_\_\_\_\_ County

Copy of original voter registration card enclosed

Statutory Authority: MS s 201.221

8200.3400 NOTIFICATION OF PRIOR RESIDENCE OUTSIDE MINNESOTA.

When a county auditor receives a registration card which lists a former registration in a state other than Minnesota, the auditor shall promptly notify the secretary of state of the state of former registration that the person has registered to vote in Minnesota.

Statutory Authority: MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1

History: 8 SR 1348

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### **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 one year.

**Statutory Authority:** *MS s 201.221*

### **8200.3600 CHANGE OF RESIDENCE.**

Any person previously registered to vote in Minnesota who changes his residence shall be permitted to vote only after reregistering using his new residence.

**Statutory Authority:** *MS s 201.221*

### **8200.3700 REMOVAL OF CARDS FROM REGISTRATION FILES.**

If a registration card is to be removed from the registration files, except that of a deceased person or that of a voter who has reregistered in another county or state, the county auditor may notify the person whose card is to be removed of the removal and the reason for the removal in writing. The cards removed must be maintained in separate files for one year.

**Statutory Authority:** *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

**History:** *12 SR 2215*

### **8200.3800 EMERGENCY VOTING CARD.**

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 in the duplicate registration file of the precinct in which he or she 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 file, the voter must be permitted to vote in the precinct after completing the required name and address information and signing the oath on the precinct election list. 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; 204B.25; 204C.361; 206.57*

**History:** *12 SR 2215*

## ELECTION DAY REGISTRATION

### **8200.5100 REGISTRATION AT PRECINCT ONLY.**

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 in areas with voter registration. To register on election day a person must complete and sign the registration card and provide proof of residence. A person may prove residence on election day only (1) by presenting (i) a valid Minnesota driver's license, learner's permit, or a receipt for either that contains the voter's valid address in the precinct; (ii) 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 (iii) a current student identification card that contains the student's valid address in the precinct, a current student fee statement that contains the student's valid address in the precinct, or a copy of a current student registration card that contains the student's valid address in the precinct; (2) by having a valid registration in the same precinct under a different address; (3) by presenting an "ineffective registration notice" mailed by the county auditor or municipal clerk; or (4) 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.

The oath in (4) must be attached to the voter registration card until the address of the applicant is verified by the county auditor. The oath must be printed on a four-inch by six-inch card by the county auditor. After every election day the county auditor shall file the oaths and maintain them for one year.

Subp. 2. **Additional proof of residence allowed.** 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 list of persons residing in the institution's housing certified to the county auditor by the educational institution.

This additional proof of residence must not be allowed unless the educational institution submits to the county auditor no later than 60 days prior to the election a written agreement that the educational institution will certify for use at the election accurate updated lists of persons residing in housing owned, operated, leased, or otherwise controlled by the institution. A written agreement is effective for the election and all subsequent elections held in that calendar year.

The additional proof of residence must be allowed on an equal basis for voters resident in housing of any postsecondary education institution within the county, if lists certified by the institution meet the requirements of this part.

An updated 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 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 in housing controlled by the institution.

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.

**Statutory Authority:** *MS s 201.022; 201.061 subd 3 cl (2); 201.221; 204B.25; 204C.361; 206.57*

**History:** *11 SR 218; 12 SR 2215*

**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 he 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*

**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 card themselves or request the assistance of an election judge. The judges shall confine their questions to information necessary to complete the voter registration card.

**Statutory Authority:** *MS s 201.221*

**8200.5400 NOTATION OF IDENTIFICATION ON REGISTRATION CARD.**

When a voter uses a Minnesota driver's license, learner's permit, or Minnesota identification card to prove residence when registering on election day, the election judge who is registering voters shall record the number on the card in the "office use only" area of the registration card.

**Statutory Authority:** *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

**History:** *12 SR 2215*

**8200.5500 REGISTRATION CARDS RECEIVED ON ELECTION DAY.**

Registrations received at polling places on election day, whether in governmental units having preelection day registration or in governmental units having only election day

registration, shall be filed in the same file and in the same manner as registrations received prior to that election day.

**Statutory Authority:** *MS s 201.221*

#### **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 NOTICE OF FAULTY REGISTRATION.**

A voter registration office may send notices to election day registrants whose cards are found to be faulty or defective and request that the voters contact the registration office.

**Statutory Authority:** *MS s 201.221*

#### **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*

### **OBTAINING COPIES OF VOTER REGISTRATION LISTS**

#### **8200.6100 COPIES OF VOTER REGISTRATION LISTS.**

Persons requesting copies of lists of registered voters shall make the request in the form in part 8200.9953.

**Statutory Authority:** *MS s 201.221*

#### **8200.6200 LISTS IN OTHER FORM.**

A county auditor may make available lists of registered voters in forms other than paper copies, such as duplicate computer tapes. The secretary of state may review and determine satisfactory methods of reproducing lists of registered voters. This rule does not relieve the auditor of the duty to make paper copies of lists of registered voters available. A paper copy of the list of registered voters shall be available for public inspection at all times in the county auditor's office.

**Statutory Authority:** *MS s 201.221*

#### **8200.6300 COST DETERMINATION.**

When the secretary of state or a county auditor determines the cost of producing lists of registered voters, the secretary of state or auditor shall take into account only the costs actually incurred to fill the specific request. The secretary of state or auditor shall not take into account the general office expenses or other expenses which would have been incurred by the secretary of state or auditor's office even without the preparation of the request.

**Statutory Authority:** *MS s 201.022; 201.221*

**History:** *17 SR 8*

#### **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 following items from the statewide registration system: voter's name, voter's address, voter's telephone number (if provided by the voter), voter's party choice in the preceding presidential primary election, and the voter's record of voting in elections during the previous five calendar years. 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 on paper or on electronic media.

**Statutory Authority:** *MS s 201.091; 201.221; 207A.09*

History: 15 SR 2308

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 201.221*

**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]

MAINTAINING RECORDS ON DATA PROCESSING SYSTEMS

**8200.9100 APPROVAL BY SECRETARY OF STATE.**

Any county auditor may maintain voter registration records on electronic or automatic data processing systems. However, the auditor shall obtain the approval of the proposed system from the secretary of state prior to its implementation.

**Statutory Authority:** *MS s 201.221*

**8200.9115 FORM OF POLLING PLACE ROSTERS.**

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 provided for the voter's signature. A similar indicator must be printed on the line provided for the voter's signature to note a voter's guardianship or felony status, if any.

The following certification must be printed at the top of each page of the polling place roster: "I certify 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, have not been found by a court to be legally incompetent to vote, and have not been convicted of a felony without having my civil rights restored; 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 the 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.

Each page in the polling place roster must also contain the name of the precinct and a page number. In addition, each line provided for a voter's signature must be consecutively numbered on each page.

Subp. 2. **Presidential primary roster.** In addition to the information required in subpart 1, the polling place rosters for the presidential primary election must include a space next to the line provided for the voter's signature for the voter to indicate the major political party whose ballot the voter has requested.

The election judges shall instruct each voter who wishes to vote in the presidential primary to indicate on the polling place roster the major political party whose ballot the voter has requested. The election judges shall then issue the voter a presidential primary



ballot for the party indicated by the voter on the roster. A voter who has not indicated a major political party choice on the polling place roster must not be issued a presidential primary ballot.

The county auditor must enter the voter's presidential primary party choice into the statewide registration system when voter history is posted pursuant to Minnesota Statutes, section 201.171.

**Statutory Authority:** *MS s 201.091; 201.221; 207A.09*

**History:** *15 SR 2308*

**8200.9200 METHOD OF STORING INFORMATION.**

Any voter registration records maintained on electronic or automatic data processing systems and provided to registered voters within the county shall include registrant name, address, including street or route number, city or township, and zip code, and telephone number when provided by the registrant. Each precinct shall be entered in the municipality listings in numerical order by precinct number. Each municipality shall be entered in alphabetical order by municipality name within the county. Standards for data entry shall be compatible with secretary of state standards.

**Statutory Authority:** *MS s 201.221*

**8200.9300 MAINTAINING DUPLICATE VOTER REGISTRATION RECORDS.**

**Subpart 1. Notification.** The auditor of the county or clerk of a city electing to use an electronic or automatic data processing system in place of duplicate voter registration cards shall notify the secretary of state of that election no later than 90 days before the first election at which the system will be used.

Notification may be made simultaneously with a request for approval, pursuant to part 8200.9100, of an electronic or automatic data processing system for maintaining voter registration records, but no system shall be used in place of duplicate voter registration cards unless the system has been approved for maintenance of voter registration records.

The notification shall be in writing and shall include:

- A. a sample of no less than three pages of the form of the duplicate registration file to be used at the polling place;
- B. a sample of no less than three pages of the duplicate registration list to be made available for examination or purchase;
- C. a plan to be implemented for obtaining day and month of birth for previously registered voters;
- D. a copy of a plan providing for backup records and emergency service; and
- E. a certification that the system conforms to all requirements of Minnesota Statutes, sections 201.071; 201.221, subdivision 3; 204C.10, subdivision 2; and this rule.

The county auditor or city clerk shall file amendments with the secretary of state whenever alterations to the original notification are made.

**Subp. 2. Backup records and emergency service.** A county or city using an electronic or automatic data processing system in place of duplicate voter registration cards shall make arrangements for backup and emergency service. Prior to each election, the county or city shall deposit a duplicate program and all necessary data records in a secure location separate from the location where the originals are maintained.

**Subp. 3. Voting records.** When a county or city elects to use an electronic or automatic data processing system in place of duplicate voter registration cards, information required to be kept on duplicate cards shall be retrievable from the equipment. The address of previous registration may be deleted from the duplicate file after proper notification of registration has been made to the county or city of previous registration. Each voter's voting history for all elections in the previous four years shall be retrievable and shall indicate whether the voter voted in person or by absentee ballot.

**Subp. 4. Duplicate registration file.** The duplicate registration file to be used on election day in the polling place must be in the form of a precinct election list. The list must be arranged alphabetically by voter's last name or in order of street address. Which-

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Whichever arrangement is used must be used consistently in all the precincts of the political subdivision.

Subp. 5. **Election list oath and information.** Conspicuously at the top of each page of the precinct election list must be printed precinct-identifying information and the words:

### \*OATH

I certify 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, have not been found by a court to be legally incompetent to vote, or been convicted of a felony without having my civil rights restored; and that I am registered and will be voting only in this precinct.

The precinct election list must contain the following information for each registered voter: Registrant's name as it appears on the original registration card; registrant's address; month, day, and year of registrant's birth; and notations about challenges, notices of guardianship, or other special information required to be affixed to the original or duplicate voter registration card.

Directly underneath or next to the voter's name must be printed \*OATH and a line indicating the place for the voter to sign the list. Sufficient space must be provided so that the voter's signature will not obscure any voter's name. In no case may the space be smaller than one-half by 3-1/2 inches. If any computer identification numbers or other information not required by this subpart is printed on the precinct election list, it may not obscure required information or be printed in a manner to cause confusion for voters or election judges.

A separate precinct list in the same format must be prepared for use by voters who register on election day. The newly registered voter shall print on the list the voter's name, address, and month, day, and year of birth and shall sign the precinct election list.

In a split precinct, separate lists must be prepared for each part of the precinct with specific information differentiating the split printed at the top of each list.

The precinct election list must be ready no later than three days prior to any election.

The election jurisdiction may choose to attach forms required by part 8200.3800 for emergency voting as part of the precinct election list. If separate cards are used, the election judges must return the cards with the list.

Subp. 6. **Request for birthdate.** Prior to the first election at which electronic or automatic data processing equipment is used in place of the duplicate registration file, and prior to the subsequent statewide general election, the county or municipality must send a request for the voter's birthdate to each previously registered voter whose birthdate is not included in the duplicate registration file.

The request for a voter's birthdate must be in the form of a nonforwardable mailed notice with a postage-prepaid return form. The notice must include the following information:

A. At the next election in (name of political subdivision) the duplicate registration file for use at the polling place will be prepared by automatic data processing equipment. The birthdate of each registered voter will be used as an additional identifier and precaution against fraud.

B. Please fill in the month, day, and year of your birth on the enclosed return form, correct any information that is not printed properly on the form, sign the form, and mail it to (name of political subdivision). Return postage has been prepaid.

C. You will NOT lose your registration if you do not provide this information or return this form, but your cooperation will be appreciated and helpful to election officials.

The return form must include the following material:

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The voter's name and address, preprinted as they appear in the duplicate registration file.

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
(month of birth) (day of birth) (year of birth)

\_\_\_\_\_  
voter's signature

When a request for birthdate is returned as undeliverable by the post office, it must be treated as a returned verification notice pursuant to Minnesota Statutes, section 201.12.

**Subp. 7. Challenges and other notices.** A record of any challenge to a voter registration shall be made part of the duplicate registration file and 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 precinct election list. A record of any notice affixed to an original voter registration card pursuant to Minnesota Statutes, section 201.15 shall be made part of the duplicate registration file and 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 precinct election list. If any other special notice or information is affixed to a voter registration card, a record of that notice shall be part of the duplicate registration file and an indication of the notice shall be printed on the precinct election list.

**Subp. 8. Absentee voting.** When an absentee return envelope is marked "Accepted" pursuant to Minnesota Statutes, section 203B.12, subdivision 3, the election judge shall place the letters "A.B." in the space for the voter's signature on the precinct election list followed by the judge's initials.

When a return envelope is accepted from a voter who registers on election day by including a registration card with the absentee ballot, the election judge shall print the voter's name, address, and month, day, and year of birth and the letters "A.B." in the appropriate places on the precinct election list.

**Subp. 9. Security.** The auditor or clerk shall be responsible for maintaining the integrity of the duplicate registration file and for restricting access to the electronic or data processing equipment to properly authorized persons. The auditor or clerk may make available lists of registered voters in forms other than paper copies, but in whatever form, no list made available for examination or purchase shall include the birth dates of registered voters. The auditor or clerk shall provide for the transport and security of the precinct election lists in accordance with 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 precinct election lists. The election jurisdiction may require that the election judges number or initial each voter's receipt as it is issued.

**Subp. 11. Voter registration cards.** Voter registration cards must conform to the specifications of parts 8200.1100 to 8200.1600 and parts 8200.9910, 8200.9916, 8200.9919, 8200.9922, and 8200.9925.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** *8 SR 1348*

FORMS

**8200.9910 VOTER REGISTRATION CARD, SPECIFIED IN PART 8200.1200, SUBPART 1.**

VOTER REGISTRATION CARD. Type or print in ink.

X Name \_\_\_\_\_ W \_\_\_\_\_ P \_\_\_\_\_  
Last First Middle S.D. No. \_\_\_\_\_

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X Township or City of Legal Residence \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Township or City County  
X Complete Address of Legal Residence (include street or rural mail route address)

OFFICE USE ONLY  
Election Day Voter Registration Proof  
\_\_\_ Driver's License  
\_\_\_ Minn. I.D. Card  
\_\_\_ Witness  
\_\_\_ Prior Registration  
\_\_\_ Ineffective Notice  
\_\_\_ Student I.D.

House No. and Street or Rural Rte. No.

(Number if applicable)

Apt. No. or Rural Box No. City Zip  
X Date of Birth \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Month Day Year

Telephone No. \_\_\_\_\_

X Address of Your Last Registration or \_\_\_\_\_  
House No./Street Name or Rte./Box No. Apt No.  
\_\_\_ Check if City or Township County State Zip  
NONE

Previous Name (If changed since last registration) \_\_\_\_\_

**CHECK INSTRUCTIONS TO DETERMINE WHETHER YOU ARE QUALIFIED TO REGISTER**

I certify that I will be at least 18 years old on election day and that I am a citizen of the United States, reside at the address shown above and will have resided in Minnesota for 20 days immediately preceding election day, and that I am not under guardianship of the person, have not been found by a court to be legally incompetent to vote, and have not been convicted of a felony without having my civil rights restored. I understand that giving false information to procure a registration is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both.

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date

\_\_\_\_\_  
X Legal Signature of Voter  
Also sign the blue card.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.09; 204B.25; 204C.35; 204C.361; 204D.11 subd 1; 206.57*

**History:** *8 SR 1348; 12 SR 2215*

**8200.9916** [Repealed, 12 SR 2215]

**8200.9919 FORM FOR VOTER REGISTRATION INSTRUCTIONS, SPECIFIED BY PART 8200.1400.**

Instructions for Voter Registration  
Read Carefully Before Registering

ITEMS INDICATED BY A RED "X" MUST BE COMPLETED BY THE REGISTRANT BEFORE THE REGISTRATION WILL BE ACCEPTED.

1. Print in ink or type all information requested on the white card.
2. Print or type your legal name; nicknames are not acceptable.
3. Print or type the name of the township or city in which you live and are eligible to vote.

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4. Print or type the house number and street name or the rural route and box number where you live.
5. Include your full birthdate; month, day, and year.
6. Give the address where you were last registered. If you have never been registered before, check the box for "none."
7. Give your previous name if it has been changed since you last registered.
8. Enter telephone number in appropriate space (optional).
9. Date and sign the card with your legal written signature.
10. Review the card to determine that it is correctly completed.
11. Fold the form, use the sealing tab, and mail or return to your county auditor at your county courthouse. An eligible voter is a person who at the time of any election:
  - a. is 18 years of age or older;
  - b. is a citizen of the United States; and
  - c. has resided in Minnesota for 20 days.

The following persons are not eligible voters:

- a. any person who has been convicted of a felony or treason, whose civil rights have not been restored;
- b. any person who is under guardianship of the person;
- c. any person who has been found by a court to be legally incompetent, whose civil rights have not been restored.

ASSISTANCE TO HANDICAPPED VOTERS

Call your county auditor or city clerk if you need information about registration or voting assistance for elderly and handicapped individuals or residents of health care facilities or hospitals. Registration and absentee instructions can be made available in large type, in Braille, or on cassette tape.

**Statutory Authority:** MS s 201.022; 201.221; 203B.09; 204B.25; 204C.361; 204D.11; 206.57

**HIST:** 8 SR 1348; 10 SR 1690; 12 SR 2215

**8200.9922** [Repealed, 12 SR 2215]

**8200.9925** [Repealed, 12 SR 2215]

**8200.9939 FORM OF OATH, SPECIFIED BY PART 8200.5100.**

I, \_\_\_\_\_ swear that I am a  
registered voter in \_\_\_\_\_  
(County) (City or Township) (Ward)  
\_\_\_\_\_ and that I personally know that \_\_\_\_\_  
Precinct (Name of person)  
\_\_\_\_\_ is a resident of this precinct.

\_\_\_\_\_ registering  
Signature of Registered Voter  
Subscribed and sworn to before me  
\_\_\_\_\_  
\_\_\_\_\_  
Date Signature of Election Judge

The above oath shall be attached to the voter registration card until the address of the applicant is verified by the county auditor.

**Statutory Authority:** MS s 201.221

**8200.9950 CHALLENGES TO VOTER REGISTRATION, SPECIFIED BY PART 8200.7100.**

To the Auditor of \_\_\_\_\_ County  
County Courthouse  
\_\_\_\_\_(County Seat), Minnesota

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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 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*

**8200.9953 REQUEST FOR COPIES OF VOTER REGISTRATION LISTS, SPECIFIED BY PART 8200.6100.**

To the Auditor of \_\_\_\_\_ County  
County Courthouse \_\_\_\_\_ (County Seat), Minnesota

I hereby request copies of the lists of registered voters for the following precincts:

\_\_\_\_\_  
(attach additional sheets if necessary).

My name is \_\_\_\_\_

I reside at \_\_\_\_\_ (Street address) (City or Township).

I certify that I am a registered voter in this county. I am aware that using the lists of voters for purposes not related to elections, political activities, or law enforcement is a violation of the law.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature)

Statutory Authority: *MS s 201.221*

**CHAPTER 8205  
SECRETARY OF STATE  
PETITIONS  
PRESIDENTIAL PRIMARY**

**8205.1000 NOMINATING PETITION FORM, PROCEDURES, AND VERIFICATION.**

Subpart 1. **Form of petition.** Petitions used on behalf of candidates for the nomination of a major political party for president of the United States must be prepared in accordance with items A to E.

A. The petition must be prepared on paper 8.5 inches wide and 14 inches long. Each petition page must include space for the names, addresses, and signatures of ten persons.

B. The words "PRESIDENTIAL NOMINATING PETITION" must be printed at the top of each page of the petition. Each page in the petition must include the following information:

- (1) the name and address of the person being nominated;
- (2) the name of the major political party whose nomination for president is being sought;
- (3) the number of the congressional district in which the petition is being circulated;
- (4) a statement indicating that the persons signing the petition will be eligible to vote at the presidential primary, reside in the congressional district indicated on the petition, and have signed the petition of their own free will;
- (5) a space for the signature of each person signing the petition;
- (6) a space for the printed first, middle, and last name of each person signing the petition;
- (7) a space for the residence address of each person signing the petition, including the municipality and county of residence;
- (8) a space for the date of birth of each person signing the petition; and
- (9) a space for the date on which each person signed the petition.

C. Each page of the petition must be consecutively numbered. In addition, the signature lines on each page must be consecutively numbered from 1 to 10.

D. A separate petition must be circulated in each of the state's congressional districts.

E. The secretary of state shall make available sample nominating petition forms at least four weeks before the first day to file affidavits of candidacy for the presidential primary.

Subp. 2. **Completing the petition.** The information required in subpart 1, item B, subitems (5) to (9), must be completed by the person who signed the petition. A petition may only be signed once by any eligible voter.

Subp. 3. **Receipt of petition.** The secretary of state shall provide the person submitting the nominating petition a receipt for the petition. The receipt must include the name and address of the person on whose behalf the petition was submitted; the name, address, and telephone number of the person submitting the petition; the date on which the petition was submitted; and the total number of pages in the petition submitted.

Subp. 4. **Method of verification.** The secretary of state shall verify each nominating petition submitted on behalf of a candidate for president pursuant to *Minnesota Statutes*, section 207A.02, by the following method:

The secretary of state shall inspect each petition to determine whether at least 1,000 persons eligible to vote in each congressional district have signed the petition. The secretary of state shall use the address information and date of birth provided by persons signing the petition to verify voter eligibility. A petition containing the signatures of fewer eligible voters than the number required by *Minnesota Statutes*, section 207A.02, must be rejected.

If the secretary of state determines that an insufficient number of eligible voters have signed a petition, the secretary of state shall immediately notify the person submitting the petition. The person submitting the petition may submit additional petition pages within the time period provided by *Minnesota Statutes*, section 207A.02.

**Subp. 5. Time for verification.** The secretary of state shall complete the verification of a petition no later than ten days after the day on which the petition was submitted. If the petition is determined to be sufficient, the secretary of state shall immediately notify in writing the person submitting the petition.

**Subp. 6. Access to petitions.** The secretary of state shall securely store any nominating petitions submitted during the filing period. The secretary of state shall make a nominating petition available for public inspection after the verification process for that petition has been completed. Photocopies of petitions may be prepared at the expense of the person requesting the copies.

**Subp. 7. Petition in lieu of filing fee.** Candidates filing for office pursuant to *Minnesota Statutes*, section 207A.02, may submit a petition in lieu of payment of the filing fee. The petition must be submitted at the same time that the affidavit of candidacy is submitted.

The words "PRESIDENTIAL PETITION IN LIEU OF FILING FEE" must be printed at the top of each page of the petition. The petition must conform in all other respects to the form of the nominating petition provided in subpart 1 with the exception that the number of signatures, residency requirement, and oath requirements of persons signing the petition is as provided in *Minnesota Statutes*, section 204B.11, subdivision 2.

A nominating petition filed pursuant to *Minnesota Statutes*, section 207A.02, may also be used as a petition in lieu of filing fee if the words "PRESIDENTIAL NOMINATING PETITION AND PETITION IN LIEU OF FILING FEE" are printed at the top of each page of the petition and a statement indicating that the petition will be used for both purposes is printed on each page of the petition. The petition must conform in all other respects to the form of the nominating petition provided in subpart 1.

The procedures in subparts 2 to 6 apply to petitions in lieu of filing fee and combined nominating and filing fee petitions to the extent practicable.

The secretary of state shall make available sample filing fee and combined nominating and filing fee petition forms at least four weeks before the first day to file affidavits of candidacy for the presidential primary.

**Statutory Authority:** *MS s 201.022; 201.221; 201.091; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** 15 SR 2308; 17 SR 8



## CHAPTER 8210 SECRETARY OF STATE ABSENTEE BALLOTS

1993 Update

### 8210.0200 ABSENTEE BALLOT APPLICATION.

Subpart 1. **Application form.** An absentee ballot application prepared by the county auditor or municipal clerk pursuant to Minnesota Statutes, section 203B.06, subdivision 1, shall be in the form in part 8210.9910. An absentee ballot application for the presidential primary must be in the form in part 8210.9917 or 8210.9918.

Subp. 2. **Absentee ballot instruction.** The following instructions shall be printed on the absentee ballot application:

### INSTRUCTIONS

1. In order to vote by absentee ballot you must be an eligible voter, you must be a resident of the election precinct indicated by your legal residence address on this application, and you must not intend to abandon this residence prior to election day. Please note that Minnesota law provides that it is a felony to make a false or untrue statement in an application for an absentee ballot, to apply for an absentee ballot more than once in an election with the intent to cast an illegal ballot, to exhibit a ballot marked by a person to another person, or to violate an absentee ballot provision for the purpose of casting an illegal vote in a precinct or to assist anyone to cast an illegal vote.

2. Be sure to check the appropriate box indicating why you are unable to go to your polling place on election day; these are the only reasons that entitle you to vote by absentee ballot.

3. Be sure to give your correct legal residence address as completely as possible, since this is used to verify your precinct number.

4. Be sure to sign the application.

5. Return the completed application as soon as possible to the county auditor or municipal clerk from whom you received it.

Remember:

1. You must indicate whether you are requesting ballots for the primary or general election, or both.

2. Do not submit more than one application for each election.

3. Your absentee ballots will be mailed or delivered to you as soon as they are available.

Subp. 3. **Postcard application.** The absentee ballot application may be printed as a postcard application or in any other manner deemed appropriate by the auditor or municipal clerk. If the application is printed as a postcard application, it shall be printed in the following manner.

The postcard shall be white with black ink. The postcard shall weigh not more than one ounce. The size shall be no smaller than 3-1/2 inches by five inches and no larger than 6-1/8 inches by 11-1/2 inches. The postcard shall be at least .007 inches thick.

Subp. 4. **Permanent application.** An eligible voter who meets the requirements in 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 in part 8210.9915 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 completed form must be attached to the voter's registration card.

The county auditor shall maintain a list of voters who have applied to automatically receive an absentee ballot application. At least 45 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.

An application submitted by a voter under this subpart must be retained permanently with the voter's registration record.

The form must be transferred with the voter's registration record whenever a change in the voter's name, address, or status occurs.

Subp. 5. **Presidential primary.** In addition to the information required by subpart 2, the absentee ballot application for the presidential primary must include the following instruction to the absent voter: "A presidential primary ballot cannot be sent to you unless you indicate on this application which political party's ballot you wish to receive. You may receive the ballot of only one political party."

**Statutory Authority:** *MS s 201.022; 201.221; 203B.04; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *10 SR 1690; 13 SR 259; 15 SR 1641; 17 SR 8*

### **8210.0250 RECORDING PARTY CHOICE FOR PRESIDENTIAL PRIMARY.**

Subpart 1. **Receipt of applications.** Upon receipt of an absentee ballot application for the presidential primary, the county auditor or municipal clerk shall immediately verify that the absent voter has indicated the major political party whose ballot the voter is requesting. If the absent voter has not indicated a party choice, the application must be returned to the voter. An absentee ballot for the presidential primary must not be sent to any voter who has not indicated which political party's ballot the voter wishes to receive.

Subp. 2. **Notation on polling place roster.** The election judges in the polling place shall indicate in the space provided on the polling place roster the party choice specified on the absentee ballot application for each absent voter whose return envelope has been marked "Accepted." The election judges shall record the party choice at the same time that the letters "A.B." are placed on the roster for the voters whose return envelopes have been marked "Accepted."

If absentee ballots are not counted at the polling place, the election judges of the absentee ballot board shall indicate on the absentee voter list the party choice of the absent voters whose return envelopes have been marked "Accepted." When the judges at the absentee ballot board have completed examining the return envelopes, the absentee voter list must be forwarded to the election judges for each precinct. Upon receipt of the list, the election judges in the polling place shall record the voter's party choice on the roster from the information provided on the list.

**Statutory Authority:** *MS s 207A.03; 207A.08; 207A.09*

**History:** *17 SR 8*

### **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" shall be printed on the front of the envelope.

**Statutory Authority:** *MS s 203B.08; 203B.09; 203B.125; 203B.14; 204B.45*

**History:** *8 SR 1348; 17 SR 351*

### **8210.0500 INSTRUCTIONS TO ABSENT VOTER.**

Instructions to absent voter shall be enclosed with the absentee ballot materials mailed or delivered to the absent voter. The instructions shall be in the form in parts 8210.9920 and 8210.9925.

**Statutory Authority:** *MS s 203B.08; 203B.09; 203B.125; 203B.14; 204B.45*

**History:** *17 SR 351; 8210.0500*

### **8210.0600 STATEMENT OF ABSENTEE VOTER.**

Subpart 1. **Form.** Except as provided in subpart 4, the statement of absentee voter for persons voting under Minnesota Statutes, sections 203B.04 to 203B.15 must be printed in the form shown in part 8210.9930.

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.

Subp. 3. **Printing specifications.** The statement shall be printed on the right-hand three-fourths of the back of the absentee ballot return envelope. The words "STATEMENT OF ABSENTEE VOTER" shall be printed in no smaller than 12-point bold type in capital letters. The remainder of the statement shall be printed in no smaller than 11-point medium type.

Subp. 4. **Alternative statement.** As an alternative, a county auditor may print two different versions of the statement. One version must be provided to absentee voters not previously registered to vote and must be printed as prescribed in subpart 1. An alternate version may be printed in the form shown in part 8210.9935 and must be provided only to absentee voters who are registered to vote at the time of application. The statement must be printed to the specifications of subpart 3.

**Statutory Authority:** *MS s 201.221; 203B.08; 203B.09; 203B.125; 203B.14; 204B.45; 204C.35; 204C.361; 204D.11; 206.57*

**History:** *8 SR 1348; 17 SR 351*

**8210.0700 ABSENTEE BALLOT RETURN ENVELOPE AS PROVIDED BY MINNESOTA STATUTES, SECTIONS 203B.04 TO 203B.15.**

Subpart 1. **Form.** The absentee ballot return envelope must be printed in the form shown in part 8210.9940.

Subp. 2. **Printing specifications.** The absentee ballot return envelope must be printed according to the following specifications:

- A. The envelope must be 10-3/8 inches by 4-1/2 inches.
- B. A solid rule line 1-1/2 picas wide must be placed 1-1/2 inches from the top of the envelope and another placed two inches from the bottom of the envelope.
- C. The words and numbers printed on the left-hand end of the envelope must be in no smaller than 12-point bold type.
- D. The words "ABSENTEE BALLOT RETURN ENVELOPE" printed across the face of the envelope must be in no smaller than 18-point bold type in capital letters.
- E. The envelope must be white in color with black ink.
- F. The flap on the right end of the back side of the envelope may be printed as follows:

\_\_\_\_\_  
 \_\_\_\_\_ accepted \_\_\_\_\_ rejected  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Election Judges

Subp. 3. **Mailing address.** County auditors and municipal clerks shall cause a mailing address to be printed on each return envelope which they mail or deliver to an absent voter. The address block shall be located in the lower right one-quarter of the envelope. Each county auditor or municipal clerk shall determine which of the address forms in subparts 4 to 6 shall be used on each return envelope in the county as the facts require.

Subp. 4. **Addressed to county auditor.** A return envelope may be addressed to the county auditor who mailed or delivered the absentee ballots to the absent voter.

Example:     To: Anoka County Auditor  
                   Courthouse  
                   Anoka, MN 55303

Subp. 5. **Addressed to municipal clerk.** A return envelope may be addressed to the municipal clerk of the city or town in which the absent voter is eligible to vote.

Example:     To: Edina City Clerk

City Hall  
4801 W. 50th St.  
Edina, MN 55424

Subp. 6. **Addressed to election judge.** A return envelope may be addressed to the election judges of the precinct in which the absent voter is eligible to vote provided that the polling place of the precinct is located on a regular mail delivery route. On each return envelope addressed to the election judges, the county auditor or municipal clerk shall cause to be clearly printed or typed the address of the polling place in a manner to expedite handling by the United States postal service. The name and street address, rural route or township address, if applicable, of the polling place shall be on the address block. The city or town, state, and zip code shall appear in that order on the bottom line of the address block.

Example: To: Election Judges  
c/o Webster School  
500 Holly St.  
St. Paul, MN 55102

When an auditor has the duty to address envelopes for a municipality and the envelopes are to be addressed to the election judges, the clerk shall notify the auditor of the proper mailing address of each polling place in the municipality. The clerk shall immediately notify the auditor of every change in the initial notification.

Subp. 7. **Ward and precinct number.** The official mailing or delivering absentee ballots to an absent voter shall, before doing so, fill in the absent voter's ward and precinct number and the date of the election in the spaces provided on the left-hand end of the return envelope.

Subp. 8. **Return address.** County auditor or municipal clerk may affix the return address to the upper left-hand corner of the return envelope.

**Statutory Authority:** *MS s 201.221; 203B.08; 203B.09; 203B.125; 203B.14; 204B.45; 204C.35; 204C.361; 204D.11; 206.57*

**History:** 8 SR 1348; 17 SR 351; 17 SR 1279

**8210.0800 ABSENTEE BALLOT RETURN ENVELOPE AS PROVIDED BY MINNESOTA STATUTES, SECTIONS 203B.16 AND 203B.17.**

Subpart 1. **Form.** The absentee ballot return envelope for military and overseas voters must be printed in the form shown in part 8210.9950.

Subp. 2. **Specifications.** The specifications in items A to I apply to envelopes prepared pursuant to subpart 1.

A. The envelope may not be more than 11-1/2 inches in length nor less than five inches in length.

B. The envelope may not be more than 6-1/8 inches in width nor less than 3-1/2 inches in width.

C. In the upper right-hand corner in a space two inches by one-half inch, a postage symbol and box shall be imprinted:

U.S. Postage Paid  
42 USC 1973 dd

D. The words PAR AVION must be printed in 12-point bold type in capital letters one-half inch below the postage box.

E. A solid rule line 1-1/2 picas wide must be placed 1-1/2 inches from the top of the envelope. A second solid rule line 1-1/2 picas wide must be placed one-half inch from the bottom of the first line.

F. In the one-half inch space between the two solid rule lines must be printed the words "OFFICIAL ELECTION BALLOTING MATERIAL - VIA AIR MAIL" in 18-point bold type in capital letters.

G. The envelope must be white in color with Pantone 193 U red ink used for all printing.

H. County auditors or municipal clerks must address the return envelope as provided in part 8210.0700, subpart 3.

I. Facing identification marks (FIM) must be positioned as specified in United States postal service instructions for facing identification marks.

Subp. 3. **Affidavit of eligibility.** On the back of the absentee return envelope provided for in Minnesota Statutes, section 203B.21, an affidavit of eligibility must be printed on the right-hand three-fourths of the envelope in the form shown in part 8210.9955.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** *8 SR 1348*

#### **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 201.221; 203B.08; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** *8 SR 1348*

### PROCEDURES

#### **8210.2100 MAILING OR DELIVERING ABSENTEE BALLOT RETURN ENVELOPES.**

Except as provided in Minnesota Statutes, section 203B.11, an absent voter who receives his absentee ballots by mail or in person may cause his 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*

#### **8210.2200 DUTIES OF COUNTY AUDITOR OR MUNICIPAL CLERK UPON RECEIPT OF ABSENTEE BALLOT RETURN ENVELOPE.**

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 7:00 p.m. on the day before election day.

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, 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.

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 his 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. 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 his name and address, the name and address of the absent voter whose ballot he is delivering, and sign his name. The agent shall show to the auditor or clerk identification which contains the agent's name and signature.

**Statutory Authority:** *MS s 201.221; 203B.08; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** 8 SR 1348

### **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 may deposit the envelope in the mail or retain it in his office as provided in part 8210.2400. However, if an auditor or clerk receives the return envelope on the day before election day, he shall retain the return envelope in his office as provided in part 8210.2400 and deliver the return envelope to the polling place on election day.

**Statutory Authority:** *MS s 203B.08; 203B.09*

### **8210.2400 SAFEGUARDING PROCEDURES.**

The county auditor or municipal clerk shall establish measures for safeguarding absentee ballot return envelopes received by him prior to election day.

A. If an auditor or clerk intends to deposit return envelopes in the mail, he shall do so promptly upon receipt of the return envelope from the absent voter or agent.

B. The auditor or clerk shall establish a record of absentee ballot return envelopes which are retained in his 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.

C. All retained envelopes shall be placed in a locked, secure location after being dated, stamped, and recorded. The envelopes shall not be removed from this location or handled until election day, except as necessary in an emergency.

D. 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.

E. On election day 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. Each return envelope shall then be delivered to the polling place in the precinct where the absent voter resides.

**Statutory Authority:** *MS s 203B.08; 203B.09*

### **8210.2500 MAIL PICKUP.**

Each municipal clerk shall communicate with the United States postal service facility serving his municipality with regard to the handling of absentee ballot return envelopes received by the post office on election day after the last regular mail delivery has commenced. 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 election judges in the precinct where the absent voter resides.

**Statutory Authority:** *MS s 203B.08; 203B.09*

## **MAIL BALLOTS**

### **8210.3000 MAIL BALLOTING.**

**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 8210.2500 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 60 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 45 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 and the secretary of state 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 voter whose name is included in the registration file on the 21st day before the election, except that no ballot may be mailed to a challenged voter.

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 requests, in writing, that the ballot be mailed to the voter at a different address.

A return envelope, a ballot secrecy envelope, and instructions for marking and returning mail ballots must be included with the ballots. 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 as specified in part 8210.0700, subpart 4. First class postage must be affixed to the return envelope.

**Subp. 4a. Presidential primary ballots.** In precincts voting by mail in the presidential primary, the county auditor shall mail the ballots of each of the major political parties to every registered voter. The county auditor shall include a secrecy envelope that provides a place for the voter to indicate the party whose ballot has been enclosed by the voter. The secretary of state shall supply the county auditors with the format for the secrecy envelope. The voter must be instructed to vote and return the ballot of only one party and indicate their party choice on the secrecy envelope.

The election judges must inspect the secrecy envelope and record the voter's party choice on the polling place roster. If the voter has not indicated a party choice, the return envelope must be marked "rejected."

When the election judges open the secrecy envelopes, they shall determine whether the party choice indicated by the voter on the face of the envelope matches the party of the ballot in the envelope. If the party choice does not match the ballot, the ballot is completely defective. If more than one ballot is included, only the ballot whose party matches the party choice indicated by the voter can be counted. The remaining ballots are completely defective.

**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*, sections 203B.04 and 203B.06, 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 absent voter's certificate and instructions must be those specified in parts 8210.9920 and 8210.9930.

**Subp. 6. Replacement ballots.** A voter who has spoiled a ballot may request a replacement ballot from the auditor. The spoiled ballot must be returned to the auditor, either by mail or in person, before a replacement ballot can be issued. A replacement ballot may also be issued to a voter who signs an affidavit stating that the voter did not receive the ballot mailed to the voter. The auditor shall stamp or mark on all replacement ballot return envelopes the words "REPLACEMENT BALLOT" and shall maintain a record of all replacement ballots issued.

**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 or municipal 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 as provided in *Minnesota Statutes*, section 201.12 and the voter's registration must be challenged. The auditor shall maintain a record of all undeliverable ballots.

If the ballot is returned by the post office with notification of the voter's new address within the municipality or unorganized territory, the municipal clerk shall notify the voter of the procedure for requesting an absentee ballot and registering at the voter's new address.

**Subp. 8. Returning ballots.** Mail ballots may be returned to the county auditor by mail, in person, or by designated agent. Ballots returned in person must be accepted until 8:00 p.m. on the day of the election.

**Subp. 9. Polling place and election judges.** The only polling place required for mail balloting is the office of the county auditor. If adequate space for counting ballots is not available at the county courthouse, the governing body shall designate another 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 shall appoint a suitable number of election judges as provided in *Minnesota Statutes*, sections 204B.19 to 204B.22.

**Subp. 10. Receiving and counting ballots.** On election day, at the time stated in the notice, the election judges shall receive from the county auditor all returned ballots, applications for absentee ballots, and affidavits for replacement ballots. The judges shall arrange to receive from the auditor any additional ballots received in the mail or returned by a voter prior to 8:00 p.m. on election day. If the counting location is not at the county courthouse, ballots must be transported in a sealed transfer case by two or more election judges of different major political parties. 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.

Prior to 8:00 p.m., the election judges may examine the return envelopes, mark them "accepted" or "rejected" and remove the ballot envelopes from the "accepted" return



envelopes. The ballot envelopes must be placed unopened in a locked ballot box or other sealed container. At 8:00 p.m., the election judges shall open the ballot box, remove the ballots from the ballot envelopes, and count the ballots.

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.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 203B.125; 203B.14; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *12 SR 2142; 17 SR 8; 17 SR 351*

**8210.3005 REPLACEMENT BALLOT AFFIDAVIT, REQUIRED IN PART  
8210.3000, SUBPART 6.**

**REPLACEMENT MAIL BALLOT AFFIDAVIT OF**

\_\_\_\_\_  
(print or type legal name of voter)

\_\_\_\_\_  
(print or type legal address)

I certify that I am a resident and eligible voter in

\_\_\_\_\_  
(name of township or territory)

I certify that I am requesting a replacement ballot because I did not receive the ballot mailed to me.

I certify that if I receive both ballots, I will destroy the unused ballot and will vote only once.

I understand that voting twice is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both.

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(legal signature of voter)

**Statutory Authority:** *MS s 204B.45*

**History:** *12 SR 2142*

**8210.3010 INSTRUCTIONS TO MAIL VOTERS, REQUIRED IN PART  
8210.3000, SUBPART 4.**

**INSTRUCTIONS TO MAIL BALLOT VOTERS**

**Follow these instructions carefully.**

Before you vote you must have a witness.

Step 1. Locate one of the following people to serve as your witness:

- a. an eligible voter who lives in your county;
- b. a notary public; or
- c. any person having authority to administer an oath, such as a judge.

Step 2. Show your witness the unmarked ballots.

Step 3. Mark the ballots in secrecy. If you are disabled or otherwise unable to mark the ballots, you may ask your witness to assist you.

Step 4. Fold each ballot so that your votes cannot be seen. Do not put any identifying marks on the ballot.

Step 5. Place all voted ballots in the tan colored Ballot Secrecy Envelope and seal the envelope. Do not write on this envelope.

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Step 6. Place the tan colored Ballot Secrecy Envelope into the white Ballot Return Envelope and seal the envelope. An unsealed envelope will not be accepted.

Step 7. Print your name and address and sign your name on the back of the white Ballot Return Envelope. The name, address, and signature of your witness is required as well.

Step 8. The Ballot Return Envelope may be mailed or delivered in person to the county auditor's office.

You may mark and return your ballot at any time before election day. Be sure to mail back the ballot in time to be delivered by election day or return the ballot in person to the auditor's office no later than 8:00 p.m. on election day.

**Statutory Authority:** *MS s 203B.08; 203B.09; 203B.125; 203B.14; 204B.45*

**History:** *12 SR 2142; 17 SR 351*

**8210.3015 MAIL VOTER'S CERTIFICATE, REQUIRED IN PART 8210.3000, SUBPART 4.**

**MAIL VOTER'S CERTIFICATE  
OF**

\_\_\_\_\_  
(print or type legal name of voter)

\_\_\_\_\_  
(print or type legal address of voter)

I certify that on election day I will be at least 18 years of age. I certify that I am a citizen of the United States and a resident of \_\_\_\_\_ (name of township or territory); that I am not under guardianship of the person, have not been found by a court of law to be legally incompetent to vote, or been convicted of a felony without having my civil rights restored. I have not cast and will not cast any other ballots in this election.

\_\_\_\_\_  
(legal signature of voter)

I hereby certify that the above named voter exhibited the enclosed ballots to me unmarked; that in my presence and in a manner that I could not see, marked the ballots, or if the voter was physically unable to mark the ballots, the ballots were marked by another individual under the personal direction of the voter, and enclosed and sealed them in the ballot envelope.

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(legal signature of witness)

\_\_\_\_\_  
(print or type name of witness)

\_\_\_\_\_  
(legal address if witness is  
an eligible voter)  
OR

\_\_\_\_\_  
(official title if witness is  
an official)

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *12 SR 2142; 17 SR 8*

**FORMS**

**8210.9910 ABSENTEE BALLOT APPLICATION, SPECIFIED BY PART 8210.0200.**



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I certify that I reasonably expect to be permanently unable to vote in person at the polling place for my precinct due to illness or disability and hereby request that an application for absentee ballots be sent to me before each election in which I am eligible to vote.

Signature \_\_\_\_\_  
Statutory Authority: *MS s 203B.04*  
History: *15 SR 1641*

Date \_\_\_\_\_

**8210.9916 ABSENTEE BALLOT APPLICATION, SPECIFIED BY PART 8210.0200.**

**ABSENTEE BALLOT APPLICATION**

**Read Instructions Before Completing**

I hereby apply for absentee ballots for:

(Check one)

- primary election     general election     primary and general election

Name \_\_\_\_\_

(please print)

**My legal residence address is:**

Street or Route No.                      Apt. No.                      Rural Box No.

\_\_\_\_ City    \_\_\_\_ Township                      County                      Zip

(check whichever is applicable)

**Mail my absentee ballot to me at the following address:**

Street or Route No.                      Apt. No.                      Rural Box No.

City    State                      Zip

Date \_\_\_\_\_

Legal Signature \_\_\_\_\_

Statutory Authority: *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

History: *17 SR 8*

**8210.9917 PRESIDENTIAL PRIMARY ABSENTEE BALLOT APPLICATION, SPECIFIED BY PART 8210.0200.**

**PRESIDENTIAL PRIMARY ABSENTEE BALLOT APPLICATION**

**Read Instructions Before Completing**

I hereby apply for a presidential primary absentee ballot for the following political party:

(Check one)

\_\_\_\_ ..... Party

\_\_\_\_ ..... Party

**PLEASE NOTE:** A presidential primary ballot cannot be sent to you unless you indicate on this application which political party's ballot you wish to receive. You may receive the ballot of only one political party.

I will need an absentee ballot for the following reason:

(Check one)

- absence from precinct     illness or disability     religious discipline or  
 observance of religious holiday     service as election judge in another precinct

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Name \_\_\_\_\_

(please print)

My legal residence address is:

Street or Route No. Apt. No. Rural Box No.

City Township County Zip

(check whichever is applicable)

Mail my absentee ballot to me at the following address:

Street or Route No. Apt. No. Rural Box No.

City State Zip

Date

Legal Signature

Statutory Authority: MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09

History: 17 SR 8

8210.9918 PRESIDENTIAL PRIMARY ABSENTEE BALLOT APPLICATION, SPECIFIED BY PART 8210.0200.

PRESIDENTIAL PRIMARY ABSENTEE BALLOT APPLICATION

Read Instructions Before Completing

I hereby apply for a presidential primary absentee ballot for the following political party:

(Check one)

\_\_\_\_\_ Party

\_\_\_\_\_ Party

PLEASE NOTE: A presidential primary ballot cannot be sent to you unless you indicate on this application which political party's ballot you wish to receive. You may receive the ballot of only one political party.

Name \_\_\_\_\_

(please print)

My legal residence address is:

Street or Route No. Apt. No. Rural Box No.

City Township County Zip

(check whichever is applicable)

Mail my absentee ballot to me at the following address:

Street or Route No. Apt. No. Rural Box No.

City State Zip

Date

Legal Signature

Statutory Authority: MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09

History: 17 SR 8

**8210.9920 INSTRUCTIONS TO ABSENTEE VOTERS, SPECIFIED BY PART 8210.0500.**

**INSTRUCTIONS TO ABSENTEE VOTERS**

**Follow these instructions carefully.**

Before you vote by absentee ballot you must have a witness.

Step 1. Locate one of the following people to serve as your witness:

- a. an eligible voter who lives in your county;
- b. a notary public;
- c. any person having authority to administer oaths; or
- d. a United States Postal Service official, if available.

Step 2. Fill out the voter registration card. You must provide all the information marked in red. Remember to sign your name at the bottom of the card.

Step 3. Show your witness your proof of residence in the precinct. One of the following documents may be used as proof of residence:

- a. a valid Minnesota driver's license, permit, or identification card, or a receipt for any of these forms, that contains your current address; or
- b. the signature of a registered voter who lives in your precinct; if your witness is registered to vote in your precinct, your witness may also vouch for you; or
- c. a student identification card, registration card, or fee statement that contains the student's current address in the precinct; or
- d. a current valid registration in the same precinct.

Step 4. Show your witness the unmarked ballots.

Step 5. Mark the ballots in secrecy. If you are disabled or otherwise unable to mark the ballots, you may ask your witness to assist you.

Step 6. Fold each ballot so that your votes cannot be seen. Do not put any identifying marks on the ballot.

Step 7. Place all voted ballots in the tan ballot envelope and seal the envelope. Do not write on the ballot envelope.

Step 8. Place the tan secrecy envelope and your completed voter registration card into the white ballot return envelope and seal the envelope. An unsealed envelope will not be accepted.

Step 9. Print your name and address and sign your name on the back of the white ballot return envelope. The name, address, and signature of your witness is required as well.

Step 10. Your ballot may be returned in one of the following ways:

- a. by mail;
- b. in person to your county auditor or municipal clerk at the address on the front of the white ballot return envelope; or
- c. by agent delivery to your county auditor or municipal clerk.

You may mark and return your ballots at any time after you receive them.

If your ballots are mailed, enough time should be allowed to permit the ballots to be delivered by the postal service no later than election day.

If you or your agent return your ballots in person, your county auditor or municipal clerk must receive them no later than 7:00 p.m. on the day before the election.

**Note:** Follow these instructions carefully. An improperly completed ballot, or statement of voter or witness, will invalidate your votes.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 203B.125; 203B.14; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *17 SR 8; 17 SR 351*

1993 Update

**8210.9925 INSTRUCTIONS TO ABSENTEE VOTERS WHO ARE REGISTERED TO VOTE, SPECIFIED BY PART 8210.0500.**

**INSTRUCTIONS TO ABSENTEE VOTERS**

**Follow these instructions carefully.**

Before you vote by absentee ballot you must have a witness.

Step 1. Locate one of the following people to serve as your witness:

- a. an eligible voter who lives in your county;
- b. a notary public;
- c. any person having authority to administer oaths; or
- d. a United States Postal Service official, if available.

Step 2. Show your witness the unmarked ballots.

Step 3. Mark the ballots in secrecy. If you are disabled or otherwise unable to mark the ballots, you may ask your witness to assist you.

Step 4. Fold each ballot so that your votes cannot be seen. Do not put any identifying marks on the ballot.

Step 5. Place all voted ballots in the tan ballot secrecy envelope and seal the envelope. Do not write on the ballot envelope.

Step 6. Place the tan ballot secrecy envelope into the white ballot return envelope and seal the envelope. An unsealed envelope will not be accepted.

Step 7. Print your name and address and sign your name on the back of the white ballot return envelope. The name, address, and signature of your witness is required as well.

Step 8. Your ballot may be returned in one of the following ways:

- a. by mail;
- b. in person to your county auditor or municipal clerk at the address on the front of the white ballot return envelope; or
- c. by agent delivery to your county auditor or municipal clerk.

You may mark and return your ballots at any time after you receive them.

If your ballots are mailed, enough time should be allowed to permit the ballots to be delivered by the postal service no later than election day.

If you or your agent return your ballots in person, your county auditor or municipal clerk must receive them no later than 7:00 p.m. on the day before the election.

**Note:** Follow these instructions carefully. An improperly completed ballot, or statement of voter or witness, will invalidate your votes. If you have any questions, call your county auditor.

**Statutory Authority:** *MS s 203B.08; 203B.09; 203B.125; 203B.14; 204B.45*

**History:** *17 SR 351*

**8210.9930 STATEMENT OF ABSENTEE VOTER, SPECIFIED BY PART 8210.0600, SUBPART 1.**

**STATEMENT OF ABSENTEE VOTER**

\_\_\_\_\_  
(print voter's name)

\_\_\_\_\_  
(print voter's address)

I certify that on election day I will meet the eligibility requirements to vote provided by law.

\_\_\_\_\_  
(signature of voter)

**STATEMENT OF WITNESS**

I certify that the above named voter showed the enclosed ballots to me unmarked; that in my presence the voter marked the ballots in secrecy, or if the voter was physically unable to mark the ballots they were marked by another individual under the personal direction of

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the voter, and enclosed and sealed them in the ballot envelope; that if the above-named voter registered to vote by enclosing a voter registration card in the Absentee Ballot Return Envelope, then proof of residence was provided as indicated below.

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(signature of witness)

\_\_\_\_\_  
(print witness' name)

\_\_\_\_\_  
(print witness' address)

\_\_\_\_\_  
(title if witness is not an eligible voter in the county)

For those who need to register: Proof of residence used by absentee voter (check one).

Driver's License,  
Permit, ID card or  
Receipt \_\_\_\_\_

Notice of Ineffective  
Registration received  
from county auditor or  
municipal clerk \_\_\_\_\_

Number  
Registration in the  
same precinct \_\_\_\_\_

Student ID \_\_\_\_\_  
Number

\_\_\_\_\_  
(signature of registered voter in the precinct  
who attested to residence of the absentee  
voter in the precinct)

\_\_\_\_\_  
(print name of registered voter who attested to  
residence of absentee voter in the precinct)

\_\_\_\_\_  
(print address of registered voter in the precinct  
who attested to residence of the absentee voter  
in the precinct)

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 203B.125; 203B.14; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *8 SR 1348; 10 SR 1690; 17 SR 8; 17 SR 351*

**8210.9935 ALTERNATIVE STATEMENT OF ABSENTEE VOTER, SPECIFIED BY PART 8210.0600, SUBPART 4.**

**STATEMENT OF ABSENTEE VOTER**

\_\_\_\_\_  
(print voter's name)

\_\_\_\_\_  
(print voter's address)

I certify that on election day I will meet the eligibility requirements to vote provided by law.

\_\_\_\_\_  
(legal signature of voter)



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I certify that the above named voter exhibited the enclosed ballots to me unmarked; that in my presence the voter marked the ballots in secrecy and enclosed and sealed them in the ballot envelope.

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(signature of witness)

\_\_\_\_\_  
(print witness' name)

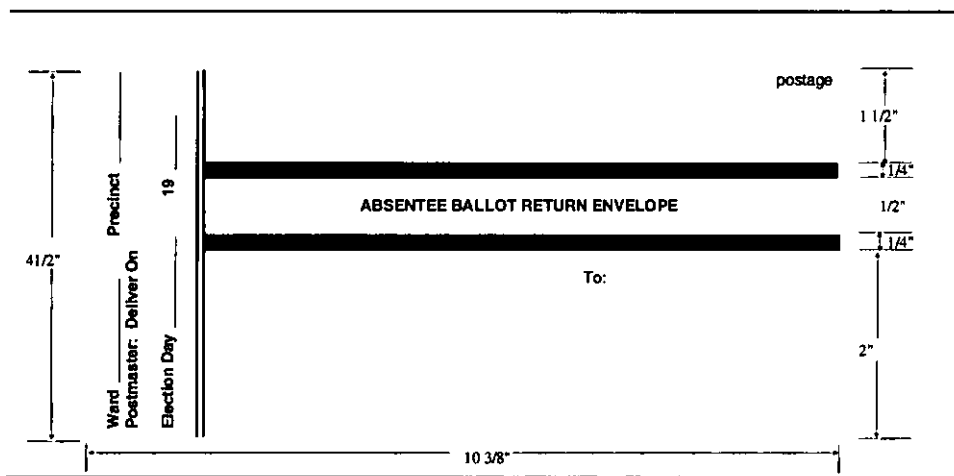
\_\_\_\_\_  
(title if witness is not an eligible voter in the county)

\_\_\_\_\_  
(print witness' address)

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 203B.125; 203B.14; 204B.25; 204B.45; 204C.35; 204C.361; 204D.11; 206.57; 207A.09*

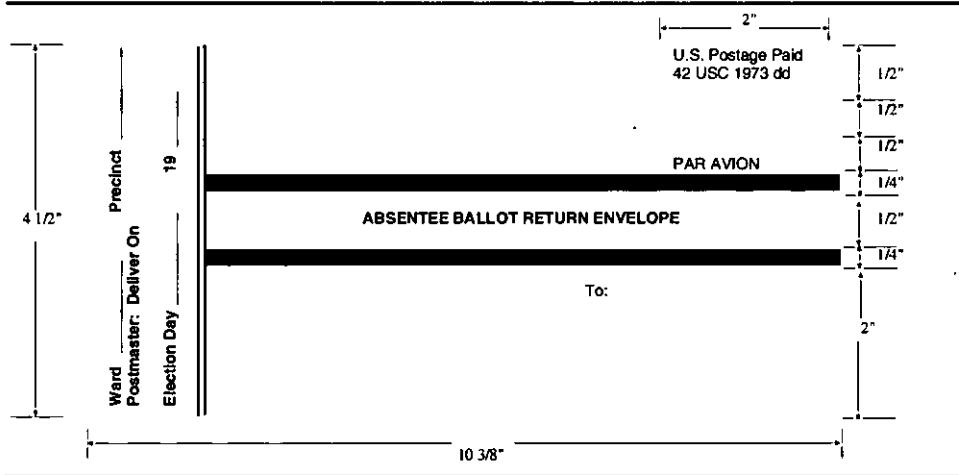
**History:** *8 SR 1348; 17 SR 8; 17 SR 351*

**8210.9940 ABSENTEE BALLOT RETURN ENVELOPE, SPECIFIED BY PART 8210.0700.**



**Statutory Authority:** *MS ss 203B.08; 203B.09*

**8210.9950 ABSENTEE BALLOT RETURN ENVELOPE, SPECIFIED BY PART 8210.0800, SUBPART 1.**



**Statutory Authority:** *MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** *8 SR 1348*

**8210.9955 BACK OF ABSENTEE RETURN ENVELOPE, SPECIFIED IN PART 8210.0800, SUBPART 3.**

**ABSENT VOTER'S CERTIFICATE**

I, \_\_\_\_\_ (please print or type), do solemnly swear that my present address (or last address) in the State of Minnesota is at \_\_\_\_\_ (please print or type) in the City or Town of \_\_\_\_\_ (please print or type), County of \_\_\_\_\_ (print or type).

I am qualified to vote the enclosed ballot(s) as (check category that applies)  a member of the Armed Forces;

a spouse or dependent of a member of the Armed Forces;

a citizen of the United States temporarily residing outside the territorial limits of the United States;

a citizen of the United States permanently residing outside the territorial limits of the United States. I have not cast and will not cast any other ballot in this election. I personally marked the enclosed ballot(s) without exhibiting it to any other person, or which, in case of my physical disability, was marked for me under my personal direction.

Military identification \_\_\_\_\_

passport number \_\_\_\_\_

\_\_\_\_\_  
(Legal signature of Voter)

Subscribed and sworn to me this \_\_\_ day of \_\_\_\_\_, 19\_\_\_

\_\_\_\_\_  
(Signature of Witness)

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(Give title or office of witness authorized to administer oaths. If an officer of the Armed Forces, a commissioned or non-commissioned officer not below the rank of sergeant or its equivalent.)

**Note:** No witness is required if you provide your military or passport number to match the military or passport number on your application.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *8 SR 1348; 10 SR 1690*

**CHAPTER 8220  
SECRETARY OF STATE  
VOTING MACHINES**

**SCOPE AND STANDARDS**

**8220.0050 CONDUCT OF ELECTIONS.**

Except as provided in Minnesota Statutes or in parts 8220.0050 to 8230.4250, elections shall be conducted in the manner prescribed for precincts using paper ballots in the Minnesota election law.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.0100** [Repealed, 10 SR 1690]

**8220.0150 MINIMUM STANDARDS.**

Parts 8220.0050 to 8230.4250 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 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.0200** [Repealed, 10 SR 1690]

**8220.0250 DEFINITIONS.**

Subpart 1. **Scope.** As used in parts 8220.0150 to 8230.4250, 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. 2. **Backup program; duplicate program.** "Backup program" or "duplicate program" means an identical computer program for vote recording and vote tallying to be prepared and tested and held in readiness should it be needed to replace the computer program prepared for use in the election.

Subp. 3. **Ballot envelope.** "Ballot envelope" means a paper container into which the voted ballot is inserted by a voter.

Subp. 4. **Ballot image.** "Ballot image" means a corresponding representation in electronic form on tape or disc of the punch or mark pattern of a voted ballot.

Subp. 5. **Bit-for-bit comparison.** "Bit-for-bit comparison" means a method for comparison of machine encoded characters.

Subp. 6. **Chad.** "Chad" means a prescored portion of a ballot that is removed from the ballot to indicate a vote.

Subp. 7. **Computer program.** "Computer program" means a logically arranged set of instructions defining the operations to be performed by a computer in examining, counting, tabulating, and printing votes.

Subp. 8. **Console log; computer log; log book.** "Console log," "computer log," and "log book," mean computer-generated listing of actions performed by the computer, including both normal and abnormal operations.

Subp. 9. **Counting center.** "Counting center" means a location where an electronic system is used for the tabulation of ballots.

Subp. 10. **Damaged ballot.** "Damaged ballot" means a valid ballot cast by a voter that is mutilated at the precinct, in transportation to the counting center, or in processing at the counting center to the extent that it cannot be entered into the computer and must be duplicated.

Subp. 11. **Demonstration ballot.** "Demonstration ballot" means a ballot of a distinctive color used to instruct voters in the use of the voting device.

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Subp. 12. **Demonstration model.** "Demonstration model" means an approved copy of the voting device in use in a precinct containing ballot labels representing offices and containing fictitious names, to demonstrate to voters the method of voting.

Subp. 13. **Detachable stub.** "Detachable stub" means a two-part section of each ballot card, each part of which is printed with the identical number, which is part of a serial numbering of all ballot cards assigned to that precinct.

Subp. 14. **Duplicate ballot card.** "Duplicate ballot card" means a ballot card on which the word "DUPLICATE" is printed, stamped, or written and which may be of a different color to which election judges transfer a voter's selections from the original ballot card when necessary.

Subp. 15. **Edit listing.** "Edit listing" means a computer-generated listing showing the names, rotation sequence, and ballot position numbers for each candidate as they appear in the computer program for each precinct.

Subp. 16. **Election jurisdiction.** "Election jurisdiction" means any municipality, township, county, or special election district holding original responsibility for an election or part of an election.

Subp. 17. **Hardware.** "Hardware" means the mechanical, electromechanical, and electronic equipment used to record and tabulate votes.

Subp. 18. **Header cards.** "Header cards" means data processing cards which contain the necessary data to identify the precinct of the following ballot cards to the computer.

Subp. 19. **Lever machine.** "Lever machine" means a direct recording mechanical device or system in which a vote is cast by moving a lever.

Subp. 20. **Operating system.** "Operating system" means a collection of programs that control the overall operation of a computer system.

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. **Precinct certification.** "Precinct certification" means the certification supplied by the election jurisdiction to each precinct on which to record unusual occurrences at the precinct, the number of voters who registered on election day, the number who voted, and other information requested by the election jurisdiction or the secretary of state.

Subp. 23. **Programmer.** "Programmer" means a person or commercial vendor designated by an election jurisdiction to prepare the software to record and tally votes for an election.

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 computer which will be used to count the ballots and to demonstrate and explain the testing procedures being used to determine the accuracy.

Subp. 25. **Seal.** "Seal" means a numbered metal device or other device used to secure hardware, software, computer programs, voting devices, or transfer cases.

Subp. 26. **Self-contained voting station.** "Self-contained voting station" means a unit that contains a voting device enclosed beneath and on three sides and lighted; when assembled the unit creates one individual voting station.

Subp. 27. **Software.** "Software" means programs, languages, or routines that control the operations of a computer used to record and tabulate votes.

Subp. 28. **Source code.** "Source code" means a high-level language in which a computer program is written.

Subp. 29. **Stylus.** "Stylus" means an instrument to be used by a voter to punch out a prescored position of a ballot.

Subp. 30. **Test deck.** "Test deck" means a set of preaudited mock voted ballot cards used to determine that the computer and software to be used in the election count the votes.

Subp. 31. **Transfer case.** "Transfer case" means a container for transporting ballots to the counting center.

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Subp. 32. **Unassigned locations.** "Unassigned locations" means voting positions not programmed or assigned to receive an indication of votes in the election in progress.

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. **Valid vote.** "Valid vote" means a voted ballot cast according to the instructions for the system in keeping with the Minnesota election law and parts 8220.0050 to 8230.4250.

Subp. 35. **Vendor.** "Vendor" means an individual or organization other than an election jurisdiction supplying any element of a lever voting machine or electronic voting system, including but not limited to hardware, software, and programming services.

Subp. 36. **Vote.** "Vote" means an indication of voter intent counted by mechanical or electronic methods.

Subp. 37. **Vote-recording medium.** "Vote-recording medium" means the material or its configuration on which data are recorded, such as paper, tape, cards, or magnetic tape.

Subp. 38. **Write-in.** "Write-in" means a vote for a candidate whose name does not appear on the official ballot for that office.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.0300** [Repealed, 10 SR 1690]

### EXAMINATION AND CERTIFICATION

#### **8220.0350 APPLICATION.**

An application by a vendor pursuant to Minnesota Statutes, section 206.57, for examination of a lever voting machine or electronic voting system must be accompanied by the following:

- A. an initial deposit, in an amount set by the secretary of state, toward the examination fee and 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 machine or 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 machine or system for use;
- F. a list of all election jurisdictions where the machine or 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 machine or system;
- H. recommended procedures for use of the machine or 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 machine or system;
- J. explanation of the level of technical expertise required to program or prepare the machine or system for use at an election; and
- K. certification of conformance or explanation of variances from any standards for voting equipment recommended 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 machine or system obviously does not meet provisions of

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Minnesota election laws, the vendor may withdraw the application and the secretary may refund the deposit.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**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 machine or 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 machine or 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 machine or system can meet all requirements of Minnesota election law and parts 8220.0050 to 8230.4250. In the acceptance demonstration, the vendor of the machine or system must demonstrate the following concerning the machine or 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, in the case of an electronic voting system, 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 nonovervoted ballots;
- D. all special parameter alterations 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 machine or 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 marks in unassigned locations, in many different combinations, and demonstrates rotation sequences and the ability to deal with 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 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**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 machine or 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,

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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 machines or systems.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

### **8220.0650 APPROVAL OF MACHINES OR SYSTEMS.**

**Subpart 1. Certification.** If, from the reports of the demonstration and testing, the secretary of state determines that the machine or system complies with Minnesota statutes and parts 8220.0050 to 8230.4250 and can be used safely at elections, the secretary of state shall issue to the vendor a certification of the machine or 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 machine or system. No certification may be issued until the vendor has:

A. paid all costs of the examination;

B. certified that the vendor and any agent acting on behalf of the vendor will offer the machine or system for use or sale only in accordance with Minnesota Statutes and parts 8220.0050 to 8230.4250 and any stipulations of the certification;

C. certified that the vendor will immediately notify the secretary of state of any modifications to the machine or system and will not offer for sale or provide for use in Minnesota any modified machine or 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 machine or system be reexamined;

D. deposited with the secretary of state a copy of all programs, documentation, and source code. If the vendor considers this data proprietary, the secretary of state shall maintain the integrity and security of the data; and

E. deposited with the secretary of state a bond in the amount of \$5,000 conditioned on the vendor offering the machine or system for sale in the manner required by parts 8220.0050 to 8230.4450 and any conditions under which the machine or 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 machine, system, or program is discontinued in Minnesota.

**Subp. 2. Decertification.** If a voting machine or system no longer meets the standards of Minnesota statutes or parts 8220.0050 to 8230.4250, the secretary of state may withdraw certification of the voting machine or 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 machine or system in a manner other than that required by parts 8220.0050 to 8230.4450 or any conditions under which the machine or 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 machine or 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



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of \$5,000. 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 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690; 12 SR 1712; 12 SR 2426*

### 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 the laws of Minnesota and parts 8220.0050 to 8230.4250.

Computer programs must include instructions requiring that machine-readable precinct identification be required on all ballot cards. Two identical header cards may precede the deck of ballot cards of each precinct. The program may provide that if two identical header cards do not appear in front of the ballot cards of a precinct, no counting of ballots for that precinct may take place.

A data processing card may follow the ballots of each precinct instructing the computer that all ballots of the precinct have been counted. The program may provide that if header cards contain instructions to the computer that all ballots of the preceding precinct have been counted, no separate end card is needed.

The vote tabulation portion of the computer program must be prepared as follows:

A. In nonpartisan races in all elections and in partisan primary elections, the computer program must reflect the rotation sequence of the candidates' names and ballot position numbers as they appear on the ballots in the various precincts.

B. The computer program must count valid votes cast by a voter for candidates for an office.

C. The computer program must count valid votes cast by a voter for or against any question.

D. 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.

E. The computer program must ignore marks and punches in a ballot card in unassigned locations; these marks or punches must have no effect on any portion of the ballot.

F. 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.

G. 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.

H. 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.

I. If the counting equipment can examine and return a ballot card to the voter before counting it, the computer program must check for and reject without counting any ballot card with an overvote or, at a partisan primary, with votes cast for candidates of more than one party. When the ballot card is returned to a voter, an error message must indicate the type of defect but not the specific office or question where the defective condition was found.

J. When a write-in vote is indicated by a machine-readable punch or mark, a punch or 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 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690; 11 SR 454*

#### **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 machine, 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 parts 8220.0050 to 8230.4450 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 subd 1*

**History:** *12 SR 2426*

#### **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 rotation to the individuals designated to prepare the computer program.

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 counting center at least 14 days prior to the election. When state offices or questions are on the ballot, a second duplicate must be prepared, as provided in part 8220.1950. Instructions containing the necessary information, steps, and procedures required to operate the computer program must be prepared to accompany the original program and the duplicate programs. There must be at least two copies of the instructions for each computer facility. It is the responsibility of the election jurisdiction to see that the instructions are made available to the computer operators.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

#### **8220.0950 EDIT LISTINGS.**

The operators shall prepare at least two edit listings from the computer program showing candidates' names and respective ballot position numbers as they appear in the computer program for each precinct. The edit listings must be delivered to the appropriate election jurisdiction at least 14 days prior to the election.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

**8220.1000** [Repealed, 10 SR 1690]

**8220.1050 PREPARATION OF TEST DECK OR BALLOT IMAGE.**

The election jurisdiction requesting the computer program must prepare a test deck of ballot cards to be used to determine that the computer and the computer program will correctly count the votes cast for all offices and all proposals in compliance with the Minnesota election law.

Simulated ballots through use of ballot images on tape or disc may be used to evaluate the logic of the computer program.

The test deck or ballot image must include ballots involving no overvotes or marks in unassigned locations as well as ballots involving overvotes, undervotes, and invalid votes in many different combinations.

The test deck or ballot image must test in a manner commensurate with the logic of the computer program, the capabilities of the program, and storage to correctly tally the maximum number of votes which might be cast for any office or question in the election.

The test deck must conform to part 8220.1150. A test deck must be prepared specifically for each election.

The test deck or ballot image 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 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

**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 and also must include votes in positions which are assigned to that office for which no candidate's name appears in those positions for 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.

Test ballots must be prepared in which votes appear in positions other than those used for candidates or proposals. In preparing the test deck or ballot image a number of the ballots must be voted to include valid votes in the partisan, nonpartisan, and proposal sections of the ballot.

Blank ballots in which no positions have been voted must be included in the test deck or ballot image.

At least one test ballot must be prepared with votes in all positions where there is a candidate or measure on the ballot.

A duplicate of the test deck must be prepared to be used with the duplicate or backup computer program.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** 10 SR 1690; 17 SR 8

**8220.1200** [Repealed, 10 SR 1690]

**8220.1250 DOCUMENTING TEST BALLOTS.**

A documentation, record, chart, or listing must be prepared indicating the punches or marks recorded in the test ballots and whether the punches or marks are valid or invalid.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690; 11 SR 454*

**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 computers and programs to ascertain that they will correctly count the votes for all offices and measures. The computer programs must be tested on all precincts.

The election jurisdiction requesting the computer programs shall compare the edit listing against the ballots of all precincts to ascertain that the appropriate ballots are in each precinct, and the ballot position numbers for each candidate and proposal appearing on the ballot agree with those recorded on the edit listing 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 or ballot image prepared under the direction of the election jurisdiction, and the results must be compared against the predetermined results of the test deck or ballot image. For the purpose of this test, the test deck may be reproduced onto standard data processing cards.

All prom packs, memory packs, and similar devices containing the election program must be secured with a metal seal and a certificate must be prepared indicating the seal number.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690; 11 SR 454*

**8220.1400** [Repealed, 10 SR 1690]

**8220.1450 DUTIES UPON COMPLETION.**

When an errorless count has been made on all precincts, the election jurisdiction providing the computer program must:

A. secure all computer programs, including the object code, all support software used except the operating system, test decks, and predetermined results of the test decks, in a metal container sealed with a metal seal and stored in a secured area that is subject to normal computer temperature humidity restraints;

B. prepare a certificate that all precincts have been tested using the test deck or ballot image prepared under the direction of the election jurisdiction and that the results agree with the predetermined results of the test deck, which certificate must contain the seal number that was used to seal the metal container and be attached to the computer results of the test; and

C. deliver the sealed metal container and the certificate to the county auditor.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.1550 PUBLIC ACCURACY TEST.**

A public accuracy test must be held within five days prior to the election for the purpose of demonstrating the accuracy of the computer programs and computers to be used at the election. The public accuracy test must be conducted according to Minnesota Statutes, section 206.73.

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, by posting a

notice, and by notification to the county or legislative district chair of each major political party.

The test must be open to the public. 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 or ballot image prepared under the direction of the election jurisdiction.

The sealed container containing the computer programs, test deck, predetermined results, and header cards must be opened and the computer programs and computers tested to determine their accuracy on the computer on which they are to be used on election night. The initial testing of the computers and programs must be with the test deck or ballot image prepared under the direction of the election jurisdiction. The number of precincts to be tested is at the discretion of the election jurisdiction.

The backup computer program prepared and delivered according to part 8220.0850 must be tested on the computer on which it would be used on election night. The test decks used in these procedures must be the ones prepared in accordance with parts 8220.0750 to 8220.1950. Any test cards made under parts 8220.0750 to 8220.1950 must be marked "TEST."

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 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

#### **8220.1650 ADDITIONAL TEST DECKS.**

Upon request the secretary of state must be provided a test deck for any state, county, municipal, or school district election computer program, in which case a test deck of at least 50 blank ballots must be delivered to the secretary of state with directions for its use. The state chair of a major political party or designee may obtain a test deck for use at the public accuracy test. The secretary of state may request a test deck from a jurisdiction no later than 15 days prior to the election. The use of test decks provided by the secretary of state or a major political party 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 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *10 SR 1690; 17 SR 8*

#### **8220.1750 CERTIFICATION 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, signed by the witnesses specified in Minnesota Statutes, section 206.73, and attached to or written on the computer results of the public accuracy test.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

#### **8220.1850 SECURING COMPUTER PROGRAMS.**

Immediately after certifying the results of the public accuracy test, the election jurisdiction must secure all computer programs, including the object code, software utilized, test decks, certified computer results of the test, and the predetermined results in a metal container which must be sealed with a metal seal in a manner so that the container cannot be opened without breaking the seal. If a precinct ballot counter 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 and on which the number of the seal has been recorded. The certificate must be signed by at least two witnesses as specified in Minnesota Statutes, section 206.73, and if attached to the container

in a plastic envelope it must be attached so that it cannot be removed without breaking the seal.

All computer programs, test decks, and other related materials must be clearly identified as to the computer on which they were tested and must be used on no other computer until tested in accordance with parts 8220.1550 to 8220.1850.

The election jurisdiction must immediately deliver to the county auditor or the auditor's designee the metal case containing the computer programs and test decks which are to be used to tabulate the results of the election. The county auditor shall retain and secure the programs and deliver them to the counting center on election night no earlier than 6:00 p.m. The container containing backup or duplicate computer programs and related material must be delivered to and secured by the county auditor. It must be the responsibility of the county auditor to store the original and duplicate or backup computer program in separate locations.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

#### **8220.1950 DUPLICATE PROGRAM TO SECRETARY OF STATE.**

When state offices and questions are to be voted on, the person preparing the computer program shall deliver an exact duplicate or an exact electronic equivalent of the program to the secretary of state at least three days prior to the election. The program must be sealed so that it cannot be opened without breaking the seal. Attached to the exterior of the sealed program must be a certificate signed by the person who prepared the program naming the election jurisdiction for which the program was prepared and stating that the program is an exact duplicate of the program provided to the election jurisdiction and that the program was prepared in accordance with Minnesota statutes and parts 8220.0050 to 8230.4250 and the instructions of the election jurisdiction requesting the program.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.09; 204B.25; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690; 12 SR 2215*

**8220.2000** [Repealed, 10 SR 1690]

### **SECURITY OF COMPUTER SYSTEMS AND PROGRAMS**

#### **8220.2050 ISOLATION FROM OTHER INFLUENCES.**

A computing system must be set up so that the vote-tallying procedures will function in isolation from other influences while being tested or run.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.2100** [Repealed, 10 SR 1690]

#### **8220.2150 PREPARATION BEFORE TESTING SYSTEM.**

Before beginning vote-tallying computer program testing or running on a computer also used for other purposes, the election jurisdiction must make certain that computer programs are not influenced by extraneous peripheral equipment or programs. Memory locations that are to remain accessible to the system, except those minimally required to load a new operating system, if any, must be erased. Active measures must be undertaken to assure that all tapes and discs to be used that are supposed to be initially blank are actually blank, except for machine-readable inventory identifiers, and have no defects.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**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 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

**8220.2300** [Repealed, 10 SR 1690]

**8220.2350 PHYSICAL PROTECTION OF OBJECT CODES.**

Master copies of all computer programs including support software and application programs must be sealed and retained in secured locations, separate from the location of working copies. Once generated the master copy must be used in a read-only mode. No writing must be done on the storage medium of the master copy. Before use of the working copy it must be compared bit-for-bit against the master copy. Any difference must be explainable.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

**8220.2400** [Repealed, 10 SR 1690]

**8220.2450 LABELING OF DISCS AND TAPES.**

Discs and tapes employed for any vote tallying purpose must have both human-readable and machine-readable labels. When the machine-readable label is read by the operating system, a halt in further operation must occur until the computer operator enters the human-readable label. A match between the two labels must precede any further computer operation.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

**8220.2500** [Repealed, 10 SR 1690]

**8220.2550 CONTROL OF SYSTEM CONTROL CARDS.**

Punched cards used for modification of operating system conditions must have a use code and version number punched in identification fields of the cards. Each card must be checked for proper use and version when read by the operating system, and the effect of the card on system operation must be reported on the system output printer.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

**8220.2600** [Repealed, 10 SR 1690]

**8220.2650 LOGGING OF OPERATIONS.**

The operating system of the computer must be programmed to report automatically on the system printer all actions taken by the operators to change conditions and their times of occurrence. These actions may include mounting and dismounting tapes, connecting or removing peripherals, inserting data, or changing control switch settings.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

**8220.2700** [Repealed, 10 SR 1690]

**8220.2750 SEPARATION OF COMPUTER ROOM DUTIES.**

A basic principle of internal control is to divide the execution of critical functions among two or more persons. One individual must not be totally responsible for a given activity, such as computer operation.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

**8220.2800** [Repealed, 10 SR 1690]

**8220.2850 CONTROL OF COMPUTER PROGRAM CHANGES.**

Every change to a computer program used for vote tallying and under control of the election jurisdiction, even those involving only one statement, must be authorized, approved, and documented by the responsible authority of the election jurisdiction.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.2900** [Repealed, 10 SR 1690]

BALLOT CARDS

**8220.2950 APPLICABILITY.**

Parts 8220.3050 to 8220.4250 apply to punch card or other electronic voting systems where ballot cards are used with a punch instrument or where the ballot card must be inserted into a marking or voting device.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3000** [Repealed, 10 SR 1690]

**8220.3050 PREPARATION OF BALLOT CARDS.**

All ballot cards used in an election must have attached by perforation a detachable stub on which duplicate numbers must be printed in consecutive order. The words "OFFICIAL BALLOT CARD" must be printed or stamped on the face of the detachable stubs. The ballot card must have a corner cut on one corner. The following statement must be printed or stamped on the back of the stub of all official ballot cards in bold face capital letters:

"STOP  
WRONG SIDE  
TURN CARD OVER"

The precinct number designation must be printed, stamped, or written and punched on each ballot card used in an election so as to identify in which precinct it originated. In the case of a combination ballot card and write-in ballot, the portion of the ballot for write-ins must contain instructions and spaces for write-ins. Numbers of the offices to be voted for and of the candidates for those offices must be printed on the ballot cards and on the ballot labels so that the voter may review all choices before leaving the voting booth or station.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3100** [Repealed, 10 SR 1690]

**8220.3150 BALLOT ENVELOPES.**

The ballot envelope 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. Instructions must be printed on the ballot envelope and include the following:

"After you have voted, check your ballot with the ballot label to be sure that your vote is recorded for the candidate or question of your choice.

Insert ballot in this envelope with the stub exposed.

Return this envelope with the ballot enclosed to the election judge.

If you spoil your ballot or if you make a mistake in voting, return it to the election judge and receive another ballot."

Where write-in votes are not written on the ballot card, the inside flap of the envelope must contain language which clearly indicates that this is the place to vote for write-in



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candidates. It must contain the following language: "A write-in vote will not be counted unless it includes the name of the person voted for and the title of the office."

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3200** [Repealed, 10 SR 1690]

### **8220.3250 VOTING INSTRUCTIONS ON BALLOT.**

Voting instructions must be printed on the first page of the ballot label pages. Following each page of the ballot label pages containing candidates or measures, instructions must be printed as to where the voter is to proceed to continue voting. Additional instructions which conform with the election laws may be printed on the ballot labels when deemed advisable so as to assist the voter in casting a ballot.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

### **8220.3350 IDENTIFYING VOTING OR MARKING DEVICES.**

All devices must be identified as to the precinct in which they will be used.

The identifying number of the device and the seal number used to seal the ballot label pages assembly to the device must be recorded on the precinct certification for the precinct in which the device will be used. The election official who sealed the machine shall also sign the certification.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

### **8220.3450 BALLOT LABEL PAGES.**

All ballot label pages must have a crimp hinge with locking spurs attached for insertion and positioning in the ballot frame. Ballot label pages attached by tape to a rod or which are placed into a clear plastic envelope through which a rod is inserted are not allowed.

A ballot label pages assembly must be inserted and sealed into each device so that the ballot label pages assembly cannot be removed without breaking the seal. Flat metal or wire seals must be used for this purpose. On devices which do not have permanent rivets on the back or sides which prevent the removal of the ballot label pages assembly, a second seal must be used so that the ballot pages assembly cannot be removed without breaking the seal.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

### **8220.3550 MASKS.**

If a device uses masks, the official in charge of the election jurisdiction must prepare or cause to be prepared the masks to be used. The masks must have holes punched in appropriate positions for which the elector will be entitled to vote and in no others.

The ballot label pages of each voting device must be examined to ascertain that holes in the mask appear directly opposite each arrow and that no other holes appear in the mask and that the ballot label pages are in proper sequence.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

### **8220.3650 COMPARING LABELS TO EDIT LIST.**

The ballot labels in each voting device of a precinct must be compared against the edit listing or sample ballot for that precinct to ascertain that the offices, candidates' names, and ballot position numbers are the same and appear in the same position.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

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**8220.3750 TEST USE OF DEMONSTRATION BALLOT CARD.**

Operation of each voting device must be tested by inserting a demonstration ballot card and voting for each candidate and proposition appearing on the ballot. The ballot card must then be examined to ensure that each received a clear punch or mark.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3850 CERTIFICATE OF DEVICE PREPARATION.**

Subpart 1. **Preparing devices.** The election official in charge of the election jurisdiction shall prepare the voting devices so that in every particular they will meet the requirements for voting and counting at the election.

Subp. 2. **Certification.** When a voting device has been prepared for the election, the official in charge of the election jurisdiction shall make a certificate in writing which must be filed with the county auditor. This certificate must contain the precinct number, the identifying number of the device, and the numbers of the metal seals used to seal the device and state that the ballot labels have been compared against the edit list or sample ballot for that precinct, that the candidates' names and ballot numbers agree and appear in the same position, and that the device has been properly prepared and tested.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.3950 BALLOT CARDS.**

The municipal clerk or county auditor shall package and seal or place into a transfer case the ballot cards for each precinct. The package or transfer case must contain a certificate signed by the clerk or auditor setting forth the number of ballots contained and that the ballots were counted and sealed by the auditor or clerk personally or by a duly authorized assistant. All ballot cards not issued to a precinct or assigned for absentee voting must be secured and accounted for by the municipal clerk. The clerk or auditor must maintain a record of the number of ballot cards and serial numbers issued to each precinct. The ballot cards must be delivered to the chief election judge of the proper precinct.

An approved ballot box must be provided to each precinct for the deposit of voted ballot cards. This ballot box need not be made of metal but must be capable of being sealed during election day.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.4000** [Repealed, 10 SR 1690]

**8220.4050 ADDITIONAL PRECINCT SUPPLIES.**

The following items must be included in the precinct supplies:

- A. an edit listing for the precinct;
- B. ballot envelopes in sufficient quantity to match the quantity of ballots;
- C. envelopes marked "spoiled ballot cards," "defective ballot cards," and "absentee ballots";
- D. an envelope for "original ballot cards for which duplicates are to be made for any reason";
- E. a precinct certification form; and
- F. a set of instructions for operating the precinct on election day.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.4100** [Repealed, 10 SR 1690]

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### **8220.4150 PRECINCT HEADER CARD.**

If the precinct header card is to be sent to the precinct, it must be contained in an envelope for that purpose, placed into the transfer case of the precinct, and delivered to the appropriate precinct.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8220.4200** [Repealed, 10 SR 1690]

### **8220.4250 INSTRUCTION POSTERS.**

At least 25 days before every state election the secretary of state shall prepare and furnish to the county auditor of each county in which an electronic voting system with marking devices is used, posters with instructions for use of the voting devices. One poster must be furnished for each voting booth or voting station.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**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**  
**SECRETARY OF STATE**  
**ELECTION JUDGES AND COUNTING CENTERS**

NOTE: See part 8220.0250 for definitions applicable to this *Chapter*.

CONDUCT OF ELECTIONS IN PUNCH CARD PRECINCTS

**8230.0050 APPLICABILITY.**

Parts 8230.0050 to 8230.2350 apply to punch card or other electronic voting systems where ballot cards are used with a punch instrument or where ballot cards must be inserted into a marking or voting device.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.0150 PROCEDURES.**

Unless otherwise provided for in Minnesota law or in parts 8230.0050 to 8230.2350, paper ballot procedures as provided in Minnesota Statutes, chapter 204A must be followed to the extent possible.

Where combination ballot card and write-in ballots are used, all rules relating to write-in, security, and identification apply to the combination ballot card and write-in ballot.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.0200** [Repealed, 10 SR 1690]

**8230.0250 ARRANGEMENT OF VOTING DEVICES.**

Voting devices may be used in voting booths or self-contained stations. The booths or stations must be equipped with lights or arranged so that adequate lighting is available for voters to be able to see and mark the ballots. Precincts using punch card or optical scan voting systems may provide voting booths or self-contained stations for use by voters in casting their ballots. The booths or stations must be arranged so the secrecy of the ballot is not violated. If a voter claims that the arrangement of the booths or stations does not afford the opportunity to vote in secrecy, the judges shall rearrange the device or booth to provide for increased secrecy.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *10 SR 1690; 17 SR 8*

**8230.0300** [Repealed, 10 SR 1690]

**8230.0350 EXAMINATION OF VOTING DEVICES.**

The election judges shall inspect the voting devices by:

A. comparing the seal number of the devices with seal numbers recorded by the municipal clerk on the precinct certification;

B. comparing the names and ballot position numbers printed on the ballot labels with the edit listing to ascertain that the offices and candidates' names are the same and appear in the same order on each;

C. checking to see that the ballot label pages are in the proper sequence and agree with the sequence indicated on the edit listing;

D. checking that holes only appear directly opposite each arrow and that the arrow points directly to the hole opposite it;

E. placing a demonstration card into each device and punching or marking it for each candidate and proposition on the ballot, attempting to punch or mark in the card places other than those indicated by an arrow, and examining the card to see that each candidate and proposition received a clean punch or mark and that no holes appear in the ballot card in any other position;

- F. in an election in which write-ins are permitted, checking that there is a marking pencil provided for write-ins in each voting booth or self-contained voting station;
- G. checking each stylus to see that it is not broken and that it has a point; and
- H. checking that there is adequate lighting and that the lights are in proper working condition.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.0400** [Repealed, 10 SR 1690]

**8230.0450 DISCREPANCY IN DEVICE.**

In the event of a discrepancy, the election judges shall notify the municipal clerk immediately, and the voting device must not be used until the discrepancy is resolved.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.0500** [Repealed, 10 SR 1690]

**8230.0550 DEMONSTRATION VOTING DEVICES.**

The demonstration voting devices must be arranged so as to be able to offer each voter an opportunity to use it prior to voting.

The election judges shall offer each voter the opportunity to use the demonstration voting device. The judges shall explain that the demonstration voting device is only a sample of the actual voting device.

The election judge shall explain to the voter how to compare ballot card with ballot label pages after voting.

Any voter who requests additional information about the voting system must be instructed by an election judge about the system and counting procedures.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.0650 VOTING PROCEDURE.**

The election judge shall not deliver a ballot card to a voter until the judge has received a signed voter certificate or a voter receipt. The ballot card number must be recorded on or attached to the certificate or receipt. Ballot cards and envelopes are not to be issued until a voting station is vacant.

Upon being issued a ballot card and envelope the voter shall go to the voting station which is unoccupied and vote. Before leaving the voting station the voter shall place the ballot card in the envelope with the detachable stub exposed.

Upon leaving the voting station the voter shall publicly hand the envelope containing the ballot card with the stub attached to an election judge. If the voter has not placed the ballot card in the envelope before leaving the voting station, the election judges shall instruct the voter to return to the voting station and place the ballot card in the envelope.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.0750 DEPOSITING VALID BALLOT.**

The judge receiving the ballot card and envelope from the voter shall compare the number on the ballot stub with the ballot card number recorded on or attached to the voter certificate or receipt to determine if the ballot card is the one issued to the voter. If the ballot card number is not the same as that assigned, the ballot card and the certificate must be placed in the spoiled ballot envelope and not counted. In no case may a spoiled ballot card be placed in the ballot card box.

If the numbers match, the judge shall detach the ballot card stub in the presence of the voter and deposit the ballot card in the envelope in the ballot card box.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

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**History:** 10 SR 1690

### **8230.0850 SPOILED BALLOT CARDS.**

If a voter spoils a ballot card by inadvertently defacing it or removing the prenumbered ballot card stub or requests a new ballot card, the voter shall secretly place the ballot card in the ballot envelope and return it to the election judge and the judge shall give the voter another ballot card and ballot envelope. The spoiled ballot card and ballot envelope must be placed in the envelope marked "SPOILED BALLOT CARDS." One of the election judges shall note the change in the ballot card number given the voter upon the voter certificate or receipt. The method of changing the number of the ballot card issued must be by drawing a line through the number of the original ballot issued and writing the new number above.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

### **8230.0950 REVIEW OF SEALS AND LABEL PAGES.**

As frequently as possible and at least every half hour the election judges shall check the seals and ballot label pages of the voting devices to assure that none has been altered or defaced. Should the judges find that the ballot label pages of a device have been altered, mutilated, or damaged in such a manner that the judges cannot correct them without doing damage to the offices and candidates' names appearing on them, the device may not be used until the condition is corrected. A note of the occurrence must be made in the precinct certification.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

**8230.1000** [Repealed, 10 SR 1690]

### **8230.1050 BALLOT CARDS FOUND IN VOTING BOOTHS OR STATIONS.**

Any ballot card found in a booth or station must be marked "found in booth." The card must be placed in an envelope which must be placed in the transfer case. 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 certification.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

**8230.1100** [Repealed, 10 SR 1690]

### **8230.1150 PROCEDURES FOLLOWING CLOSE OF POLLS.**

Subpart 1. **Ballot cards not issued, secured.** All ballot cards and envelopes 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. **Inspection.** The ballot labels and seals of each voting device must be inspected to ensure that they have not been altered and are intact and that seal numbers agree with the numbers as verified at the opening of the polls. Any discrepancy must be noted in the remarks section of the precinct certification.

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 precinct certification.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** 10 SR 1690

**8230.1200** [Repealed, 10 SR 1690]

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### 8230.1250 COUNTING BALLOTS.

The election judges shall open the ballot box and remove the ballots. Prior to removing the ballots from their envelopes they must be counted to determine the total number. The judges shall compare the total number of names recorded in the precinct certification. If the ballots are in excess of the number of electors voting and it is impossible to reconcile the number, 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.

Any excess ballots while still in their envelopes must be marked "excess" and be placed in an envelope and sealed. The judges shall note on the outside of the envelope its contents and place it in the transfer case. A notation of the pertinent facts must be made in the precinct certification. If the number of ballots counted is less than the number of electors voting according to the count determined in part 8230.1150, the reason for the discrepancy must be noted in the precinct certification. If the judges are unable to explain the discrepancy, they shall so state in the precinct certification.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.1300** [Repealed, 10 SR 1690]

### 8230.1350 WRITE-IN VOTES.

At a general election, each ballot in its envelope or the write-in ballot portion of a combination ballot card and write-in ballot must be examined for write-ins. Ballot cards for which no write-ins exist must be separated from their envelopes. The envelopes must be placed in a sturdy container, which must be marked with the precinct name, and delivered at the same time the voted ballots are delivered to the county auditor or municipal clerk.

If a write-in vote exists, the judges shall number the ballot envelopes serially beginning with number one and place the same number on the ballot card of the voter and then determine whether the write-in vote is valid.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.1400** [Repealed, 10 SR 1690]

### 8230.1450 VALID WRITE-IN VOTE.

A valid write-in vote must have on the appropriate designated place for write-ins the following information: an office to be voted on at that election and any name to be considered as a write-in candidate for that office.

Stickers containing this information are permissible.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.1500** [Repealed, 10 SR 1690]

### 8230.1550 INVALID WRITE-IN VOTE.

All write-in votes which are not recorded in the appropriate designated place for write-ins are not valid unless the number of write-ins exceed the number of spaces allowed for write-ins. In such a case, the write-ins in excess of the spaces provided are to be considered valid provided they are contained on the ballot envelope or write-in portion of the ballot card. All write-in votes which do not have an office or candidate's name indicated are not valid.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.1600** [Repealed, 10 SR 1690]

**8230.1650 RECORDING VALID WRITE-IN VOTES.**

When a valid write-in vote exists, the election judges shall determine whether the write-in vote has caused an overvote. If the voter who writes in the name of a candidate also votes on the ballot card for that same office, then the ballot is defective for that office only.

When 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 tally return. The ballot card must be placed with the other valid ballot cards for tabulation. The envelope containing the write-in vote must be placed in a separate pile containing write-in votes.

When a write-in vote is determined to be valid and an overvote condition exists for that office, the election judges shall place the ballot card and write-in vote in the envelope of "original ballot cards for which duplicates are to be made." The manner of duplication is prescribed in part 8230.3850.

At the discretion of the official in charge of the election for the election jurisdiction the processing of write-in ballots may be done at the counting center instead of at the precinct.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.1700** [Repealed, 10 SR 1690]

**8230.1750 DEFECTIVE BALLOT CARD; CHAD.**

Subpart 1. **Examination.** The judges shall examine all ballot cards for ballot cards with chad hanging and for defective ballot cards.

Subp. 2. **Hanging chad.** The intent of the voter is to be ascertained when processing ballot cards. A ballot card with a chad hanging must be processed in the following manner:

A. If a chad is found attached to the card by one or two corners, the chad must be removed by the election judge and the ballot card placed with the other valid ballots.

B. If a chad is found hanging by three corners the ballot card is defective for that office and must be placed in the envelope for original cards for which duplicates are to be made at the counting center.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.1800** [Repealed, 10 SR 1690]

**8230.1850 DEFECTIVE BALLOT.**

If it is clearly evident from examination of the ballot card that the ballot card has been mutilated or marked for the purpose of distinguishing it, then the ballot card is defective and may not be counted. The ballot card 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 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.1900** [Repealed, 10 SR 1690]

**8230.1950 NUMBER OF BALLOT CARDS COUNTED AND RECORDED.**

Subpart 1. **Number agreement.** When the ballot cards have been processed and checked, the judges shall determine that the number of ballot cards which they are submitting to the counting center for tabulation agrees with the number of names recorded in part 8230.1700, less any discrepancy for which notations have been made in the precinct certification. The number of valid ballot cards which are being submitted for tabulation must be entered in the appropriate place on the precinct certification and on the transfer case certificate.

Subp. 2. **Entries on precinct certification.** The election judges shall enter in the appropriate place on the precinct certification the number of ballot cards issued to the



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precinct, the number of ballot envelopes issued to the precinct, the number of ballot cards issued to voters, the number of spoiled ballot cards, the number of defective ballot cards, the number of cards for which duplicates are to be made for any reason, and the number of ballot cards not issued to voters.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.2000** [Repealed, 10 SR 1690]

### **8230.2050 ITEMS IN TRANSFER CASE.**

Subpart 1. **Content.** The election judges shall place in the transfer case for delivery to the counting center all of the following items:

- A. valid voted ballot cards;
- B. ballot envelopes with write-in votes;
- C. envelope containing paper absentee ballots;
- D. envelope containing spoiled ballot cards;
- E. envelope containing defective ballot cards;
- F. envelope containing original ballot cards for which duplicates are to be made for any reason;
- G. envelopes with notations concerning any other issued ballot cards contained which are not to be counted;
- H. certificate signed by the judges indicating number of ballot cards received, issued, and used;
- I. write-in tally return sheet;
- J. precinct header card (if included in precinct supplies); and
- K. precinct certification.

Subp. 2. **Second transfer case.** If space in the transfer case is inadequate, then a second transfer case or metal 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.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.2100** [Repealed, 10 SR 1690]

### **8230.2150 CERTIFICATE OF ELECTION JUDGE.**

The election judges shall sign a "certificate of election judges." The certificate must state:

- A. the number of persons voting as shown by the precinct certification;
- B. that prior to the opening the polls, all voting devices were examined and found to be sealed with metal seals bearing the same numbers as certified by the election jurisdiction;
- C. that the ballot labels were in their proper places;
- D. that the position of candidates' names and ballot numbers on the ballot labels and the ballot cards were the same as appeared in the same position as indicated on the edit listing;
- E. that at the close of the polls each voting device was examined and found to be sealed with the same numbers as verified at the opening of the polls and that the ballot labels were in their correct position;
- F. the number of ballot cards being submitted for tabulation;
- G. that the ballot cards have been counted while in their envelopes and agree with the number of names as shown on the precinct certification;
- H. that all ballot cards requiring duplication are in the proper envelope;
- I. that all ballot cards have been examined for hanging chad;
- J. that all write-in votes have been properly recorded;

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K. that all ballot cards used in the election and all ballot cards to be duplicated have been placed in the transfer case and that the case was securely sealed with an official metal seal in such a manner as to render it impossible to open the case without breaking the seal; and

L. the number of the seal used to seal the transfer case.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**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. Attached to the transfer case by the seal must be a certificate signed by the judges indicating its content, the precinct name, and the number of the seal used to seal the case. The seal number must also be recorded in the certificate of the election judges. The transfer case certificate must be in a clear plastic envelope of a type approved by the secretary of state and affixed to the case by the seal.

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 counting center by two election judges, not of the same political party.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.2300** [Repealed, 10 SR 1690]

### **8230.2350 DELIVERY OF BALLOT ENVELOPE CONTAINER.**

The container which holds the ballot envelopes issued to voters but containing no write-in votes must be delivered to the counting center by the same election judges who deliver the transfer case containing voted ballots.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.2400** [Repealed, 10 SR 1690]

### **8230.2450 RETENTION OF BALLOT CARDS AND BALLOT ENVELOPES.**

Ballot cards and ballot envelopes which are not issued to voters must be returned to the election official in charge of the election jurisdiction who shall issue a receipt for them and retain them by precinct until the time for contest has expired.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**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]

## ABSENTEE BALLOTS FOR PUNCH CARD SYSTEMS

### **8230.3050 APPLICABILITY.**

Parts 8230.3050 to 8230.3250 apply to punch card or other electronic voting systems where ballot cards are used with a punch instrument or where the ballot card must be inserted into a marking or voting device.

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**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

### **8230.3150 ABSENTEE BALLOTS, GENERAL PROVISIONS.**

The issuing, receipt, processing, and tabulation of absentee ballots in election jurisdictions using punch card electronic voting systems must conform to law and parts 8230.0050 to 8230.4250.

Voters requesting absentee ballots must be supplied with paper absentee ballots, except as provided by Minnesota Statutes, section 203B.08, subdivision 1a. Absentee votes must be cast on paper absentee ballots and delivered either to an absentee ballot precinct as provided by law or to the polling place in the voters' precinct.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

### **8230.3250 ABSENTEE VOTING, ELECTRONIC VOTING SYSTEM.**

**Subpart 1. Applicability.** This part applies only when municipal clerks administer absentee ballots as provided in Minnesota Statutes, section 203B.08, subdivision 1a, for voters applying in person at the clerk's office for an absentee ballot.

**Subp. 2. Ballot cards.** Ballot cards issued to voters under Minnesota Statutes, section 203B.08, subdivision 1a, must conform to all of the provisions of part 8220.3050.

**Subp. 3. Ballot labels and voting devices.** Ballot labels and voting devices must be prepared as provided in parts 8220.3050 and 8220.3350. At least one voting device must be available for each precinct in the municipality and placed in a proper booth or voting station within the building where the office of the clerk is maintained.

**Subp. 4. Demonstrator.** A demonstrator voting device must be available to absentee voters and instructions for casting a ballot on an electronic voting system must be offered to each absentee voter by the municipal clerk or an election judge trained under parts 8240.0100 to 8240.2600.

**Subp. 5. Issuing ballot cards.** The municipal clerk shall remove the smaller numbered stub from the ballot card when it is issued to the voter. The smaller numbered stubs must be placed in an envelope marked "Absentee Ballot Stubs" and retained by the municipal clerk in the clerk's office.

**Subp. 6. After voting.** The voter must be instructed to insert the voted card in the ballot envelope and to fold the large numbered stub over the outside of the envelope. The voter shall next insert the ballot envelope in the absentee return envelope and seal it. The certificate of eligibility on the back side of the return envelope must be completed by the voter and a witness, and the voter shall give the municipal clerk the return envelope with the voted ballot card and its envelope sealed inside.

**Subp. 7. Voted ballot cards.** Absentee return envelopes with voted ballot cards must be retained by the municipal clerk in a secure container that will not damage the machine readability of the card. The municipal clerk shall deliver the absentee return envelopes with voted ballot cards to the election judges in the appropriate precinct on election day.

**Subp. 8. Processing.** When election judges have processed the absentee return envelopes as provided in Minnesota Statutes, section 203B.12, the ballot envelopes must be removed from the return envelopes marked "accepted." The large numbered stub must be removed from each ballot card before each ballot envelope is deposited in the ballot box along with the ballot cards of voters voting in person.

**Subp. 9. Disposition of stubs.** The election judges shall attach one large numbered stub to each absentee return envelope marked "accepted" from which a ballot envelope was removed. The stubs may be attached after all of the ballot envelopes have been removed and the large stubs detached.

**Subp. 10. Reconciliation.** The return envelopes with stubs attached must be placed with the voter certificates or receipts and "accepted" return envelopes of voters casting paper absentee ballots and included in the count to arrive at the total number of persons voting in the precinct. To arrive at the proper number of ballot cards to be tabulated, the "accepted"

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return envelopes with stubs attached must be counted with the voter certificates or receipts and the total must equal the number of ballot cards to be tabulated. The reconciliation of the ballot cards and number of persons voting must be entered on the precinct certification.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.3300** [Repealed, 10 SR 1690]

### COUNTING CENTER PROCEDURES FOR PUNCH CARD SYSTEMS

#### **8230.3350 APPLICABILITY.**

Parts 8230.3350 to 8230.4250 apply to punch card or other electronic voting systems where ballot cards are used with a punch instrument or where the ballot card must be inserted into a marking or voting device.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

#### **8230.3450 PRELIMINARY PROCEDURES.**

The persons who operate the computer used for tabulation of ballots on election night may not be the same persons who wrote the computer program. This does not exclude the official in charge of the election for the election jurisdiction or his authorized assistant. The computer operators 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 computer in the counting center 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 computer or ballot materials.

Persons assigned to administer the counting center shall compare the seal number on the container containing the computer programs, computer center header cards, 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 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.3500** [Repealed, 10 SR 1690]

#### **8230.3550 TEST OF PROGRAM BEFORE AND AFTER TABULATION.**

Prior to the tabulation of ballots and again after the last precinct has been counted, the counting center personnel shall test the computer program and computer as to their accuracy and certify the results. The accuracy test must be conducted with the test deck or ballot image designated in parts 8200.1100 and 8200.1200. Copies of these test results must be designated "prior to tabulation of ballots" or "after tabulation of ballots." 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. When the official in charge of the counting center certifies that the tabulation has been done in isolation, the test after tabulation need not be performed.

Authorized counting center personnel may at their discretion test the program using the official test deck or ballot image periodically throughout the tabulation of ballots to ensure that the program and computer are operating accurately.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.3600** [Repealed, 10 SR 1690]

**8230.3650 MAINTAINING AND CERTIFYING LOG.**

A console log including the count and accuracy test and the tabulation of the ballots must be maintained and certified by the computer operators and the election official in charge of the counting center to the municipal clerk unless it contains information on more than one municipality in which case it must be delivered to the county auditor. In the event the computer is not capable of creating a console log, then a manual log of any abnormal events must be maintained.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**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 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 8230.4250. The opened metal seal from the transfer case must be placed inside the case. The identification on the case must be noted on all reporting materials. Authorized counting center personnel must then issue a certificate to the election judges delivering the case acknowledging receipt of all materials.

Subp. 2. **Delivery to counting center.** The transfer case containing the ballot cards must then be delivered to the proper counting center personnel for preparation for tabulation. The election official in charge of the counting center shall provide adequate security at the counting center.

Subp. 3. **Placing header card.** In processing the ballot cards of a given precinct, the computer center header card and the precinct header card must be placed in front of the deck of ballot cards of the respective precinct. The end card must immediately follow the deck of ballot cards.

Subp. 4. **Sealing after count.** Immediately upon the completion of the counting of a precinct, all ballot cards for the precinct and precinct header cards 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.

Subp. 5. **Verifying number of cards.** The election official in charge of the counting center shall determine whether the number of ballot cards tabulated by the computer agrees with the number of ballot cards submitted by the election judges at the precinct. If a discrepancy exists, authorized 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 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.3800** [Repealed, 10 SR 1690]

**8230.3850 DUPLICATION OF BALLOTS.**

Any ballots requiring duplication at the counting center must be duplicated in the following manner:

A. Whenever a ballot card 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 card, the duplicate card and the original card must be identified with a single number written on both cards. The number on the duplicate card must be the same number as on the original. When more than one card is being duplicated in a precinct, the numbering must be serial.

C. The reason for duplication such as "write-in," "chad," or "damaged," must be written on the duplicate ballot card. The election judges duplicating the card shall initial the duplicated card and the original card.

D. When duplicating a ballot card, one election judge shall call from the original ballot card the valid selections of the voter; another election judge shall prepare the duplicate ballot with the voter's valid selections. The duplicate ballot card must be compared against the original ballot card to assure it has been accurately duplicated.

E. All original ballot cards which require duplication must be placed in an envelope marked "original ballot cards for which duplicates have been made." The duplicated ballot card must be placed with the other valid ballot cards to be tabulated.

F. Any writing required on any ballot card must be done with a soft-tip marking instrument.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.3900** [Repealed, 10 SR 1690]

#### **8230.3950 COPIES OF RETURNS.**

The election official in charge of the counting center must certify at least three copies of the returns. The certification must state the name of the community, municipality or township, precinct numbers, offices, names of candidates, number of persons registered before polls open on election day, number of ballots counted, vote totals, and any other data required by the secretary of state such as precinct identification number. Authorized personnel in the counting center shall transfer any numbers to forms supplied by the secretary of state for the purpose of state reporting of election results. The statement of returns may be a computer printout as well as any forms designated by the secretary of state for the purpose of preparing the state canvassing board report and publication of election results.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**8230.4000** [Repealed, 10 SR 1690]

#### **8230.4050 DISTRIBUTION OF RETURNS.**

Returns referred to in part 8230.3950 must be certified to the municipal clerk who shall retain one copy of the statement of returns and send at least two copies to the county auditor, along with any forms determined by the secretary of state to be filed with the state. The county auditor shall retain one copy of the statement and forward at least one copy of the statement to the secretary of state together with two copies of the report of the county canvassing board report. Copies of any additional forms required by the secretary of state for preparation of the state canvassing board report and other public reports of the election must be completed and returned to the secretary of state.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *10 SR 1690; 17 SR 8*

**8230.4100** [Repealed, 10 SR 1690]

#### **8230.4150 DELIVERY OF MATERIAL AFTER COUNTING.**

After the last precinct has been counted and the final accuracy test has been conducted, the election official in charge of the counting center shall deliver all materials to the office of the municipal clerk of each election jurisdiction served by the counting center. That clerk upon filing reports prescribed in part 8230.4050 shall retain ballots and voter certificates for one year unless otherwise ordered by a court order or recount procedure pursuant to the Minnesota election laws. Test decks or ballot images, accuracy test results, and computer programs must be delivered to the county auditor.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.4200** [Repealed, 10 SR 1690]

**8230.4250 COUNTY AUDITOR TO MAINTAIN MATERIALS.**

The county auditor must maintain all the material forwarded as required in parts 8230.4050 and 8230.4150 for a period of one year unless otherwise advised by a court order or recount procedure pursuant to the Minnesota election laws.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *10 SR 1690*

**8230.4300** [Repealed, 10 SR 1690]

**8230.4350 OPTICAL SCAN VOTING SYSTEMS**

Subpart 1. **Applicability.** This part applies to optical scan voting systems, as defined in Minnesota Statutes, section 206.90, subdivision 1. Parts 8220.0050 to 8220.2850 apply to the use of optical scan voting systems. To the extent possible, parts 8220.3050 to 8230.4250 for use of punch card voting systems apply to the use of optical scan voting systems, unless this part provides otherwise.

Subp. 2. **Ballot cards.** Each ballot card must have printed on it either the name of the precinct and a machine-readable precinct identifier, or a ballot style indicator. Voting instructions must be printed at the top of the ballot card on each side that includes ballot information. The instructions must include an illustration of the proper mark to be used to indicate a vote. Detachable stubs or consecutive numbers are not required. Lines for the initials of at least two election judges must be printed on one side of the ballot card so that the judges' initials are visible when the ballot is enclosed in a secrecy sleeve.

Ballot cards 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 manufacturer's recommended standards and specifications for ballot printing.

The equipment manufacturer must file with the secretary of state recommended procedures and standards for checking ballot specifications. Upon receipt of the ballots the election jurisdiction must immediately examine the ballot cards to determine that they meet the required specifications. The ballot cards must be packaged and stored in a manner to protect against moisture.

Subp. 3. **Supplies.** Each precinct must be supplied with secrecy sleeves that will shield voting marks from view while the voter deposits the ballot into the ballot box. Ballot boxes must be made of metal or high impact plastic.

Ballot boxes used with counting equipment that reads the ballot as it is inserted into the ballot box may be separate or part of the equipment so long as the ballot is fed directly into a locked or sealed ballot box. At a general election, the ballot boxes must have two separate compartments into which the equipment can feed ballots. One compartment must receive ballots on which all votes have been counted and recorded, and the other compartment must receive the ballots on which all votes have been counted except for those offices for which a write-in indication has been recorded. An auxiliary ballot box, that may be separate or an additional compartment, must be supplied to be used if the equipment fails to function and to receive ballots that cannot be read by the equipment.

A writing instrument without an eraser that will produce marks that can be accurately read by the automatic tabulating equipment must be provided to each voter.

Subp. 4. **Testing.** Computer programs and counting equipment must be tested as required by Minnesota election laws and rules. In addition, as necessary to ensure accuracy of vote counting, diagnostic test capabilities of the equipment and additional test procedures recommended by the equipment manufacturer must be used. The equipment manufacturer must file with the secretary of state recommended test procedures and instructions.

Subp. 5. **Precinct counting equipment.** Precinct counting systems that read ballots as they are inserted into the ballot box may not be used for a central counting center, except that one ballot counter may be supplied for up to ten precincts with a combined total of fewer than 1,500 registered voters. Separate prom packs must be used for each of the

precincts. Except as provided in this subpart, at least one ballot counter must be supplied to each precinct.

If the ballot counter will be used to count ballots of only one precinct, machine readable ballot configuration identification may be printed on each ballot card in place of the precinct name and identification required by subpart 2. A ballot configuration means a unique ballot format prepared for use in one or more precincts in which all ballot information, including offices and questions to be voted on, candidate names, and rotation sequence, is identical.

If the locked ballot box cannot be detached from the ballot counter, the number of ballot counters supplied to the precinct must be sufficient so that the number of ballots expected to be counted on any counter will be at least ten percent less than the maximum capacity of the ballot box. The maximum capacity must be determined on the basis of the size of the ballot to be voted at the election.

The auditor or clerk must test each prom pack individually and, after testing, seal it with a numbered seal. 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 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 for the voting positions are zero, that the public counter is set at zero, and that the ballot positions and other ballot information for each candidate and proposal printed on the initial tape agree with those on the ballot cards.

If the ballot counter is programmed to return to the voter a ballot having defects, the rejected ballot must be treated as a spoiled ballot and a new ballot must be issued to the voter after the spoiled ballot has been deposited in the spoiled ballot container. 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 as provided in Minnesota Statutes, section 204C.15. Election judges monitoring the depositing of ballots into an optical scan precinct counting system must be stationed no closer than six feet from the precinct ballot counter.

If the ballot counter is programmed to return to the voter a ballot having defects, no means of overriding the rejection may be used that do 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. A message, to be initialed by the election judges who activated the override, must be printed on the results tape each time the override is operated.

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 shall produce a printed record of results and sign the certificate that is part of the printed record.

At a general election, after the ballot counter has been secured against receiving additional ballots, the election judges shall open the write-in compartment and count and record on the summary statement the valid write-in votes.

One unbroken tape that includes the initial 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 county canvassing board. In the event of equipment 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. Additional copies of the record of results must be certified as required by the election jurisdiction.



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Subp. 6. **Absentee ballots.** The election judges shall examine the absentee ballots as they are removed from the ballot envelope and separate any ballots with erasures, marked with a carbonless writing instrument, or otherwise marked so they cannot be read by the counting equipment. The separated absentee ballots must be counted manually and the results added to the printed record of results or duplicated for tabulating as provided in part 8230.3850.

When printing instructions to be supplied with absentee ballots, the election jurisdiction may change item (6) on the instructions to absent voter in parts 8210.0500 and 8210.9920 to include the proper method for marking and folding the optical scan voting system ballot cards.

Subp. 7. **Ballots at counting center.** Except for ballots that must be counted manually, ballots for a precinct must be tabulated together. After tabulation of votes for candidates whose names appear on the ballot at a general election, at least two election judges of different political parties shall count the valid write-in votes on ballots with a write-in indication. The judges shall record the valid write-in votes on the summary statement.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *11 SR 454; 13 SR 259; 17 SR 8*

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 SECRETARY OF STATE RECOUNTS

### 8235.0200 AUTOMATIC AND ADMINISTRATIVE RECOUNTS.

This chapter establishes procedures for the conduct of all automatic and administrative 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. When the person who would otherwise serve as recount official is a candidate for the office to be recounted, the appropriate canvassing board shall select an election official 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 an automatic or administrative recount is limited to the recount of the ballots cast and the declaration of the person nominated or elected.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.35; 204C.361; 204D.11; 206.57; 207A.09*

**History:** 8 SR 1348; 12 SR 2215; 17 SR 8

### 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. 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 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** 8 SR 1348

### 8235.0400 SECURING BALLOTS AND MATERIALS.

The official who has custody of the voted ballots is responsible for keeping secure and making available to the recount 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 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** 8 SR 1348

### 8235.0500 SECURING VOTING MACHINES.

Where lever voting machines or electronic voting systems are used, the machines and marking devices must remain sealed and locked under the supervision of the municipal clerk. No candidate, candidate's representative, or other person, except an election official carrying out election responsibilities, may be granted access to the voting machines or marking devices. The election official having custody of the machines or marking devices is responsible for security of the machines and restricting access to them. All counting programs for electronic voting systems must be preserved in the manner required for voted

ballots, and the official in charge of the jurisdiction shall certify that the true program used in the election has not been altered in any way and is available for the recount.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** 8 SR 1348

### **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. Where an electronic voting system is used, the jurisdiction must make available without charge to the recount official or body conducting the recount the counting program used in the election, computers, services of technical personnel, and other equipment and facilities necessary to conduct the recount.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** 8 SR 1348

### **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 containers containing the sealed envelopes of voted ballots, and any other election materials requested by the recount official. No ballots or election materials may be handled by candidates, their representatives, or members of the public. 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. 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 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** 8 SR 1348

### **8235.0800 COUNTING AND CHALLENGING BALLOTS.**

Ballots must be recounted by precinct. The recount official shall open the sealed envelope of ballots and recount them in accordance with Minnesota Statutes, section 204C.22. If a candidate or candidate's representative disagrees with the recount official's determination of whether and for whom the ballot should be counted, the ballot may be challenged. 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. The precinct name, the reason for the challenge, and the name of the person challenging the ballot must be marked on the back of each 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. After the count of votes for all precincts has been determined, the challenged ballot envelope must be sealed and kept secure for presentation to the canvassing board.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.35; 204C.361; 204D.11; 206.57; 207A.09*

**History:** 8 SR 1348; 17 SR 8

**8235.0900 LEVER VOTING MACHINES.**

In precincts where lever voting machines are used, the recount official shall compare the number of votes cast for each candidate as shown on the voting machine to the number of votes for each candidate recorded by the election judges from the same voting machine. Machines must be read by precinct. Only the recount official and authorized election officials may open, read, or in any way touch or handle the voting machine. The recount official shall arrange the counting so that the candidates and their representatives may observe the recorded votes on the voting machines. Absentee paper ballots must be counted in accordance with part 8235.0800. After the count of votes has been determined for the precinct, the absentee ballots must be resealed in their envelope and returned with the other materials to the custodian of the ballots. A statement of recount results must be made for each precinct showing the machine number for each machine and the number of votes recorded for each candidate recorded on that machine.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** *8 SR 1348*

**8235.1000 ELECTRONIC VOTING SYSTEMS.**

In precincts in an election jurisdiction where an electronic voting system is used, the recount official shall determine if the ballots are to be recounted on the automated equipment or manually. If the recount official is the secretary of state or the secretary's designee, the duplicate counting program certified to the secretary of state by the person preparing the program may be used to recount the ballots. If the ballots are recounted on the automated equipment, a test of the program and counting equipment as provided in part 8230.5100 must be made immediately prior to the recount, and a test sample of the ballots must also be counted manually. Unless the jurisdiction has only one precinct, the test sample shall be from two precincts, one selected by each candidate. In each of the precincts selected, the sample shall be at least three percent of the ballots cast or 50 ballots, whichever is greater. The test sample must also be counted on the automatic tabulating equipment. Access to the immediate area of the automatic counter or computer is limited to the recount official and legal adviser, officials of the election jurisdiction, the candidates and their representatives, and the technical persons necessary to the operation of the counting equipment. An observation area must be provided for the public. Ballots must be recounted by precinct. Paper absentee ballots must be counted in accordance with part 8235.0800. A report of recount results must be provided for each precinct. After the count of ballots for a precinct has been determined, all ballot cards and paper absentee ballots must be resealed in the ballot container and returned with the other materials to the custodian of the ballots.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *8 SR 1348; 10 SR 1690*

**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 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**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

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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 an administrative 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 201.221; 203B.09; 204C.35; 204C.361; 204D.11 subd 1; 206.57 subd 1*

**History:** *8 SR 1348*

**CHAPTER 8240  
SECRETARY OF STATE  
ELECTION JUDGE TRAINING PROGRAM**

**8240.0100 DEFINITIONS.**

Subpart 1. **Scope.** Terms used in parts 8240.0100 to 8240.2600 shall have the meanings given.

Subp. 2. **Training authority.** "Training authority" means a county auditor of the municipal election official to whom the county auditor has delegated training duties.

Subp. 3. **Training program.** "Training program" means a system of instruction to promote the competence of election judges by supplying necessary information to improve election-related skills.

**Statutory Authority:** *MS s 204B.25*

**8240.0200 SCOPE AND PURPOSE.**

Parts 8240.0100 to 8240.2600 establish the program for training of election judges required by Minnesota Statutes, section 204B.25.

The purpose of the training program is to provide for uniform application of Minnesota election laws and rules by election judges and to promote accuracy, honesty, and efficiency in election procedures.

Parts 8240.0100 to 8240.2600 shall be construed as the minimum standards required of training programs conducted pursuant to Minnesota Statutes, section 204B.25. Nothing in parts 8240.0100 to 8240.2600 shall restrict training authorities from implementing training programs more comprehensive than are required by parts 8240.0100 to 8240.2600.

**Statutory Authority:** *MS s 204B.25*

**8240.1000 DELEGATION OF TRAINING DUTY.**

Each county auditor shall notify the secretary of state of municipal election officials to whom the auditor has delegated the duty to train election judges. The notification of delegation shall include the name of the municipality, the date of delegation, the name and address of the municipal clerk, and the name and address of the municipal election official designated, if different from the municipal clerk. The auditor shall notify the secretary of state within 30 days after the delegation.

**Statutory Authority:** *MS s 204B.25*

**8240.1100 TRAINING CONFERENCE.**

Each training authority shall attend a conference on election administration and training conducted by the secretary of state before each state primary election. 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 prior to 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.

**Statutory Authority:** *MS s 204B.25*

**8240.1200 TRAINING PROGRAM.**

A training program shall consist of a basic training course, a review course, an emergency training course and, in municipalities conducting absentee voting pursuant to Minnesota Statutes, section 203B.11, a health care facility absentee voting course. A training authority may design the courses to meet the election problems peculiar to the jurisdiction, but the courses shall meet at least the minimum standards set forth in parts 8240.1600 to 8240.1900.

**Statutory Authority:** *MS s 204B.25*

**8240.1300 COURSES REQUIRED.**

An election judge who must receive training pursuant to Minnesota Statutes, section 204B.25 shall successfully complete a basic training course which meets the requirements

of part 8240.1600. After completing the basic training course, an election judge may serve at future elections by successfully completing a review course which meets the requirements of part 8240.1700 before service at such election. The basic training course need not be repeated if the judge serves at least one election every four years.

The basic training course and the review course shall be conducted not more than 60 days or fewer than three days before the election. When one or more election judges are unable to attend a scheduled training session, a makeup session shall be held which conforms to the scheduled training session so far as practicable.

A special training course must be conducted for all election judges not more than 60 nor fewer than three days before a presidential primary election. The county auditor shall establish either a one or two hour training course for the presidential primary. The length of training for the presidential primary should be determined by the voting method used at the presidential primary, and the experience level of election judges with the voting method.

No election judge who successfully completes the training required by these rules for a state primary election shall be required to complete additional training for the succeeding general election.

The training authority shall determine the maximum number of trainees in each training session conducted pursuant to parts 8240.1600 and 8240.1700. The maximum number of trainees shall be appropriate to the methods of instruction used.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *17 SR 8*

#### **8240.1400 HEALTH CARE FACILITY ABSENTEE VOTING REQUIREMENT.**

Each election judge who conducts absentee voting in health care facilities pursuant to Minnesota Statutes, section 203B.11 shall successfully complete the course for health care facility absentee voting as provided in part 8240.1800 before performing his duties.

**Statutory Authority:** *MS s 204B.25*

#### **8240.1500 EMERGENCY TRAINING REQUIREMENT.**

When an election judge is elected after the opening of the polls and has not completed the basic training course or review course conducted for that election, he shall complete the emergency training course as provided in part 8240.1900.

**Statutory Authority:** *MS s 204B.25*

#### **8240.1600 BASIC TRAINING COURSE.**

Subpart 1. **Length.** The basic training course shall be at least two hours long.

Subp. 2. **Materials.** The training authority shall provide each election judge trainee with examples of all forms which election judges must complete in the course of their duties; with examples of all 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 all materials contemplated in the training plan approved by the secretary of state pursuant to part 8240.2400. Additional materials may be provided by the training authority as he deems useful.

Subp. 3. **Use of equipment.** A voting machine, electronic voting system, or specimen paper ballot and ballot box shall be utilized 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 shall include necessary information and skill development in the following areas:

A. judges' duties before election day: supplies; voter registration cards; voting machine checkout; and ballots;

B. preparations on election day before polls open;

C. judges' duties during voting hours: election day voter registration; persons allowed in polling place; challenge process; voting process; spoiled ballots; assistance to disabled voters; and absentee ballots;

D. judges' duties after polls close: closing polls; canvass process; defective and spoiled ballots; summary statements; and delivery of election materials;

E. new laws, rules, forms, and procedures; and

F. major problems at prior elections.

**Statutory Authority:** *MS s 204B.25*

#### 8240.1650 PRESIDENTIAL PRIMARY TRAINING COURSE.

Subpart 1. **Length.** The training course shall be established by the county auditor at either one or two hours in length.

Subp. 2. **Materials.** By February 1 in years in which a presidential primary is conducted, the secretary of state shall provide each county auditor with examples of all forms and documents used by election judges that are unique to the presidential primary. The county auditor shall provide copies of this material to each training authority in the county. The forms and documents provided to a county auditor must include but are not limited to: polling place rosters; absentee ballot applications and return envelopes; ballots; and precinct summary statements. Additional material may be provided by the training authority as considered useful.

Subp. 3. **Use of equipment.** A 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 used at the presidential primary.

Subp. 4. **Course content.** The presidential primary training course must include information and preparation in the following areas:

A. declaration of party preference noted on polling place roster;

B. transfer of party preference from absentee ballot applications to polling place roster;

C. counting of ballots, including party order and write-in ballots;

D. all forms, rules, laws, and procedures unique to the presidential primary;

and

E. methods for responding to voters concerns about privacy.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** 17 SR 8

#### 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 complete the basic two hour 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, a resident of the municipality in which the trainee election judge serves, and be at least 16 years of age. Trainee election judges must provide certification from their school that they are enrolled in a Minnesota high school, have completed or be enrolled in a course on government at the time of service, and are performing at an academic level acceptable to the principal of the trainee's high school.

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 prior to the election; and

E. the appointment will not require the trainee election judge to serve past 10:00 p.m.

Subp. 5. **Payment.** For attending required training or for service as a trainee election judge, students must be paid not less than two-thirds of the minimum wage for large employers as provided in Minnesota Statutes, section 177.24.

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 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.11; 206.57; 207A.09*

**History:** *17 SR 8*

#### **8240.1700 REVIEW COURSE.**

Subpart 1. **Length.** A review course shall be at least one hour long.

Subp. 2. **Course content.** The training authority shall plan a review course which is tailored to the needs of the jurisdiction as demonstrated by performance and problems in prior elections. It shall include information on the following topics: summary of new laws, rules, forms, and procedures; summary of specific problems in previous elections; and step-by-step review of election judges' duties, emphasizing problem areas.

**Statutory Authority:** *MS s 204B.25*

#### **8240.1800 COURSE FOR HEALTH CARE FACILITY ABSENTEE VOTING.**

The course content shall include information on the following topics: who is eligible to vote absentee from health care facilities; application process; registration process, including methods for providing proof of residence; assistance to voters; voting procedures; procedures for transporting voted ballots; and particular problems encountered in previous elections.

**Statutory Authority:** *MS s 204B.25*

#### **8240.1900 EMERGENCY TRAINING COURSE.**

Subpart 1. **At the polls.** The chairman judge shall conduct emergency training at the polling place. The training authority shall provide an outline of emergency training procedures and otherwise ensure that the chairman judge is prepared to conduct emergency training, if necessary.

Subp. 2. **Course content.** The chairman judge shall review with a replacement judge all procedures and duties that are assigned to the replacement judge.

Subp. 3. **Ongoing instruction.** The chairman judge shall provide additional instruction as necessary throughout election day.

**Statutory Authority:** *MS s 204B.25*

#### **8240.2000 TRAINING MATERIALS.**

The secretary of state shall provide the county auditor with Minnesota Election Judges 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. At each training session, the training authority shall provide election judge trainees with copies of the Minnesota Election Judges Guide received from the county auditor and with at least one copy for each polling place. The municipal clerk shall ensure that a Minnesota Election Judges Guide is available at each polling place on election day for use by the election judges.

**Statutory Authority:** *MS s 204B.25*

**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 shall be a list or a card system containing the name of the election judge; his precinct number; his party affiliation, if any; dates of training; type of course completed on each date; and dates of election judge service. The record shall be kept current for each election judge in the county or municipality.

**Statutory Authority:** *MS s 204B.25*

**8240.2200 ELIMINATING JUDGE FROM RECORD.**

An election judge may be eliminated from the training record if he has not served as an election judge or received election judge training during the preceding four years.

**Statutory Authority:** *MS s 204B.25*

**8240.2300 CERTIFICATION TRAINING.**

Each election judge who successfully completes a basic training course or review course shall receive a certification of training. The certification shall include the election judge's name, municipality, date of training, course completed, and the signature of the training authority.

Except as provided in Minnesota Statutes, section 204B.25, each election judge must show a certification of training to the chairman judge of the precinct prior to being sworn in on election day.

**Statutory Authority:** *MS s 204B.25*

**8240.2400 TRAINING PLAN.**

Each training authority shall submit a training plan to the secretary of state by August 1 of each general election year.

The training plan shall 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 the basic training course, review course, emergency training course, and any health care facility absentee voting course.

Copies of all materials which will be distributed at the training sessions shall be submitted with the training plan or as soon thereafter as they are available.

The training plan shall be subject to approval by the secretary of state, who shall approve the plan if it conforms to applicable state statutes and these rules.

If there is no change in the approved training plan on file with the secretary of state, the training authority need not submit a new training plan until a change occurs.

**Statutory Authority:** *MS s 201.022; 201.221; 204B.25; 204C.361; 206.57*

**History:** *12 SR 2215*

**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 chairman 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, or voter complaints and shall answer questions of the chairman judges.

**Statutory Authority:** *MS s 204B.25*

**8240.2600 TRAINING EVALUATION.**

Each training authority shall complete a training evaluation form provided by the secretary of state after each election for which election judge training is conducted.

**Statutory Authority:** *MS s 204B.25*

## CHAPTER 8250 SECRETARY OF STATE WHITE BALLOTS

### PREPARING WHITE BALLOT

#### 8250.0100 DEFINITION OF WHITE BALLOT.

The "white ballot" is the ballot used at general elections and is the ballot on which are printed the names of the candidates appearing on the presidential ballot and those candidates nominated for the offices of United States senator, United States representative, state senator, state representative, governor and lieutenant governor, secretary of state, state auditor, state treasurer, and attorney general.

**Statute Authority:** *MS s 204D.11 subd 1; 206.57 subd 1*

**History:** *8 SR 1348; 13 SR 347*

#### 8250.0200 AUDITOR'S DUTIES.

The white ballot shall be prepared under the direction of the county auditors in a sufficient number to enable the clerks to comply with the provisions of Minnesota Statutes, section 204B.29. The county auditors shall prepare and print the white ballot as soon as practicable, but in no event less than 30 days before the election. Two weeks before the general election the auditor shall file sample copies of the white ballot in the auditor's office for public inspection. Ballots for distribution in the polling place must be bound in pads of 50.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *8 SR 1348; 10 SR 1690*

#### 8250.0300 FORM OF BALLOTS.

The white ballot shall be printed with black ink on white paper as close as practicable to 30 pound. The ballot shall be 5-1/4 inches wide and printed so as to be easily legible, with suitable lines for divisions between candidates, offices, instructions, and other matter proper to be printed on the ballot. The auditor 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 his choice easily and accurately.

**Statutory Authority:** *MS s 204D.11*

#### 8250.0350 FORM OF STATE PRIMARY BALLOT.

The state partisan primary paper ballot must be prepared in the same manner as the white ballot, except as provided in this part. Ballot preparation for the state partisan primary ballot used with optical scan voting systems must conform to this part as much as practicable. The columns containing the names of candidates must be 5-1/4 inches wide. If fewer than three major political parties appear on the ballot, the center column containing instructions must be three inches wide.

The statements required by Minnesota Statutes, section 204D.08, subdivision 4, must be printed in upper case in as large as practicable but not smaller than 10-point type. Directly above the statement preceding the party names the words "INSTRUCTIONS TO VOTERS" must be printed in upper case and bold face in as large as practicable but not smaller than 12-point type.

**Statutory Authority:** *MS s 201.022; 201.221; 203B.08; 203B.09; 204B.25; 204B.45; 204C.361; 204D.08; 204D.11; 206.57; 207A.09*

**History:** *14 SR 2355; 17 SR 8*

#### 8250.0360 FORM OF PRESIDENTIAL PRIMARY BALLOTS.

Subpart 1. **General form.** The presidential primary ballot must be prepared in the same manner as the white ballot, except as provided in this part. Ballot pages and ballot cards

for electronic voting systems must be prepared in the manner provided for paper ballots to the extent practicable.

Subp. 2. **Ballot heading.** The words "PRESIDENTIAL PRIMARY BALLOT" must be printed at the top of the ballot. Directly underneath this heading, the words " ..... PARTY" must be printed, giving the appropriate party name.

Subp. 3. **Instruction to voters.** The following instruction must be printed directly below the paper ballot heading: "Put an (X) in the square opposite the name of the candidate you wish to vote for or next to the words 'UNCOMMITTED DELEGATES'." A small arrow pointing downward must be printed to the left of this instruction, directly above the column in which a voter's marks are to be made.

Subp. 4. **Office title.** The title "PRESIDENT OF THE UNITED STATES" must be printed in upper case and bold face directly above the names of the candidates. The instruction "VOTE FOR ONE" must be printed below the office title.

Subp. 5. **Order of candidates.** The secretary of state or the county auditor shall prepare a separate ballot for each major political party containing the names of the candidates of each party certified by the secretary of state. The names of the candidates must be rotated in the manner provided in Minnesota Statutes, section 204D.08, subdivision 3. In the first position under the last candidate name, the words "UNCOMMITTED DELEGATES" must be printed. In the second position under the last candidate name, a blank line must be printed to allow a voter to write in the name of an individual whose name is not listed on the ballot.

**Statutory Authority:** *MS s 201.022; 201.091; 201.221; 203B.08; 203B.09; 204B.25; 204B.45 204C.361; 204D.11; 206.57; 207A.09*

**History:** *15 SR 2308; 17 SR 8*

#### **8250.0400 TOP OF BALLOT.**

At the top of the white ballot shall be printed in upper and lowercase letters the words "Put an (X) in the square opposite the name of each candidate you wish to vote for." On the left side of the words and directly above the squares in which a voter marks his choices shall be printed a small arrow pointing downward.

**Statutory Authority:** *MS s 204D.11*

#### **8250.0500 BALLOT HEADING.**

Below the marking instructions on the white ballot shall be printed the words "STATE GENERAL ELECTION BALLOT" in uppercase letters.

**Statutory Authority:** *MS s 204D.11*

#### **8250.0600 OFFICES.**

The offices must appear on the white ballot in the following order and must be identified as follows in upper case letters:

"PRESIDENT AND VICE-PRESIDENT"  
 "UNITED STATES SENATOR"  
 "UNITED STATES REPRESENTATIVE"  
 "STATE SENATOR"  
 "STATE REPRESENTATIVE"  
 "GOVERNOR AND LIEUTENANT GOVERNOR"  
 "SECRETARY OF STATE"  
 "STATE AUDITOR"  
 "STATE TREASURER"  
 "ATTORNEY GENERAL"

"United States" may be abbreviated as "U.S." If an office is not to be filled at a general election, the office must not appear on the ballot. Directly underneath the titles of the offices of United States representative and state senator and representative must be printed in upper case letters or numbers the district (for example: "SIXTH DISTRICT," "DIS-

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TRICT SIX," or "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.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.361; 204D.11; 206.57*

**History:** *8 SR 1348; 10 SR 1690; 13 SR 347*

### **8250.0700 NUMBER OF CANDIDATES.**

Directly underneath the title and identification of each office shall be printed in uppercase letters the words "VOTE FOR ONE" or more, according to the number to be elected.

**Statutory Authority:** *MS s 204D.11*

### **8250.0800 NAMES OF CANDIDATES.**

The full name of each candidate shall be printed in uppercase letters and at right angles to the length of the white ballot. At least 32 days before a general election, the secretary of state shall certify to each county auditor the nominations that are required by law to be certified by the secretary and that are required by law to appear on the ballot in the county. 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 he 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; 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 the candidates and the blank lines, there shall be placed squares, each square to be of the same size, in which the voter may designate his 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.

**Statutory Authority:** *MS s 204D.11*

### **8250.0900 DESIGNATION OF CANDIDATE.**

Above or below the name of each candidate for a partisan office must appear in upper and lower case letters the designation in not more than three words of the party or principle the candidate represents. Words used in the name of a political party as defined in Minnesota Statutes, section 200.02, subdivision 6, may not be used to identify the party of a candidate of any other party. The word "nonpartisan" may not be used in the designation of any candidate.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11; 206.57 subd 1*

**History:** *8 SR 1348*

### **8250.1000 ORDER OF CANDIDATES.**

Before a general election, 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 6, must appear for every partisan office on the white 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 6, and in the order in which the petitions were filed with the filing officer.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11; 206.57 subd 1*

**History:** *8 SR 1348*

### **8250.1100 BACK OF BALLOT.**

On the back of the white 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 so placed as to be visible when the ballot is properly folded for deposit.

**Statutory Authority:** *MS s 204D.11*

**8250.1200 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 close to 8-point Century Bold type as practicable.

The words "STATE GENERAL ELECTION BALLOT" must be printed in upper case in as close to 18-point Franklin Gothic type as practicable.

The office and its identification must be printed in upper case in as close to 10-point Century Bold type as practicable.

The words "VOTE FOR ONE" must be printed in upper case in as close to 8-point Century Bold type as practicable.

The names of the candidates must be printed in upper case in as close to 8-point Century Bold type as practicable.

The party designation or political principle must be printed in upper and lower case in as close to 8-point Century Bold type as practicable.

The words "OFFICIAL BALLOT" on the back of the ballot must be printed in upper case in as close to 18-point Cheltenham Bold as practicable, the date in upper case in as close to 8-point Antique as practicable, and the word "Judge" in upper and lower case in as close to 10-point Caslon Old Face Italic as practicable.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11; 206.57 subd 1*

**History:** 8 SR 1348

**8250.1300** [Repealed, 8 SR 1348]

**8250.1400 EXAMPLE BALLOT.**

At least 42 days before the presidential primary, state primary, and state general election, the secretary of state shall supply each auditor with a copy of an example ballot. The example ballot must illustrate the format required for the presidential primary, state primary, and state general election ballots. The presidential primary, state primary, and state general election ballots must conform in all respects to the example ballot.

**Statutory Authority:** *MS s 201.091; 201.221; 203B.09; 204C.35; 204C.361; 204D.08; 204D.11; 206.57; 207A.09*

**History:** 8 SR 1348; 14 SR 2355; 15 SR 2308

**8250.1500 WHITE BALLOT APPROPRIATION.**

Following every state general election, the secretary of state shall calculate and pay to each county its proportionate share of the money appropriated by the state for white ballot costs. Proportionate shares must be based on the number of voters at the election as certified on the county abstract and the total number of congressional, state senate, and state house districts in the county. The amount to be paid per voter must be 80 percent of the money appropriated divided by the total number of persons voting at the election as certified on the state canvassing board report. The amount to be paid per district shall be 20 percent of the money appropriated divided by the aggregate of districts in all counties. No funds may be disbursed to any county until after the county auditor has certified to the secretary of state that the white ballots were printed as prescribed by Minnesota Statutes and parts 8250.0100 to 8250.1400 and that the summary statement and abstract prepared by the county conformed to the forms prescribed by the secretary of state pursuant to Minnesota Statutes, section 204C.26, subdivision 3.

**Statutory Authority:** *MS s 201.221; 203B.09; 204C.35; 204C.361; 204D.11; 206.57 subd 1*

**History:** 8 SR 1348

**8250.1550 REIMBURSEMENT OF PRESIDENTIAL PRIMARY BALLOT COSTS.**

The secretary of state shall reimburse each county using lever voting machines or electronic voting systems for the preparation of ballot cards, ballot labels, and ballot pages for the presidential primary election, as provided in Minnesota Statutes, section 207A.07, from the money appropriated by the legislature for this purpose. The county auditor shall submit a request for payment of ballot costs to the secretary of state no later than 30 days after the presidential primary. The request for payment must be accompanied by an itemized description of actual county expenditures, including copies of invoices. In addition, the county auditor must certify that the request for reimbursement is based on actual ballot costs incurred by the county in the presidential primary and that the ballots were prepared in the manner provided by law. The secretary of state shall complete issuance of reimbursements to the counties no later than 60 days after the presidential primary.

If the total amount of requests for reimbursement of ballot costs from all counties exceeds the total amount appropriated by the legislature for this purpose, the secretary of state shall apportion the reimbursements to the counties on the basis of the number of persons in each county registered to vote at 7:00 a.m. on the day of the presidential primary as a fraction of the total number of persons registered to vote in the state at that time.

**Statutory Authority:** *MS s 201.091; 201.221; 207A.09*

**History:** *15 SR 2308*

BALLOTS FOR ELECTRONIC VOTING SYSTEMS

**8250.1600 APPLICABILITY.**

Parts 8250.1600 to 8250.1800 apply to electronic voting systems, as defined in Minnesota Statutes, section 206.56, subdivision 8. To the extent possible, parts 8250.0100 to 8250.1500 apply to the use of electronic voting systems, unless otherwise provided.

**Statutory Authority:** *MS s 204D.11 subd 1; 206.57 subd 1*

**History:** *13 SR 347*

**8250.1700 FORMAT OF BALLOT PAGES FOR PUNCH CARD SYSTEMS.**

Subpart 1. **Form.** Punch card ballot pages must be printed in the form illustrated in part 8250.9910.

Subp. 2. **Order of office groups.** For purposes of organization, the ballot pages must be divided into separate sections and headed by the following titles:

"FEDERAL OFFICES"

"STATE OFFICES"

"CONSTITUTIONAL AMENDMENTS"

The titles must be printed in upper case and bold face in as large as practicable but no smaller than 36-point type and must be carried on each ballot page that contains an office for a particular category.

Subp. 3. **Office titles.** The office titles must be printed in upper case and bold face in as large as practicable but no smaller than 14-point type. The first legislative office appearing on the ballot must be printed at the top of the page, under the title "STATE OFFICES."

The instruction "VOTE FOR ONE" or "VOTE FOR ONE TEAM" must be printed in upper case and bold face in as large as practicable but no smaller than 10-point type.

Subp. 4. **Candidate and party names.** The candidate names must be printed in upper case and bold face in as large as practicable but no smaller than 12-point type. The party name must be printed under the candidate name in as large as practicable but no smaller than 8-point type.

Subp. 5. **Ballot position numbers.** The appropriate ballot position number must be printed on the same line as the candidate's name in as large as practicable but no smaller than 14-point type.

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Subp. 6. **Precinct identifiers.** The name of the municipality and the ward and precinct number, if any, for which the ballot page has been prepared must be printed on the bottom of each page on which candidate names appear. The date of the election must be printed next to the precinct identifier. In addition, each ballot page for a precinct must be sequentially numbered. The page number must be printed in bold face in as large as practicable but no smaller than 10-point type.

Subp. 7. **Questions.** The subject of a proposed question must be printed in upper case and bold face in as large as practicable but no smaller than 14-point type. The question must be printed in bold face in as large as practicable but no smaller than 12-point type. The words "YES" and "NO" must be printed to the left of the appropriate ballot position number in upper case and bold face in as large as practicable but no smaller than 14-point type.

Subp. 8. **Party preference indicator.** In partisan primary elections, the ballot booklet must include a place to allow the voter to indicate the primary election in which the voter intends to vote. This party preference indicator must appear on the first ballot page preceding the pages containing the partisan offices. The page containing the party preference indicators must be printed in the form illustrated in part 8250.9920.

Subp. 9. **Designation of party colors.** The secretary of state shall notify the county auditor of each county of any colors used to designate a major political party at a state election. Notification must be made at the same time that the secretary of state certifies the names of the candidates to be nominated at the state primary election.

Subp. 10. **Color of ballot pages.** The names of candidates to be nominated for each major political party at a partisan primary election must be printed on pages of the color required by statute for that party. No page may contain the candidates of more than one major political party. All pages containing nonpartisan candidates or questions and the page containing the party preference indicator must be white.

Subp. 11. **Instructions to voters.** On ballot pages containing two offices, a vertical arrow must be printed perpendicular to the office titles in the space separating the offices. The arrow must point from the first office on the page toward the second office on the page. At the midpoint of the length of the arrow, the arrow must be broken with a space three-eighths of an inch in length. In this space, the words "CONTINUE VOTING" must be printed horizontally in upper case and boldface in as large as practicable but no smaller than 14-point type.

**Statutory Authority:** *MS s 204D.11 subd 1; 206.57 subd 1*

**History:** *13 SR 347; 15 SR 802*

### **8250.1800 FORMAT OF BALLOT CARDS FOR OPTICAL SCAN SYSTEMS.**

Subpart 1. **Type sizes.** The type sizes in items A to D must be used in the printing of ballot cards.

A. The titles "FEDERAL OFFICES," "STATE OFFICES," and "CONSTITUTIONAL AMENDMENTS" must be printed in upper case and bold face in as large as practicable but no smaller than 14-point type.

B. The office titles must be printed in upper case and bold face in as large as practicable but no smaller than 10-point type. Immediately under each office title, the instruction "VOTE FOR ONE" or "VOTE FOR ONE TEAM" must be printed in upper case and bold face in as large as practicable but no smaller than 8-point type.

C. The candidate names must be printed in upper case in as large as practicable but no smaller than 10-point type. The party name must be printed under the candidate name in as large as practicable but no smaller than 8-point type.

D. The subject of a proposed question must be printed in upper case and bold face in as large as practicable but no smaller than 10-point type. The question must be printed in bold face in as large as practicable but no smaller than 8-point type. The words "YES" and "NO" must be printed to the left of the vote targets in upper case and bold face in as large as practicable but no smaller than 10-point type.



Subp. 2. **Vote targets.** The target used to indicate to the voters where to mark their votes may be either an arrow pointing toward the candidate name or a horizontal oval next to the candidate name. 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. 3. **Extraneous marks.** No election official may place marks on the ballot other than those provided in Minnesota Statutes, section 204C.09, subdivision 1.

**Statutory Authority:** *MS s 204D.11 subd 1; 206.57 subd 1*

**History:** *13 SR 347*

**FORMS**

**8250.9910 SAMPLE PUNCH CARD BALLOT PAGE FORM, SPECIFIED BY PART 8250.1700.**

<b>FEDERAL OFFICES</b>	
<b>U.S. PRESIDENT AND VICE-PRESIDENT</b> VOTE FOR ONE TEAM	
<b>CANDIDATE NAME AND CANDIDATE NAME</b> 00      → Party Name	
<b>CANDIDATE NAME AND CANDIDATE NAME</b> 00      → Party Name	
<b>UNITED STATES SENATOR</b> VOTE FOR ONE	
<b>CANDIDATE NAME</b> 00      → Party Name	
<b>CANDIDATE NAME</b> 00      → Party Name	
<b>UNITED STATES REPRESENTATIVE</b> VOTE FOR ONE <b>DISTRICT</b> _____	
<b>CANDIDATE NAME</b> 00      → Party Name	
<b>CANDIDATE NAME</b> 00      → Party Name	
<b>TURN PAGE</b> → <b>TO CONTINUE VOTING</b>	
City or town ward _____	Precinct _____
Date of Election _____	

<b>STATE OFFICES</b>	
<b>STATE SENATOR</b> DISTRICT _____	VOTE FOR ONE
<b>CANDIDATE NAME</b> Party Name	00 →
<b>CANDIDATE NAME</b> Party Name	00 →
<b>STATE REPRESENTATIVE</b> DISTRICT _____	VOTE FOR ONE
<b>CANDIDATE NAME</b> Party Name	00 →
<b>CANDIDATE NAME</b> Party Name	00 →
<b>GOVERNOR AND LIEUTENANT GOVERNOR</b>	VOTE FOR ONE TEAM
<b>CANDIDATE NAME and</b> <b>CANDIDATE NAME</b> Party Name	00 →
<b>CANDIDATE NAME and</b> <b>CANDIDATE NAME</b> Party Name	00 →
<p><b>TURN PAGE</b></p> <p>→</p> <p><b>TO CONTINUE VOTING</b></p>	
City or town ward _____	Precinct _____
Date of Election _____	

**Statutory Authority:** *MS s 204D.11 subd 1; 206.57 subd 1*  
**History:** *13 SR 347*

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8250.9920 FORM OF PAGE CONTAINING PARTY PREFERENCE INDICATOR.

POLITICAL PARTY PREFERENCE INDICATOR

MINNESOTA ELECTION LAW PERMITS YOU TO VOTE FOR THE CANDIDATES OF ONLY ONE POLITICAL PARTY IN A STATE PARTISAN PRIMARY ELECTION. PLEASE INDICATE THE PRIMARY ELECTION IN WHICH YOU CHOOSE TO VOTE BY PUNCHING THE POSITION NEXT TO THE PARTY NAME, THEN BEGIN VOTING BY TURNING TO THE PAGES INDICATED BELOW.

.....  
(name of political party) ..... 00  
PRIMARY ELECTION  
TURN TO THE xxxxx PAGES STARTING ON PAGE nn

.....  
(name of political party) ..... 00  
PRIMARY ELECTION  
TURN TO THE xxxxx PAGES STARTING ON PAGE nn

.....  
YOU MAY VOTE FOR CANDIDATES FOR NONPARTISAN OFFICES ON THE WHITE PAGES EVEN IF YOU CHOOSE NOT TO VOTE IN ONE OF THE PARTISAN PRIMARY ELECTIONS.

**Statutory Authority:** *MS s 204D.11 subd 1; 206.57 subd 1*  
**History:** *13 SR 347*

## CHAPTER 8255 SECRETARY OF STATE REDISTRICTING

1993 Update

### 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 four weeks after the adoption of the legislative plan.

B. Wards must be redistricted no later than four weeks after the adoption of the legislative plan.

C. Local government election districts must be redistricted no later than six weeks 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:** *M.S. 204B.14*

### 8255.0020 ESTABLISHMENT OF PRECINCT BOUNDARIES LACKING RECOGNIZABLE PHYSICAL FEATURES.

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 203B.08; 203B.09; 203B.125; 203B.14; 204B.14; 204B.45*

**History:** *16 SR 2026; 17 SR 351*

### 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:** *M.S. 204B.14*

**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:** *M.S. 204B.14*

**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:** *M.S. 204B.14*

- Absentee voting
  - Administration of act by municipal clerk, 203B.05
  - Administrative expense, payment, 203B.15, 203B.27
  - Affidavits, 203B.07, 203B.21
  - Application for ballots, see Ballots.
  - Ballot boards
    - Compensation of members, 203B.13
    - Duties, 203B.12, 203B.13
    - Establishment, 203B.13
  - Ballots
    - Applications
      - Deer license, providing with, 97A.485
      - Delivery, 203B.06
      - Military personnel, 203B.17, 203B.19
      - Misdelivered, forwarding, 203B.18
      - Nonresidents, 203B.17, 203B.19
      - Preservation of records, 203B.06, 203B.26
      - Printing, preparation, 203B.06
      - Procedures, generally, 203B.04
      - Submission to incorrect person, requirements, 203B.06
    - Classification of data, 13.37
    - Delivery to election judges, 203B.10, 203B.23
    - Directions for use, 203B.07
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