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State of Minnesota
HOUSE OF REPRESENTATIVES

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SESSION

HOUSE FILE No. 1284

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The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform,
Technology and Elections

1.1 A bill for an act
1.2 relating to elections; changing and clarifying certain provisions; amending
1.3 Minnesota Statutes 2008, sections 203B.02, subdivision 3; 203B.04, subdivision
1.4 1; 203B.06, subdivision 5; 203B.19; 204B.04, subdivision 2; 204B.135,
1.5 subdivision 4; 204B.22, subdivisions 1, 2; 204B.27, subdivision 3; 204C.12,
1.6 subdivision 2; 204C.35, subdivision 2; 204C.36, subdivisions 3, 4; 204D.10,
1.7 subdivision 1; 204D.20, subdivision 1; 205.07, by adding a subdivision;
1.8 205.075, subdivision 1; 205A.05, subdivision 1; 205A.11, subdivision 3; 208.03;
1.9 proposing coding for new law in Minnesota Statutes, chapter 205A; repealing
1.10 Minnesota Statutes 2008, sections 3.22; 204B.22, subdivision 3; 204D.10,
1.11 subdivision 2; 206.57, subdivision 7; 206.91.

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

1.13 Section 1. Minnesota Statutes 2008, section 203B.02, subdivision 3, is amended to read:

1.14 Subd. 3. **Permanent Indefinite residence abroad.** A United States citizen living
1.15 ~~permanently~~ indefinitely outside the United States who is eligible under federal law to
1.16 vote in federal elections in Minnesota may vote by absentee ballot only as provided in
1.17 sections 203B.16 to 203B.27.

1.18 Sec. 2. Minnesota Statutes 2008, section 203B.04, subdivision 1, is amended to read:

1.19 Subdivision 1. **Application procedures.** Except as otherwise allowed by
1.20 subdivision 2 or by section 203B.11, subdivision 4, an application for absentee ballots
1.21 for any election may be submitted at any time not less than one day before the day of
1.22 that election. The county auditor shall prepare absentee ballot application forms in the
1.23 format provided by the secretary of state, ~~notwithstanding rules on absentee ballot forms,~~
1.24 and shall furnish them to any person on request. By January 1 of each even-numbered
1.25 year, the secretary of state shall make the forms to be used available to auditors through

2.1 electronic means. An application submitted pursuant to this subdivision shall be in writing
2.2 and shall be submitted to:

- 2.3 ~~(a)~~ (1) the county auditor of the county where the applicant maintains residence; or
2.4 ~~(b)~~ (2) the municipal clerk of the municipality, or school district if applicable, where
2.5 the applicant maintains residence.

2.6 An application shall be approved if it is timely received, signed and dated by the
2.7 applicant, contains the applicant's name and residence and mailing addresses, and states
2.8 that the applicant is eligible to vote by absentee ballot for one of the reasons specified in
2.9 section 203B.02. The application may contain a request for the voter's date of birth, which
2.10 must not be made available for public inspection. An application may be submitted to
2.11 the county auditor or municipal clerk by an electronic facsimile device. An application
2.12 mailed or returned in person to the county auditor or municipal clerk on behalf of a voter
2.13 by a person other than the voter must be deposited in the mail or returned in person to
2.14 the county auditor or municipal clerk within ten days after it has been dated by the voter
2.15 and no later than six days before the election. The absentee ballot applications or a list of
2.16 persons applying for an absentee ballot may not be made available for public inspection
2.17 until the close of voting on election day.

2.18 An application under this subdivision may contain an application under subdivision
2.19 5 to automatically receive an absentee ballot application.

2.20 Sec. 3. Minnesota Statutes 2008, section 203B.06, subdivision 5, is amended to read:

2.21 Subd. 5. **Preservation of records.** An application for absentee ballots shall be
2.22 dated by the county auditor or municipal clerk when it is received and shall be initialed
2.23 when absentee ballots are mailed or delivered to the applicant. All applications shall be
2.24 preserved by the county auditor or municipal clerk ~~and arranged according to precincts~~
2.25 ~~and the initial letter of the applicant's surname~~ for 22 months.

2.26 Sec. 4. Minnesota Statutes 2008, section 203B.19, is amended to read:

2.27 **203B.19 RECORDING APPLICATIONS.**

2.28 Upon accepting an application, the county auditor shall record in the statewide
2.29 registration system the voter's name, address of present or former residence in Minnesota,
2.30 mailing address, school district number, passport number, Minnesota driver's license
2.31 number or state identification card number, or the last four digits of the voter's Social
2.32 Security number, and whether the voter is in the military or the spouse or dependent of an
2.33 individual serving in the military, is a voter temporarily outside the territorial limits of the
2.34 United States, or is living permanently outside the territorial limits of the United States

3.1 and voting under federal law. The county auditor shall retain the record for six years. A
 3.2 voter whose name is recorded as provided in this section shall not be required to register
 3.3 under any other provision of law in order to vote under sections 203B.16 to 203B.27.
 3.4 Persons from whom applications are not accepted must be notified by the county auditor
 3.5 and provided with the reasons for the rejection.

3.6 No later than 60 days after the general election, the county auditor shall report to the
 3.7 secretary of state the combined number of absentee ballots transmitted to ~~absent voters~~
 3.8 ~~described in section 203B.16. No later than 60 days after the general election, the county~~
 3.9 ~~auditor shall report to the secretary of state~~ and the combined number of absentee ballots
 3.10 returned and cast by absent voters described in section 203B.16. The secretary of state
 3.11 may require the information be reported by category under section 203B.16 or by precinct.

3.12 No later than 90 days after the general election, the secretary of state shall report to
 3.13 the federal Election Assistance Commission the number of absentee ballots transmitted
 3.14 to voters under section 203B.16.

3.15 Sec. 5. Minnesota Statutes 2008, section 204B.04, subdivision 2, is amended to read:

3.16 Subd. 2. **Candidates seeking nomination by primary.** No individual who
 3.17 seeks nomination for any partisan or nonpartisan office at a primary shall be nominated
 3.18 for the same office by nominating petition, except as otherwise provided for ~~partisan~~
 3.19 ~~offices in section 204D.10, subdivision 2, and for nonpartisan offices in section 204B.13,~~
 3.20 subdivision 4.

3.21 Sec. 6. Minnesota Statutes 2008, section 204B.135, subdivision 4, is amended to read:

3.22 Subd. 4. **Special elections; limitations.** No municipality or school district may
 3.23 conduct a special election during the 19 weeks before the state primary election in the year
 3.24 ending in two, ~~except for special elections conducted on the date of the school district~~
 3.25 ~~general election.~~ A school district special election required by any other law may be
 3.26 deferred until the date of the next school district general election, the state primary
 3.27 election, or the state general election.

3.28 Sec. 7. Minnesota Statutes 2008, section 204B.22, subdivision 1, is amended to read:

3.29 Subdivision 1. **Minimum number required.** (a) A minimum of ~~three~~ four election
 3.30 judges shall be appointed for each precinct, except as provided by subdivision 2. In a
 3.31 combined polling place under section 204B.14, subdivision 2, at least one judge must be
 3.32 appointed from each municipality in the combined polling place, provided that not less
 3.33 than three judges shall be appointed for each combined polling place. The appointing

4.1 authorities may appoint election judges for any precinct in addition to the number required
4.2 by this subdivision including additional election judges to count ballots after voting has
4.3 ended.

4.4 (b) An election judge may serve for all or part of election day, at the discretion of
4.5 the appointing authority, as long as the minimum number of judges required is always
4.6 present. The head election judge designated under section 204B.20 must serve for all of
4.7 election day and be present in the polling place unless another election judge has been
4.8 designated by the head election judge to perform the functions of the head election judge
4.9 during any absence.

4.10 Sec. 8. Minnesota Statutes 2008, section 204B.22, subdivision 2, is amended to read:

4.11 Subd. 2. ~~Additional election judges in paper ballot precincts~~ **Exception.** ~~In~~
4.12 ~~precincts using paper ballots,~~ A minimum of three election judges shall be appointed in
4.13 precincts not using electronic voting equipment. One additional election judge shall be
4.14 appointed for each 150 votes cast in that precinct at the last similar election. ~~At each~~
4.15 ~~state primary or state general election in precincts using paper ballots and in which more~~
4.16 ~~than 300 votes were cast at the last similar election, additional election judges shall be~~
4.17 ~~appointed to count the ballots and complete the returns in place of the election board~~
4.18 ~~that served while voting was taking place.~~

4.19 Sec. 9. Minnesota Statutes 2008, section 204B.27, subdivision 3, is amended to read:

4.20 Subd. 3. **Instruction posters.** At least 25 days before every state primary election
4.21 the secretary of state shall prepare and furnish to the county auditor of each county ~~in~~
4.22 ~~which paper ballots are used,~~ voter instruction posters printed in large type upon cards or
4.23 heavy paper. The instruction posters must contain the information needed to enable the
4.24 voters to cast their paper ballots quickly and correctly and indicate the types of assistance
4.25 available for elderly and disabled voters. Two instruction posters shall be furnished for
4.26 each precinct ~~in which paper ballots are used.~~ Upon mutual agreement, the secretary of
4.27 state may provide the posters in an electronic format.

4.28 Sec. 10. Minnesota Statutes 2008, section 204C.12, subdivision 2, is amended to read:

4.29 Subd. 2. **Statement of grounds; oath.** A challenger must be a resident of this state.
4.30 The secretary of state shall prepare a form that challengers must complete and sign when
4.31 making a challenge. The form must include space to state the ground for the challenge,
4.32 a statement that the challenge is based on the challenger's personal knowledge, and a

5.1 statement that the challenge is made under oath. The form must include a space for the
5.2 challenger's printed name, signature, telephone number, and address.

5.3 An election judge shall administer to the challenged individual the following oath:

5.4 "Do you solemnly swear or affirm that you will fully and truly answer all questions
5.5 put to you concerning your eligibility to vote at this election?"

5.6 The election judge shall then ask the challenged individual sufficient questions to
5.7 test that individual's residence and right to vote.

5.8 Sec. 11. Minnesota Statutes 2008, section 204C.35, subdivision 2, is amended to read:

5.9 Subd. 2. **Discretionary candidate recount.** (a) A losing candidate whose name was
5.10 on the ballot for nomination or election to a statewide federal office, state constitutional
5.11 office, statewide judicial office, congressional office, state legislative office, or district
5.12 judicial office may request a recount in a manner provided in this section at the candidate's
5.13 own expense when the vote difference is greater than the difference required by this
5.14 section. The votes shall be manually recounted as provided in this section if the candidate
5.15 files a request during the time for filing notice of contest of the primary or election for
5.16 which a recount is sought.

5.17 (b) The requesting candidate shall file with the filing officer a bond, cash, or surety
5.18 in an amount set by the filing officer for the payment of the recount expenses. The
5.19 requesting candidate is responsible for the following expenses: the compensation of the
5.20 secretary of state, or designees, and any election judge, municipal clerk, county auditor,
5.21 administrator, or other personnel who participate in the recount; ~~the costs of computer~~
5.22 ~~operation, preparation of ballot counting equipment,~~ necessary supplies and travel
5.23 related to the recount; the compensation of the appropriate canvassing board and costs of
5.24 preparing for the canvass of recount results; and any attorney fees incurred in connection
5.25 with the recount by the governing body responsible for the recount.

5.26 (c) The requesting candidate may provide the filing officer with a list of up to three
5.27 precincts that are to be recounted first and may waive the balance of the recount after these
5.28 precincts have been counted. If the candidate provides a list, the recount official must
5.29 determine the expenses for those precincts in the manner provided by paragraph (b).

5.30 (d) If the winner of the race is changed by the optional recount, the cost of the
5.31 recount must be paid by the jurisdiction conducting the recount.

5.32 (e) If a result of the vote counting in the manual recount is different from the result
5.33 of the vote counting reported on election day by a margin greater than the standard for
5.34 acceptable performance of voting systems provided in section 206.89, subdivision 4, the
5.35 cost of the recount must be paid by the jurisdiction conducting the recount.

6.1 Sec. 12. Minnesota Statutes 2008, section 204C.36, subdivision 3, is amended to read:

6.2 Subd. 3. **Discretionary ballot question recounts.** A recount may be conducted
6.3 for a ballot question when the difference between the votes for and the votes against the
6.4 question is less than or equal to the difference provided in subdivision 1. A recount may
6.5 be requested by any person eligible to vote on the ballot question. A written request for a
6.6 recount must be filed with the filing officer of the county, municipality, or school district
6.7 placing the question on the ballot and must be accompanied by a petition containing the
6.8 signatures of 25 voters eligible to vote on the question. Upon receipt of a written request
6.9 when the difference between the votes for and the votes against the question is less than or
6.10 equal to the difference provided in subdivision 1, the county auditor shall recount the votes
6.11 for a county question at the expense of the county, the governing body of the municipality
6.12 shall recount the votes for a municipal question at the expense of the municipality, and the
6.13 school board of the school district shall recount the votes for a school district question at
6.14 the expense of the school district. If the difference between the votes for and the votes
6.15 against the question is greater than the difference provided in subdivision 1, the person
6.16 requesting the recount shall also file with the filing officer of the county, municipality, or
6.17 school district a bond, cash, or surety in an amount set by the appropriate governing body
6.18 for the payment of recount expenses. The written request, petition, and any bond, cash,
6.19 or surety required must be filed during the time for notice of contest for the election for
6.20 which the recount is requested.

6.21 Sec. 13. Minnesota Statutes 2008, section 204C.36, subdivision 4, is amended to read:

6.22 Subd. 4. **Expenses.** In the case of a question, a person, or a candidate requesting a
6.23 discretionary recount, is responsible for the following expenses: the compensation of the
6.24 secretary of state, or designees, and any election judge, municipal clerk, county auditor,
6.25 administrator, or other personnel who participate in the recount; ~~the costs of computer~~
6.26 ~~operation, preparation of ballot counting equipment,~~ necessary supplies and travel
6.27 related to the recount; the compensation of the appropriate canvassing board and costs of
6.28 preparing for the canvass of recount results; and any attorney fees incurred in connection
6.29 with the recount by the governing body responsible for the recount.

6.30 Sec. 14. Minnesota Statutes 2008, section 204D.10, subdivision 1, is amended to read:

6.31 Subdivision 1. **Partisan offices; nominees.** The candidate for nomination of a
6.32 major political party for a partisan office on the state partisan primary ballot who receives
6.33 the highest number of votes shall be the nominee of that political party for that office;
6.34 ~~except as otherwise provided in subdivision 2.~~

7.1 Sec. 15. Minnesota Statutes 2008, section 204D.20, subdivision 1, is amended to read:

7.2 Subdivision 1. **Special primary.** Except as provided in subdivision 2, the candidates
7.3 of the major political parties to fill a vacancy shall be nominated at a special primary. The
7.4 candidate of each party who receives the highest number of votes at the special primary
7.5 shall be nominated ~~without reference to the ten percent requirement of section 204D.10,~~
7.6 ~~subdivision 2.~~

7.7 Sec. 16. Minnesota Statutes 2008, section 205.07, is amended by adding a subdivision
7.8 to read:

7.9 Subd. 1a. **City council members; expiration of terms.** The terms of all city
7.10 council members of charter cities expire on the first Monday in January of the year in
7.11 which they expire.

7.12 Sec. 17. Minnesota Statutes 2008, section 205.075, subdivision 1, is amended to read:

7.13 Subdivision 1. **Date of election.** The general election in a town must be held on
7.14 the second Tuesday in March, except as provided in subdivision 2, or when moved for
7.15 bad weather as provided in section 365.51, subdivision 1.

7.16 Sec. 18. **[205A.045] SCHOOL DISTRICT TRANSITIONS.**

7.17 Subdivision 1. **Odd year to even.** The governing body of a school district that
7.18 determines to change from an odd-numbered year election to an even-numbered year
7.19 election may do so by adoption of a new resolution or ordinance that contains an orderly
7.20 plan for the transition.

7.21 The governing body of the school district shall select by lot the board members
7.22 whose terms will expire in January of the next odd-numbered year or January of the
7.23 following odd-numbered year. To the extent practicable, one-half of the members must
7.24 be elected in one of those years to establish staggered terms. The governing body of
7.25 the school district must complete the selection required by this paragraph no later than
7.26 30 days before the first day to file affidavits of candidacy for the election in which this
7.27 will take effect.

7.28 Subd. 2. **Even year to odd.** The governing body of a school district that determines
7.29 to change from an even-numbered year election to an odd-numbered year election may
7.30 do so by adoption of a new resolution or ordinance that contains an orderly plan for the
7.31 transition.

7.32 The governing body of the school district shall select by lot the board members
7.33 whose terms will expire in January of the next even-numbered year or January of the

8.1 following even-numbered year. To the extent practicable, one-half of the members must
8.2 be elected in one of those years to establish staggered terms. The governing body of
8.3 the school district must complete the selection required by this paragraph no later than
8.4 30 days before the first day to file affidavits of candidacy for the election in which this
8.5 will take effect.

8.6 Sec. 19. **[205A.046] SCHOOL BOARD MEMBER TERM EXPIRATION.**

8.7 The terms of all school board members expire on the first Monday in January of the
8.8 year in which they expire.

8.9 Sec. 20. Minnesota Statutes 2008, section 205A.05, subdivision 1, is amended to read:

8.10 Subdivision 1. **Questions.** Special elections must be held for a school district on a
8.11 question on which the voters are authorized by law to pass judgment. The school board
8.12 may on its own motion call a special election to vote on any matter requiring approval of
8.13 the voters of a district. Upon petition filed with the school board of 50 or more voters of
8.14 the school district or five percent of the number of voters voting at the preceding school
8.15 district general election, whichever is greater, the school board shall by resolution call
8.16 a special election to vote on any matter requiring approval of the voters of a district.
8.17 A question is carried only with the majority in its favor required by law. The election
8.18 officials for a special election are the same as for the most recent school district general
8.19 election unless changed according to law. Otherwise, special elections must be conducted
8.20 and the returns made in the manner provided for the school district general election. A
8.21 special election may not be held during the 30 days before and the 30 days after the state
8.22 primary, during the 30 days before and the 40 days after the state general election. In
8.23 addition, a special election may not be held during the 20 days before and the 20 days
8.24 after any regularly scheduled election of a municipality wholly or partially within the
8.25 school district. Notwithstanding any other law to the contrary, the time period in which a
8.26 special election must be conducted under any other law may be extended by the school
8.27 board to conform with the requirements of this subdivision.

8.28 Sec. 21. Minnesota Statutes 2008, section 205A.11, subdivision 3, is amended to read:

8.29 Subd. 3. **Procedure.** The designation of a polling place pursuant to this section
8.30 remains effective until a different polling place is designated. No designation of a new or
8.31 different polling place becomes effective less than 90 days prior to an election, except
8.32 that a new polling place may be designated to replace a polling place that has become
8.33 unavailable for use. The school board must notify the county auditor within 30 days after

9.1 the establishment of a polling place as provided in this section. The notice must include a
9.2 list of the precincts that will be voting at each polling place. The school board must send
9.3 the notice required by section 204B.16, subdivision 1a, after a polling place is established
9.4 as provided in this section, but no additional notices of this kind are required for any
9.5 subsequent similar elections until the location of the polling place or the combination
9.6 of precincts voting at the polling place is changed. The secretary of state shall provide
9.7 a single polling place roster for use in any polling place established as provided in this
9.8 section. A single set of election judges must be appointed to serve in the polling place.
9.9 The number of election judges required must be based on the total number of persons
9.10 voting at the last similar election in all the precincts to be voting at the single polling
9.11 place. A single ballot box may be provided for all the ballots.

9.12 Sec. 22. Minnesota Statutes 2008, section 208.03, is amended to read:

9.13 **208.03 NOMINATION OF PRESIDENTIAL ELECTORS.**

9.14 Presidential electors for the major political parties of this state shall be nominated by
9.15 delegate conventions called and held under the supervision of the respective state central
9.16 committees of the parties of this state. On or before primary election day the chair of
9.17 the major political party shall certify to the secretary of state the names of the persons
9.18 nominated as presidential electors, the names of eight alternate presidential electors, and
9.19 the names of the party candidates for president and vice president. The chair shall also
9.20 certify that the party candidates for president and vice president have no affidavit on file as
9.21 a candidate for any office in this state at the ensuing general election.

9.22 Sec. 23. **REPEALER.**

9.23 Minnesota Statutes 2008, sections 3.22; 204B.22, subdivision 3; 204D.10,
9.24 subdivision 2; 206.57, subdivision 7; and 206.91, are repealed.

3.22 PAYMENT.

The publisher of each newspaper publishing the proposed amendments shall, before receiving fees for the publication and before the first day of January following an election year, file with the secretary of state an affidavit showing the qualification and legality of the newspaper and stating that the amendments have been published as required by law.

204B.22 ELECTION JUDGES; NUMBER REQUIRED.

Subd. 3. **Minimum number required in certain precincts.** At each state primary or state general election in precincts using 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.

204D.10 PRIMARY RESULTS; NOMINEES.

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, and attorney general.

206.57 EXAMINATION OF NEW VOTING SYSTEMS.

Subd. 7. **Election assistance commission standards.** If the federal Election Assistance Commission has not established by January 1, 2006, standards for an electronic ballot marker or other voting system component that is required to enable a voting system to meet the requirements of subdivision 5, the secretary of state may certify the voting system on an experimental basis pending the completion of federal standards, notwithstanding subdivision 6. Within two years after the Election Assistance Commission issues standards for a voting system component used in a voting system authorized under this subdivision, the secretary of state must review or reexamine the voting system to determine whether the system conforms to federal standards.

206.91 VOTING MACHINES OPTIONS WORKING GROUP.

(a) A working group is hereby established to investigate and recommend to the legislature requirements for additional options for voting equipment that complies with the requirements of section 301 of the Help America Vote Act, Public Law 107-252, to provide private and independent voting for individuals with disabilities.

The working group must be cochaired by representatives of the Minnesota Disability Law Center and Citizens for Election Integrity - Minnesota.

(b) The working group must convene its first meeting by June 30, 2006, and must report to the legislature by February 15, 2007.

(c) The working group must include, but is not limited to:

(1) the disability community;

(2) the secretary of state;

(3) county and local election officials;

(4) major and minor political parties;

(5)(i) one member of the senate majority caucus and one member of the senate minority caucus appointed by the Subcommittee on Committees of the Committee on Rules and Administration; and

(ii) one member of the house of representatives majority caucus and one member of the house of representatives minority caucus appointed by the speaker;

(6) nonpartisan organizations;

(7) at least one individual with computer security expertise and knowledge of elections; and

(8) members of the public, other than vendors of election equipment, selected by consensus of the other members, including representatives of language and other minorities.

APPENDIX

Repealed Minnesota Statutes: 09-1863

- (d) Members of the working group will be selected by:
- (1) a representative of the Office of the Secretary of State;
 - (2) a representative of the county election officials;
 - (3) the cochaIRS; and
 - (4) two legislators representing each party.