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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 1259

February 22, 2007

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

March 15, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to elections; changing certain procedures and requirements for absent
1.3 voters; providing for certain emergency situations; authorizing rulemaking;
1.4 amending Minnesota Statutes 2006, sections 203B.16, subdivision 2; 203B.17,
1.5 subdivision 2; 203B.21, subdivisions 2, 3; 203B.22; 203B.24, subdivision 1;
1.6 proposing coding for new law in Minnesota Statutes, chapter 203B.

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

1.8 Section 1. Minnesota Statutes 2006, section 203B.16, subdivision 2, is amended to read:

1.9 Subd. 2. **Permanent residence outside United States.** Sections 203B.16 to
1.10 203B.27 provide the exclusive voting procedure for United States citizens who are
1.11 living permanently outside the territorial limits of the United States who meet all the
1.12 qualifications of an eligible voter except residence in Minnesota, but who are authorized
1.13 by federal law to vote in Minnesota because they maintained residence in Minnesota for
1.14 at least 20 days immediately prior to their departure from the United States or because,
1.15 although they have never resided in the United States, they have a parent who is eligible to
1.16 vote in Minnesota. Individuals described in this subdivision shall be permitted to vote
1.17 only for the offices of president, vice-president, senator in Congress, and representative in
1.18 Congress.

1.19 Sec. 2. Minnesota Statutes 2006, section 203B.17, subdivision 2, is amended to read:

1.20 Subd. 2. **Required information.** An application shall be accepted if it contains the
1.21 following information stated under oath:

1.22 (a) the voter's name, birthdate, and present address of residence in Minnesota, or
1.23 former address of residence in Minnesota if the voter is living permanently outside the
1.24 United States;

2.1 (b) a statement indicating that the voter is in the military, or is the spouse or
2.2 dependent of an individual serving in the military, or is temporarily outside the territorial
2.3 limits of the United States, or is living permanently outside the territorial limits of the
2.4 United States and voting under federal law;

2.5 (c) a statement that the voter expects to be absent from the precinct at the time
2.6 of the election;

2.7 (d) the address to which absentee ballots are to be mailed;

2.8 (e) the voter's signature or the signature and relationship of the individual authorized
2.9 to apply on the voter's behalf; and

2.10 (f) the voter's military identification card number, passport number, or Minnesota
2.11 driver's license or state identification card number; if the voter does not have a ~~valid~~
2.12 ~~passport or identification card, the signed statement of an individual authorized to~~
2.13 ~~administer oaths or a commissioned or noncommissioned officer of the military not~~
2.14 ~~below the rank of sergeant or its equivalent, certifying that the voter or other individual~~
2.15 ~~requesting absentee ballots has attested to the truthfulness of the contents of the application~~
2.16 ~~under oath.~~

2.17 ~~The oath taken must be the standard oath prescribed by section 101(b)(7) of the~~
2.18 ~~Uniformed and Overseas Citizens Absentee Voting Act.~~

2.19 ~~A form for providing this information shall be prepared by each county auditor and~~
2.20 ~~shall be furnished to individuals who request it pursuant to this section.~~ access to any of
2.21 these documents, the voter may attest to the truthfulness of the contents of the application
2.22 under penalty of perjury.

2.23 Sec. 3. Minnesota Statutes 2006, section 203B.21, subdivision 2, is amended to read:

2.24 Subd. 2. **Mailing of ballots; return.** Ballots and instructions for marking them,
2.25 ballot envelopes, and return envelopes shall be sent by first class mail to addresses within
2.26 the continental United States and by air mail to addresses outside the continental United
2.27 States, unless the voter requests to have the ballot, instructions, and certificate of voter
2.28 eligibility sent electronically, as provided for by section 203B.225. The ballot envelope
2.29 and return envelope shall be marked "Official Ballot," and shall contain sufficient postage
2.30 to assure proper return delivery. The return envelope shall be addressed to comply with any
2.31 method for return of absentee ballots as authorized under section 203B.08, subdivision 2.

2.32 Sec. 4. Minnesota Statutes 2006, section 203B.21, subdivision 3, is amended to read:

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

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

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

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

3.6 (d) a statement that the voter personally marked the ballots without showing them to
3.7 anyone, or if physically unable to mark them, that the voter directed another individual
3.8 to mark them; and

3.9 (e) the same voter's military identification card number, passport number, or
3.10 Minnesota driver's license or state identification card number as provided on the absentee
3.11 ballot application; if the voter does not have a ~~valid passport or identification card,~~
3.12 ~~the signature and certification of an individual authorized to administer oaths under~~
3.13 ~~federal law or the law of the place where the oath was administered or commissioned or~~
3.14 ~~noncommissioned personnel of the military not below the rank of sergeant or its equivalent~~
3.15 access to any of these documents, the voter may attest to the truthfulness of the contents of
3.16 the application under penalty of perjury.

3.17 The affidavit shall also contain a signed and dated oath in the form required by
3.18 section 705 of the Help America Vote Act, Public Law 107-252, which must read:

3.19 "I swear or affirm, under penalty of perjury, that:

3.20 I am a member of the uniformed services or merchant marine on active duty or
3.21 an eligible spouse or dependent of such a member; a United States citizen temporarily
3.22 residing outside the United States; or other United States citizen residing outside the
3.23 United States; and I am a United States citizen, at least 18 years of age (or will be by the
3.24 date of the election), and I am eligible to vote in the requested jurisdiction; I have not
3.25 been convicted of a felony, or other disqualifying offense, or been adjudicated mentally
3.26 incompetent, or, if so, my voting rights have been reinstated; and I am not registering,
3.27 requesting a ballot, or voting in any other jurisdiction in the United States except the
3.28 jurisdiction cited in this voting form. In voting, I have marked and sealed my ballot in
3.29 private and have not allowed any person to observe the marking of the ballot, except for
3.30 those authorized to assist voters under state or federal law. I have not been influenced.

3.31 My signature and date below indicate when I completed this document.

3.32 The information on this form is true, accurate, and complete to the best of my
3.33 knowledge. I understand that a material misstatement of fact in completion of this
3.34 document may constitute grounds for a conviction for perjury."

4.1 Sec. 5. Minnesota Statutes 2006, section 203B.22, is amended to read:

4.2 **203B.22 MAILING BALLOTS.**

4.3 The county auditor shall mail the appropriate ballots, as promptly as possible, to an
4.4 absent voter whose application has been recorded under section 203B.19. If the county
4.5 auditor determines that a voter is not eligible to vote at the primary but will be eligible to
4.6 vote at the general election, only general election ballots shall be mailed. Only one set of
4.7 ballots shall be mailed to any applicant for any election, except that the county auditor
4.8 may mail a replacement ballot to a voter whose ballot has been spoiled or lost in transit
4.9 or whose mailing address has changed after the date on which the original application
4.10 was submitted as confirmed by the county auditor. Ballots to be sent outside the United
4.11 States shall be given priority in mailing. A county auditor may make use of any special
4.12 service provided by the United States government for the mailing of voting materials
4.13 under sections 203B.16 to 203B.27.

4.14 Sec. 6. **203B.225] TRANSMITTING AND RETURNING BALLOTS.**

4.15 Subdivision 1. Transmitting ballot and voter certification. Upon receipt of a
4.16 properly completed application, the county auditor may electronically transmit to the voter
4.17 the appropriate ballots, instructions, and affidavit form and certification of voter eligibility
4.18 provided in section 203B.21, subdivision 3.

4.19 Subd. 2. Returning voted ballots. The voter must return the voted ballots and the
4.20 certificate of voter eligibility to the county auditor in a sealed envelope. Upon receipt
4.21 of a ballot, the county auditor must immediately compare the information provided on
4.22 the absentee ballot application with the information provided on the certificate of voter
4.23 eligibility. After the information on the certificate of voter eligibility has been verified,
4.24 the certificate must be attached to the ballot secrecy envelope and placed with the other
4.25 absentee ballots for the precinct in which the voter resides.

4.26 Subd. 3. Rejecting transmitted ballots. If the county auditor cannot verify that the
4.27 ballots were returned by the same person to whom the absentee ballot application was
4.28 transmitted, the ballots must be rejected and no votes on the ballots may be counted.

4.29 Sec. 7. **203B.227] WRITE-IN ABSENTEE BALLOT.**

4.30 An eligible voter who will be outside the territorial limits of the United States during
4.31 the 180 days prior to the state general election may use the federal write-in absentee ballot
4.32 to vote in any federal, state, or local election.

4.33 Sec. 8. Minnesota Statutes 2006, section 203B.24, subdivision 1, is amended to read:

5.1 Subdivision 1. **Check of voter eligibility; proper execution of affidavit.** Upon
5.2 receipt of an absentee ballot returned as provided in sections 203B.16 to 203B.27, the
5.3 election judges shall compare the voter's name with the names appearing on their copy of
5.4 the application records to insure that the ballot is from a voter eligible to cast an absentee
5.5 ballot under sections 203B.16 to 203B.27. The election judges shall mark the return
5.6 envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if
5.7 the election judges are satisfied that:

5.8 (1) the voter's name on the return envelope appears in substantially the same form as
5.9 on the application records provided to the election judges by the county auditor;

5.10 (2) the voter has signed the federal oath prescribed pursuant to section 705(b)(2) of
5.11 the Help America Vote Act, Public Law 107-252;

5.12 (3) the voter has set forth the same voter's military identification number ~~or~~, passport
5.13 number, ~~or, if those numbers do not appear, a person authorized to administer oaths under~~
5.14 ~~federal law or the law of the place where the oath was administered or a witness who is~~
5.15 ~~military personnel with a rank at or above the rank of sergeant or its equivalent has signed~~
5.16 ~~the ballot~~ Minnesota driver's license or state identification card number as submitted on
5.17 the application, if the voter has one of these documents; and

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

5.20 An absentee ballot case pursuant to sections 203B.16 to 203B.27 may only be
5.21 rejected for the lack of one of clauses (1) to (4). In particular, failure to place the ballot
5.22 within the security envelope before placing it in the outer white envelope is not a reason to
5.23 reject an absentee ballot.

5.24 Election judges must note the reason for rejection on the back of the envelope in the
5.25 space provided for that purpose.

5.26 Failure to return unused ballots shall not invalidate a marked ballot, but a ballot
5.27 shall not be counted if the affidavit on the return envelope is not properly executed. In
5.28 all other respects the provisions of the Minnesota Election Law governing deposit and
5.29 counting of ballots shall apply.

5.30 **Sec. 9. [203B.28] EMERGENCY POWERS.**

5.31 If a national or local emergency or other situation arises which makes substantial
5.32 compliance with the provisions of the Uniformed and Overseas Citizens Absentee Voting
5.33 Act impossible or unreasonable, such as a natural disaster or an armed conflict involving
5.34 the United States armed forces, or mobilization of those forces, including National Guard
5.35 and reserve components of this state, the secretary of state may prescribe, by emergency

- 6.1 orders, special procedures or requirements necessary to facilitate absentee voting by those
6.2 citizens directly affected who otherwise are eligible to vote in this state. The secretary of
6.3 state shall adopt rules describing the emergency powers and the situations in which the
6.4 powers must be exercised.