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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 3172

February 18, 2008

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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 13, 2008

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 ballot delivery, election judge, mail
1.3 election, special election and special primary, school district election, and
1.4 postelection review procedures; authorizing continued use of certain applications;
1.5 amending Minnesota Statutes 2006, sections 203B.06, subdivision 3; 203B.11,
1.6 subdivision 4; 204B.21; 204B.46; 204D.19, subdivision 2; 204D.23, subdivision
1.7 2; 204D.27, by adding a subdivision; 205.075, by adding a subdivision; 205A.03,
1.8 subdivision 1; 205A.06, subdivision 1a; 205A.10, subdivision 2; 205A.12, by
1.9 adding a subdivision; 206.89, subdivision 5.

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

1.11 Section 1. Minnesota Statutes 2006, section 203B.06, subdivision 3, is amended to read:

1.12 Subd. 3. Delivery of ballots. (a) If an application for absentee ballots is accepted
1.13 at a time when absentee ballots are not yet available for distribution, the county auditor,
1.14 or municipal clerk accepting the application shall file it and as soon as absentee ballots
1.15 are available for distribution shall mail them to the address specified in the application.

1.16 If an application for absentee ballots is accepted when absentee ballots are available for
1.17 distribution, the county auditor or municipal clerk accepting the application shall promptly:

1.18 (1) mail the ballots to the voter whose signature appears on the application if the
1.19 application is submitted by mail and does not request commercial shipping under clause
1.20 (2);

1.21 (2) ship the ballots to the voter using a commercial shipper requested by the voter at
1.22 the voter's expense;

1.23 (3) deliver the absentee ballots directly to the voter if the application is submitted in
1.24 person; or

1.25 (4) deliver the absentee ballots in a sealed transmittal envelope to an agent who has
1.26 been designated to bring the ballots, as provided in section 203B.11, subdivision 4, to a

2.1 voter who would have difficulty getting to the polls because of incapacitating health
2.2 reasons, or who is disabled, or who is a patient in a health care facility, as provided in
2.3 section 203B.11, subdivision 4, a resident of a facility providing assisted living services
2.4 governed by chapter 144G, a participant in a residential program for adults licensed under
2.5 section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined
2.6 in section 611A.37, subdivision 4.

2.7 (b) If an application does not indicate the election for which absentee ballots are
2.8 sought, the county auditor or municipal clerk shall mail or deliver only the ballots for
2.9 the next election occurring after receipt of the application. Only one set of ballots may
2.10 be mailed, shipped, or delivered to an applicant for any election, except as provided in
2.11 section 203B.13, subdivision 2, or when a replacement ballot has been requested by the
2.12 voter for a ballot that has been spoiled or lost in transit.

2.13 **EFFECTIVE DATE.** This section is effective for elections held after June 1, 2008.

2.14 Sec. 2. Minnesota Statutes 2006, section 203B.11, subdivision 4, is amended to read:

2.15 Subd. 4. **Agent delivery of ballots.** During the ~~four~~ seven days preceding an
2.16 election and until 2:00 p.m. on election day, an eligible voter who ~~is~~ would have difficulty
2.17 getting to the polls because of incapacitating health reasons, or who is disabled, a patient
2.18 of a health care facility, a resident of a facility providing assisted living services governed
2.19 by chapter 144G, a participant in a residential program for adults licensed under section
2.20 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section
2.21 611A.37, subdivision 4, may designate an agent to deliver the ballots to the voter from
2.22 the county auditor or municipal clerk. An agent must have a preexisting relationship
2.23 with the voter. A candidate at the election may not be designated as an agent. The voted
2.24 ballots must be returned to the county auditor or municipal clerk no later than 3:00 p.m.
2.25 on election day. The voter must complete an affidavit requesting the auditor or clerk to
2.26 provide the agent with the ballots in a sealed transmittal envelope. The affidavit must
2.27 include a statement from the voter stating that the ballots were delivered to the voter by
2.28 the agent in the sealed transmittal envelope. An agent may deliver ballots to no more than
2.29 three persons in any election. The secretary of state shall provide samples of the affidavit
2.30 and transmission envelope for use by the county auditors.

2.31 **EFFECTIVE DATE.** This section is effective for elections held after June 1, 2008.

2.32 Sec. 3. Minnesota Statutes 2006, section 204B.21, is amended to read:

2.33 **204B.21 APPOINTMENT OF ELECTION JUDGES.**

3.1 Subdivision 1. **Appointment lists; duties of political parties and county auditor.**
3.2 On ~~July~~ June 1 in a year in which there is an election for a partisan political office, the
3.3 county or legislative district chairs of each major political party, whichever is designated
3.4 by the state party, shall prepare a list of eligible voters to act as election judges in each
3.5 election precinct in the county or legislative district. The chairs shall furnish the lists to
3.6 the county auditor of the county in which the precinct is located.

3.7 By ~~July~~ June 15, the county auditor shall furnish to the appointing authorities a list
3.8 of the appropriate names for each election precinct in the jurisdiction of the appointing
3.9 authority. Separate lists shall be submitted by the county auditor for each major political
3.10 party.

3.11 Subd. 2. **Appointing authority; powers and duties.** Election judges for precincts
3.12 in a municipality shall be appointed by the governing body of the municipality. Election
3.13 judges for precincts in unorganized territory and for performing election-related duties
3.14 assigned by the county auditor shall be appointed by the county board. Election judges for
3.15 a precinct composed of two or more municipalities must be appointed by the governing
3.16 body of the municipality or municipalities responsible for appointing election judges
3.17 as provided in the agreement to combine for election purposes. Except as provided in
3.18 this section, appointments shall be made from lists furnished pursuant to subdivision 1
3.19 subject to the eligibility requirements and other qualifications established or authorized
3.20 under section 204B.19. At least two election judges in each precinct must be affiliated
3.21 with different major political parties. If no lists have been furnished or if additional
3.22 election judges are required after all listed names have been exhausted, the appointing
3.23 authority may appoint ~~any other individual to serve as an election judge subject to the~~
3.24 ~~same requirements and qualifications~~ individuals who meet the qualifications to serve as
3.25 an election judge, including persons who are not affiliated with a major political party.
3.26 The appointments shall be made at least 25 days before the election at which the election
3.27 judges will serve.

3.28 **EFFECTIVE DATE.** This section is effective June 1, 2008.

3.29 Sec. 4. Minnesota Statutes 2006, section 204B.46, is amended to read:

3.30 **204B.46 MAIL ELECTIONS; QUESTIONS.**

3.31 A county, municipality, or school district submitting questions to the voters at a
3.32 special election may ~~apply to the county auditor for approval of~~ conduct an election by
3.33 mail with no polling place other than the office of the auditor or clerk. No more than two
3.34 questions may be submitted at a mail election and no offices may be voted on. Notice of

4.1 the election ~~and~~ must be given to the county auditor at least 53 days prior to the election.
4.2 This notice shall also fulfill the requirements of Minnesota Rules, part 8210.3000. The
4.3 special mail ~~procedure~~ ballot procedures must be ~~given~~ posted at least six weeks prior
4.4 to the election. No earlier than 20 or later than 14 days prior to the election, the auditor
4.5 or clerk shall mail ballots by nonforwardable mail to all voters registered in the county,
4.6 municipality, or school district. Eligible voters not registered at the time the ballots are
4.7 mailed may apply for ballots pursuant to chapter 203B.

4.8 **EFFECTIVE DATE.** This section is effective June 1, 2008.

4.9 Sec. 5. Minnesota Statutes 2006, section 204D.19, subdivision 2, is amended to read:

4.10 Subd. 2. **Special election when the Congress or legislature will be in session.**

4.11 Except for vacancies in the legislature which occur at any time between the last day
4.12 of session in an odd-numbered year and the ~~33rd~~ 40th day prior to the opening day of
4.13 session in the succeeding even-numbered year, when a vacancy occurs and the Congress
4.14 or legislature will be in session so that the individual elected as provided by this section
4.15 could take office and exercise the duties of the office immediately upon election, the
4.16 governor shall issue within five days after the vacancy occurs a writ calling for a special
4.17 election. The special election shall be held as soon as possible, consistent with the notice
4.18 requirements of section 204D.22, subdivision 3, but in no event more than ~~28~~ 35 days
4.19 after the issuance of the writ.

4.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.21 Sec. 6. Minnesota Statutes 2006, section 204D.23, subdivision 2, is amended to read:

4.22 Subd. 2. **Time of filing.** Except as provided in subdivision 3, the affidavits and
4.23 petitions shall be filed no later than ~~the seventh day~~ 14 days before the special primary.

4.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.25 Sec. 7. Minnesota Statutes 2006, section 204D.27, is amended by adding a subdivision
4.26 to read:

4.27 Subd. 12. **Recounts.** In a special primary or special election, the provisions of
4.28 section 204C.35 apply, except that the secretary of state may immediately proceed to
4.29 recount the votes upon review of the certified reports of the county canvassing boards if
4.30 it is apparent from the review that a recount is required.

4.31 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.1 Sec. 8. Minnesota Statutes 2006, section 205.075, is amended by adding a subdivision
5.2 to read:

5.3 Subd. 4. **Election judges; party balance.** The provisions of sections 204B.19,
5.4 subdivision 5; 204B.21, subdivision 2; 204C.15; 204C.19; 206.83; and 206.86, subdivision
5.5 2, relating to party balance in the appointment of judges and to duties to be performed
5.6 by judges of different major political parties do not apply to a town election not held
5.7 in conjunction with a statewide election.

5.8 Sec. 9. Minnesota Statutes 2006, section 205A.03, subdivision 1, is amended to read:

5.9 Subdivision 1. **Required Resolution requiring primary in certain circumstances.**
5.10 ~~In~~ The school board of a school district election, may, by resolution adopted by June 1 of
5.11 any year, decide to choose nominees for school board by a primary as provided in this
5.12 section. The resolution, when adopted, is effective for all ensuing elections of board
5.13 members in that school district until it is revoked. If the board decides to choose nominees
5.14 by primary and if there are more than two candidates for a specified school board position
5.15 or more than twice as many school board candidates as there are at-large school board
5.16 positions available, a the school district must hold a primary.

5.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.18 Sec. 10. Minnesota Statutes 2006, section 205A.06, subdivision 1a, is amended to read:

5.19 Subd. 1a. **Filing period.** In school districts that have adopted a resolution to choose
5.20 nominees for school board by a primary election, affidavits of candidacy must be filed
5.21 with the school district clerk no earlier than the 70th day and no later than the 56th day
5.22 before the first Tuesday after the second Monday in September in the year when the
5.23 school district general election is held. In all other school districts, affidavits of candidacy
5.24 must be filed no earlier than the 70th day and no later than the 56th day before the school
5.25 district general election.

5.26 **EFFECTIVE DATE.** This section is effective June 1, 2008.

5.27 Sec. 11. Minnesota Statutes 2006, section 205A.10, subdivision 2, is amended to read:

5.28 Subd. 2. **Election, conduct.** A school district election must be by secret ballot and
5.29 must be held and the returns made in the manner provided for the state general election, as
5.30 far as practicable. The vote totals from an absentee ballot board established pursuant to
5.31 section 203B.13 may be tabulated and reported by the school district as a whole rather
5.32 than by precinct. For school district elections not held in conjunction with a statewide

6.1 election, the school board shall appoint election judges as provided in section 204B.21,
6.2 subdivision 2. The provisions of sections 204B.19, subdivision 5; 204B.21, subdivision 2;
6.3 204C.15; 204C.19; ~~206.64, subdivision 2;~~ 206.83; and 206.86, subdivision 2, relating to
6.4 party balance in appointment of judges and to duties to be performed by judges of different
6.5 major political parties do not apply to school district elections not held in conjunction
6.6 with a statewide election.

6.7 **EFFECTIVE DATE.** This section is effective June 1, 2008.

6.8 Sec. 12. Minnesota Statutes 2006, section 205A.12, is amended by adding a
6.9 subdivision to read:

6.10 Subd. 5a. **School districts.** The school board of a school district may provide for
6.11 the use by the district of an electronic voting system in one or more polling places or
6.12 combined polling places in the school district for an election not held in conjunction with a
6.13 statewide election. No system may be adopted or used unless it has been approved by the
6.14 secretary of state pursuant to section 206.57. The school district shall notify the secretary
6.15 of state of its decision in compliance with section 206.58, subdivision 4.

6.16 **EFFECTIVE DATE.** This section is effective June 1, 2008.

6.17 Sec. 13. Minnesota Statutes 2006, section 206.89, subdivision 5, is amended to read:

6.18 Subd. 5. **Additional review.** (a) If the postelection review reveals a difference
6.19 greater than one-half of one percent, the postelection review official must, within two days,
6.20 conduct an additional review of at least three precincts in the same jurisdiction where the
6.21 discrepancy was discovered. If all precincts in that jurisdiction have been reviewed, the
6.22 county auditor must immediately publicly select by lot at least three additional precincts
6.23 for review. The postelection review official must complete the additional review within
6.24 two days after the precincts are selected and report the results immediately to the county
6.25 auditor. If the second review also indicates a difference in the vote totals compiled by the
6.26 voting system that is greater than one-half of one percent from the result indicated by the
6.27 postelection review, the county auditor must conduct a review of the ballots from all the
6.28 remaining precincts in the county. This review must be completed ~~no later than six weeks~~
6.29 ~~after the state general election~~ and the results must be reported to the secretary of state
6.30 within one week after the second review was completed.

6.31 (b) If the results from the countywide reviews from one or more counties comprising
6.32 in the aggregate more than ten percent of the total number of persons voting in the election
6.33 clearly indicate that an error in vote counting has occurred, the secretary of state must

7.1 notify the postelection review official of each county in the district that they must conduct
7.2 a manual ~~recount~~ recounts of all the ballots in the district for the affected office using the
7.3 procedure outlined in section 204C.35. The recount must be completed and the results
7.4 reported to the appropriate canvassing board ~~no later than ten weeks after the state general~~
7.5 ~~election~~ within two weeks after the postelection review official received notice from
7.6 the secretary of state.

7.7 Sec. 14. **EXISTING VOTER REGISTRATION APPLICATIONS.**

7.8 Voter registration applications in existence on July 31, 2007, may be distributed,
7.9 completed, submitted, and processed until consumed, without alteration.

7.10 **EFFECTIVE DATE.** This section is effective retroactively from August 1, 2007.