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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 3699

March 3, 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

1.1 A bill for an act
1.2 relating to elections; providing for discretionary partial recounts; specifying
1.3 certain recount and postelection review procedures; amending Minnesota
1.4 Statutes 2006, sections 204C.35, subdivisions 1, 2, by adding a subdivision;
1.5 204C.36, subdivision 2, by adding a subdivision; 206.89, subdivision 2.

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

1.7 Section 1. Minnesota Statutes 2006, section 204C.35, subdivision 1, is amended to read:

1.8 Subdivision 1. **Automatic recounts.** (a) In a state primary when the difference
1.9 between the votes cast for the candidates for nomination to a statewide federal office,
1.10 state constitutional office, statewide judicial office, congressional office, state legislative
1.11 office, or district judicial office:

1.12 (1) is less than one-half of one percent of the total number of votes counted for
1.13 that nomination; or

1.14 (2) is ten votes or less and the total number of votes cast for the nomination is 400
1.15 votes or less;

1.16 and the difference determines the nomination, the canvassing board with responsibility for
1.17 declaring the results for that office shall manually recount the vote.

1.18 (b) In a state general election when the difference between the votes of a candidate
1.19 who would otherwise be declared elected to a statewide federal office, state constitutional
1.20 office, statewide judicial office, congressional office, state legislative office, or district
1.21 judicial office and the votes of any other candidate for that office:

1.22 (1) is less than one-half of one percent of the total number of votes counted for
1.23 that office; or

2.1 (2) is ten votes or less if the total number of votes cast for the office is 400 votes or
2.2 less,
2.3 the canvassing board shall manually recount the votes.

2.4 (c) A recount must not delay any other part of the canvass. The results of the recount
2.5 must be certified by the canvassing board as soon as possible.

2.6 (d) Time for notice of a contest for an office which is recounted pursuant to this
2.7 section shall begin to run upon certification of the results of the recount by the canvassing
2.8 board.

2.9 (e) A losing candidate may waive a recount required pursuant to this section by
2.10 filing a written notice of waiver with the canvassing board.

2.11 Sec. 2. Minnesota Statutes 2006, section 204C.35, subdivision 2, is amended to read:

2.12 Subd. 2. **Optional Discretionary candidate recount.** (a) A losing candidate for
2.13 nomination or election to a statewide federal office, state constitutional office, statewide
2.14 judicial office, congressional office, state legislative office, or district judicial office may
2.15 request a recount in a manner provided in this section at the candidate's own expense when
2.16 the vote difference is greater than the difference required by this section. The votes shall
2.17 be manually recounted as provided in this section if the candidate files a request during the
2.18 time for filing notice of contest of the primary or election for which a recount is sought.

2.19 (b) The requesting candidate shall file with the filing officer a bond, cash, or surety
2.20 in an amount set by the filing officer for the payment of the recount expenses. The
2.21 requesting candidate is responsible for the following expenses: the compensation of the
2.22 secretary of state, or designees, and any election judge, municipal clerk, county auditor,
2.23 administrator, or other personnel who participate in the recount; the costs of computer
2.24 operation, preparation of ballot counting equipment, necessary supplies and travel
2.25 related to the recount; the compensation of the appropriate canvassing board and costs of
2.26 preparing for the canvass of recount results; and any attorney fees incurred in connection
2.27 with the recount by the governing body responsible for the recount.

2.28 Sec. 3. Minnesota Statutes 2006, section 204C.35, is amended by adding a subdivision
2.29 to read:

2.30 **Subd. 2a. Discretionary partial candidate recount.** (a) A losing candidate for
2.31 nomination or election to an office where the difference between the votes cast for that
2.32 candidate and the winning candidate is greater than one-half of one percent and less
2.33 than five percent of the total votes counted for the office may request a partial manual
2.34 recount at the candidate's expense. The recount official must determine the expenses for

3.1 the partial recount in the manner provided by subdivision 2, paragraph (b). The request
3.2 for a partial recount must be submitted in writing to the recount official during the time
3.3 for filing notice of contest of the primary or election for which a recount is sought. The
3.4 candidate requesting the recount may identify in the request up to three specific precincts
3.5 in which the ballots are to be recounted. Any specific precincts requested by a candidate
3.6 for recount must be recounted.

3.7 (b) If the results of the vote counting in the manual recount is different from the
3.8 results of the vote counting reported on election day by a margin greater than the standard
3.9 for acceptable performance of voting systems provided in section 206.89, subdivision 4,
3.10 the election results shall be subject to a complete review as provided in section 206.89,
3.11 subdivision 5. If the costs of the partial recount indicate a result different from that
3.12 which was reported on election day, any costs submitted by the candidate to pay for the
3.13 recount shall be refunded and the costs assumed by the political subdivision in which
3.14 the discrepancy occurred.

3.15 (c) This subdivision does not apply to any of the offices covered by section 206.89,
3.16 subdivision 3.

3.17 Sec. 4. Minnesota Statutes 2006, section 204C.36, subdivision 2, is amended to read:

3.18 Subd. 2. **Discretionary candidate recounts.** A losing candidate for nomination
3.19 or election to a county, municipal, or school district office may request a recount in the
3.20 manner provided in this section at the candidate's own expense when the vote difference is
3.21 greater than the difference required by subdivision 1, clauses (a) to (e). The votes shall
3.22 be manually recounted as provided in this section if the requesting candidate files with
3.23 the county auditor, municipal clerk, or school district clerk a bond, cash, or surety in an
3.24 amount set by the governing body of the jurisdiction or the school board of the school
3.25 district for the payment of the recount expenses.

3.26 Sec. 5. Minnesota Statutes 2006, section 204C.36, is amended by adding a subdivision
3.27 to read:

3.28 Subd. 2a. **Discretionary partial candidate recount.** (a) A losing candidate for
3.29 nomination or election to an office where the difference between the votes cast for that
3.30 candidate and the winning candidate is greater than one-half of one percent and less than
3.31 five percent of the total votes counted for the office may request a partial manual recount
3.32 at the candidate's expense. The recount official must determine the expenses for the partial
3.33 recount in the manner provided by section 204C.35, subdivision 2, paragraph (b). The
3.34 request for a partial recount must be submitted in writing to the recount official during the

4.1 time for filing notice of contest of the primary or election for which a recount is sought.
4.2 The candidate requesting the recount may identify in the request up to three specific
4.3 precincts in which the ballots are to be recounted. Any specific precincts requested by a
4.4 candidate for recount must be recounted.

4.5 (b) If the results of the vote counting in the manual recount is different from the
4.6 results of the vote counting reported on election day by a margin greater than the standard
4.7 for acceptable performance of voting systems provided in section 206.89, subdivision 4,
4.8 the election results shall be subject to a complete review as provided in section 206.89,
4.9 subdivision 5. If the costs of the partial recount indicate a result different from that
4.10 which was reported on election day, any costs submitted by the candidate to pay for the
4.11 recount shall be refunded and the costs assumed by the political subdivision in which
4.12 the discrepancy occurred.

4.13 Sec. 6. Minnesota Statutes 2006, section 206.89, subdivision 2, is amended to read:

4.14 Subd. 2. **Selection for review; notice.** At the canvass of the state primary, the
4.15 county canvassing board in each county must set the date, time, and place for the
4.16 postelection review of the state general election to be held under this section.

4.17 At the canvass of the state general election, the county canvassing boards must select
4.18 the precincts to be reviewed. The county canvassing board of a county with fewer than
4.19 50,000 registered voters must select at least two precincts for postelection review. The
4.20 county canvassing board of a county with between 50,000 and 100,000 registered voters
4.21 must select at least three precincts for review. The county canvassing board of a county
4.22 with over 100,000 registered voters must select at least four precincts, or five percent of
4.23 the total number of precincts in the county, whichever is greater. A losing candidate may
4.24 select up to three specific precincts to be reviewed. Any precincts selected by a candidate
4.25 must be included in the postelection review. ~~The~~ All other precincts must be selected by
4.26 lot at a public meeting. At least one precinct selected in each county must have had more
4.27 than 150 votes cast at the general election.

4.28 The county auditor must notify the secretary of state of the precincts that have been
4.29 chosen for review and the time and place the postelection review for that county will
4.30 be conducted, as soon as the decisions are made. The secretary of state must post this
4.31 information on the office Web site.