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State of Minnesota

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609

HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 3699

March 3, 2008

Authored by Hilty

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

April 30, 2008

Calendar For The Day, Amended

Read Third Time as Amended

Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

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; changing certain voting
1.4 system requirements; amending Minnesota Statutes 2006, sections 204C.35,
1.5 subdivisions 1, 2; 204C.36, subdivision 2; 206.57, by adding subdivisions;
1.6 206.89, subdivision 2; Minnesota Statutes 2007 Supplement, section 206.57,
1.7 subdivision 5.

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

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

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

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

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

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

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

1.24 (1) is less than one-half of one percent of the total number of votes counted for
1.25 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 whose
2.13 name was on the ballot for nomination or election to a statewide federal office, state
2.14 constitutional office, statewide judicial office, congressional office, state legislative office,
2.15 or district judicial office may request a recount in a manner provided in this section at the
2.16 candidate's own expense when the vote difference is greater than the difference required
2.17 by this section. The votes shall be manually recounted as provided in this section if the
2.18 candidate files a request during the time for filing notice of contest of the primary or
2.19 election for which a recount is sought.

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

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

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

3.1 (e) If the results of the vote counting in the manual recount is different from the
3.2 results of the vote counting reported on election day by a margin greater than the standard
3.3 for acceptable performance of voting systems provided in section 206.89, subdivision 4,
3.4 the election results shall be subject to a complete review as provided in section 206.89,
3.5 subdivision 5, in which case the cost of the recount and review must be paid by the
3.6 jurisdiction conducting the recount.

3.7 (f) This subdivision does not apply to any of the offices covered by section 206.89,
3.8 subdivision 3.

3.9 Sec. 3. Minnesota Statutes 2006, section 204C.36, subdivision 2, is amended to read:

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

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

3.22 (c) If the winner of the race is changed by the optional recount, the cost of the
3.23 recount must be paid by the jurisdiction conducting the recount.

3.24 (d) If the results of the vote counting in the manual recount is different from the
3.25 results of the vote counting reported on election day by a margin greater than the standard
3.26 for acceptable performance of voting systems provided in section 206.89, subdivision 4,
3.27 the election results shall be subject to a complete review as provided in section 206.89,
3.28 subdivision 5, in which case the cost of the recount and review must be paid by the
3.29 jurisdiction conducting the recount.

3.30 Sec. 4. Minnesota Statutes 2007 Supplement, section 206.57, subdivision 5, is
3.31 amended to read:

3.32 Subd. 5. **Voting system for disabled voters.** In federal and state elections held after
3.33 December 31, 2005; in county, city, and school district elections held after December
3.34 31, 2007; and, except as provided in subdivision 5a, in township elections held after

4.1 December 31, 2009, the voting method used in each polling place must include a voting
4.2 system that is accessible for individuals with disabilities, including nonvisual accessibility
4.3 for the blind and visually impaired in a manner that provides the same opportunity for
4.4 access and participation, including privacy and independence, as for other voters.

4.5 Sec. 5. Minnesota Statutes 2006, section 206.57, is amended by adding a subdivision
4.6 to read:

4.7 Subd. 5a. **Limited town exemptions.** (a) A town conducting an election not held
4.8 in conjunction with any federal, state, county, or school district election shall be exempt
4.9 from the requirements of subdivision 5 if the town has fewer than 500 registered voters, as
4.10 determined by the secretary of state by June 1 of each year.

4.11 (b) A town which would otherwise satisfy the requirements of this subdivision shall
4.12 still be required to comply with subdivision 5 at its next general town election if the voters
4.13 at the preceding year's annual town meeting instruct the town to conduct elections in
4.14 compliance with subdivision 5.

4.15 (c) If the secretary of state, after consultation with the Minnesota Association of
4.16 Townships, county auditors, or other interested parties, determines that a town's share
4.17 of the cost of compliance with subdivision 5 will not exceed \$150 for an election, the
4.18 town may not use the exemption under paragraph (a) and shall conduct elections under
4.19 subdivision 5. In determining the town's cost of compliance, the secretary shall include
4.20 any expense associated with programming, ballot preparation and printing, and the
4.21 equipment costs directly related to compliance with subdivision 5.

4.22 Sec. 6. Minnesota Statutes 2006, section 206.57, is amended by adding a subdivision
4.23 to read:

4.24 Subd. 5b. **Township voting equipment study.** (a) Beginning in 2009 and at least
4.25 once every other year until 2016, the secretary of state shall consult with interested parties,
4.26 including, but not limited to, members of the legislature, town officers, county election
4.27 officials, the National Federation of the Blind, the Minnesota State Council on Disability,
4.28 and the Disability Law Center regarding:

4.29 (1) options for full compliance with Minnesota Statutes, section 206.57, subdivision
4.30 5; and

4.31 (2) ongoing costs of compliance with Minnesota Statutes, section 206.57,
4.32 subdivision 5, and methods of reducing those costs.

4.33 (b) Beginning January 15, 2010, and until January 15, 2017, the secretary of state
4.34 shall report to the chairs and ranking minority members of the legislative committees

5.1 and divisions with jurisdiction over elections policy and finance regarding the findings,
5.2 discussions, and developments under paragraph (a).

5.3 Sec. 7. Minnesota Statutes 2006, section 206.89, subdivision 2, is amended to read:

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

5.7 A losing candidate whose name appeared on the ballot may specify up to three
5.8 precincts in the state to be reviewed by submitting a request listing the precincts to the
5.9 secretary of state no later than noon on the second day after the general election. The
5.10 secretary of state must forward these requests to the appropriate county auditor by the end
5.11 of business on the second day after the general election. County canvassing boards must
5.12 review the precincts selected by candidates under this subdivision.

5.13 At the canvass of the state general election, the county canvassing boards must
5.14 select ~~the other~~ precincts to be reviewed by lot. The county canvassing board of a county
5.15 with fewer than 50,000 registered voters must conduct a postelection review of a total of
5.16 ~~select~~ at least two precincts ~~for postelection review~~. The county canvassing board of a
5.17 county with between 50,000 and 100,000 registered voters must conduct a review of a
5.18 total of ~~select~~ at least three precincts ~~for review~~. The county canvassing board of a county
5.19 with over 100,000 registered voters must conduct a review of a total of ~~select~~ at least four
5.20 precincts, or three percent of the total number of precincts in the county, whichever is
5.21 greater. ~~The precincts must be selected by lot at a public meeting~~. At least one precinct
5.22 selected in each county must have had more than 150 votes cast at the general election.

5.23 The county auditor must notify the secretary of state of the precincts that have been
5.24 chosen for review and the time and place the postelection review for that county will be
5.25 conducted, as soon as the decisions are made. If the selection of precincts has not resulted
5.26 in the selection of at least four precincts in each congressional district, the secretary of state
5.27 may require counties to select by lot additional precincts to meet the congressional district
5.28 requirement. The secretary of state must post this information on the office Web site.