This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE NO. 1907

March 19, 2009
Authored by Severson
The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform, Technology and Elections

A bill for an act

relating to elections; changing recount procedures; requiring certain verification programs; amending Minnesota Statutes 2008, sections 204C.35; 204C.36, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 201; 204C.

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

ARTICLE 1
RECOUNT PROCEDURES

Section 1. **[204C.345] DEFINITION; RECOUNT.**

As used in sections 204C.35 and 204C.36, "recount" means a recount using electronic voting systems of all ballots that were counted during the original count of votes cast at an election, except that ballots cast at precincts where electronic voting systems were not in use during the election must be recounted using the method of ballot counting used during the original count.

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

204C.35 FEDERAL, STATE, AND JUDICIAL RACES.

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

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

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

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

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

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

(2) is ten votes or less if the total number of votes cast for the office is 400 votes or less,

the canvassing board shall ~~manually~~ recount the votes.

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

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

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

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

(b) The requesting candidate shall file with the filing officer a bond, cash, or surety in an amount set by the filing officer for the payment of the recount expenses. The requesting candidate is responsible for the following expenses: the compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; the costs of computer operation, preparation of ballot counting equipment, necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of

preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount.

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

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

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

Subd. 3. **Scope of recount.** A recount conducted as provided in this section is limited in scope to the determination of the number of votes validly cast and counted on election day for the office to be recounted. Only the ballots cast and counted in the election and the summary statements certified by the election judges may be considered in the recount process.

Sec. 3. Minnesota Statutes 2008, section 204C.36, subdivision 2, is amended to read:

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

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

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

(d) If a result of the vote counting in the ~~manual~~ recount is different from the result of the vote counting reported on election day by a margin greater than the standard for

acceptable performance of voting systems provided in section 206.89, subdivision 4, the cost of the recount must be paid by the jurisdiction conducting the recount.

ARTICLE 2
VERIFICATION AND STANDARDS

Section 1. **[201.165] DATA VERIFICATION AND VALIDATION.**

Subdivision 1. **Duties of secretary of state.** In addition to other voter registration verification duties in Minnesota Election Law, the secretary of state shall establish a data verification and validation program designed to ensure the accuracy and integrity of Minnesota's voter registration information.

Subd. 2. **Cross-checking with other agencies.** The program designed under subdivision 1 must include cross-checking voter registration information with the following:

(1) the Bureau of Criminal Apprehension concerning felons who are prohibited from voting;

(2) the Department of Public Safety to check on consistency of data and possible noncitizenship;

(3) the Social Security Administration to verify identities of registered voters and to determine if any are deceased; and

(4) the United States Postal Service to verify address information.

Subd. 3. **Internal cross-checking.** The program designed under subdivision 1 must provide for internal cross-checking for completeness and consistency, including checks for duplicate voter registrations; inconsistent birth, registration, and other dates; and missing data that would render a registration deficient.

Subd. 4. **Remedy.** If a voter's registration fails to meet standards set by the secretary of state as part of the program designed under subdivision 1, the registration must be flagged to be challenged at the polls at the next election. Voters whose registrations have been flagged must correct registration information before being allowed to vote.

Sec. 2. **[201.166] RECORD-KEEPING RULES.**

The secretary of state shall adopt rules specifying specific standards to be met by counties in election-related record keeping. County auditors are responsible for ensuring compliance with those rules.

Sec. 3. **[201.167] BIENNIAL AUDIT.**

The secretary of state shall contract for and provide to the governor and to the chairs of the committees in the house of representatives and senate with jurisdiction over election law and election administration a biennial independent audit of Minnesota's voter registration files and election-related records maintained by county auditors.

Sec. 4. **[204C.235] VERIFICATION OF BALLOTS.**

The ballot of a person who registers on election day must be marked as "unverified" by the election judges. The election official administering the election must verify that the person's registration is valid by using the procedure in section 201.165. If the voter's registration is determined to be valid, the vote must be counted. If the registration cannot be verified, the vote must not be counted.