

Signed by the governor June 3, 1991, 4:00 p.m.

CHAPTER 320—H.F.No. 137

An act relating to elections; changing time for examination by judges of certain return envelopes; changing the form of an affidavit; providing a deadline for withdrawal from the general election ballot; changing certain withdrawal procedures; clarifying procedures for filling certain vacancies; providing for counting a write-in vote for a candidate for governor as a vote for that candidate's selection for lieutenant governor; modifying requirements for absentee ballots; amending Minnesota Statutes 1990, sections 203B.12, subdivision 2; 203B.13, subdivision 3a; 203B.21, subdivision 3; 204B.04, subdivision 2; 204B.12, subdivision 3, and by adding subdivisions; 204B.13, subdivisions 1, 2, 4, and by adding subdivisions; 204B.41; 204C.22, by adding a subdivision; and 308A.635, subdivision 6; repealing Minnesota Statutes 1990, section 204B.13, subdivision 3.

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

Section 1. Minnesota Statutes 1990, section 203B.12, subdivision 2, is amended to read:

Subd. 2. **EXAMINATION OF RETURN ENVELOPES.** Two or more election judges shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. If a ballot has been prepared under section 5 or 204B.41, the election judges shall not begin removing ballot envelopes from the return envelopes until 8:00 p.m. on election day, either in the polling place or at an absentee ballot board established under section 203B.13.

The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges or a majority of them are satisfied that:

(a) the voter's signature on the return envelope is the genuine signature of the individual who made the application for ballots and the certificate has been completed as prescribed in the directions for casting an absentee ballot;

(b) the voter is registered and eligible to vote in the precinct or has included a properly completed registration card in the return envelope; and

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

The return envelope from accepted ballots must be preserved and returned to the county auditor.

New language is indicated by underline, deletions by ~~strikeout~~.

If all or a majority of the election judges examining return envelopes find that an absent voter has failed to meet one of the requirements prescribed in clauses (a) to (c), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," and return it to the county auditor.

Sec. 2. Minnesota Statutes 1990, section 203B.13, subdivision 3a, is amended to read:

Subd. 3a. **ABSENTEE VOTER LIST.** If the election judges of an absentee ballot board are authorized to receive, examine, validate, and count absentee ballots, the county auditor or municipal clerk shall prepare a list of all persons who have applied for absentee ballots at the election and deliver it to the election judges of the absentee ballot board along with the applications for absentee ballots. The polling place rosters must include an indicator for all persons on the absentee voter list. The county auditor may provide a supplemental list for use by the election judges after the polling place rosters have been prepared. If a person on the absentee voter list appears in the polling place, the election judges shall ~~contact~~ notify the election judges of the absentee ballot board. ~~If contacted by the judges of the precinct, the election judges of the absentee ballot board shall examine the absentee voter list to determine if an absentee ballot has been cast. They shall notify the precinct election judges of their findings and, if the absentee ballot has not yet been cast, the voter shall be allowed to vote in person.~~ When notified by the precinct election judges that the voter has voted in person, the election judges of the absentee ballot board shall make a notation on the absentee voter list that the voter has voted and no absentee ballot may be counted for that voter.

Sec. 3. Minnesota Statutes 1990, section 203B.21, subdivision 3, is amended to read:

Subd. 3. **BACK OF RETURN ENVELOPE.** On the back of the return envelope an affidavit form shall appear with space for:

- (a) The voter's address of present or former residence in Minnesota;
- (b) A statement indicating the category described in section 203B.16 to which the voter belongs;
- (c) A statement that the voter has not cast and will not cast another absentee ballot in the same election or elections;
- (d) A statement that the voter personally marked the ballots without showing them to anyone, or if physically unable to mark them, that the voter directed another individual to mark them; and
- (e) The voter's military identification card number, passport number, or, if the voter does not have a valid passport or identification card, the signature and certification of an individual authorized to administer oaths or a commissioned or noncommissioned officer of the military not below the rank of sergeant or its equivalent.

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Sec. 4. Minnesota Statutes 1990, section 204B.04, subdivision 2, is amended to read:

Subd. 2. **CANDIDATES SEEKING NOMINATION BY PRIMARY.** No individual who seeks nomination for any partisan or nonpartisan office at a primary shall be nominated for the same office by nominating petition, except as otherwise provided for partisan offices in section 204D.10, subdivision 2, and for nonpartisan offices in section 204B.13, subdivision 4.

Sec. 5. Minnesota Statutes 1990, section 204B.12, is amended by adding a subdivision to read:

Subd. 2a. **AFTER PRIMARY; CANDIDATES FOR CONSTITUTIONAL OFFICE.** (a) A candidate for a constitutional office may withdraw from the general election ballot by filing an affidavit of withdrawal with the same official who received the affidavit of candidacy. The affidavit must request that official to withdraw that candidate's name from the ballot and must be filed no later than 16 days before the general election.

(b) A candidate for a constitutional office may withdraw after the deadline in paragraph (a) if:

(1) the candidate withdraws because of a catastrophic illness that was diagnosed after the deadline for withdrawal;

(2) the candidate's illness will permanently and continuously incapacitate the candidate and prevent the candidate from performing the duties of the office sought; and

(3) the candidate or the candidate's legal guardian files with the affidavit of withdrawal a certificate verifying that the candidate's illness meets the requirements of clauses (1) and (2), signed by at least two licensed physicians.

Sec. 6. Minnesota Statutes 1990, section 204B.12, is amended by adding a subdivision to read:

Subd. 2b. **GOVERNOR'S RACE.** If a candidate for governor withdraws, the secretary of state shall remove from the ballot the name of the candidate for governor and the name of that candidate's running mate for lieutenant governor.

Sec. 7. Minnesota Statutes 1990, section 204B.12, subdivision 3, is amended to read:

Subd. 3. **TIME FOR FILING.** An affidavit of withdrawal filed ~~pursuant to subdivision 4~~ under this section shall not be accepted later than 5:00 p.m. on the last day for withdrawal.

Sec. 8. Minnesota Statutes 1990, section 204B.13, subdivision 1, is amended to read:

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Subdivision 1. **DEATH OR WITHDRAWAL.** A vacancy in nomination may be filled in the manner provided by this section. A vacancy in nomination exists when:

(a) A major political party candidate or nonpartisan candidate who was nominated at a primary dies; ~~withdraws; or for any other reason ceases to be the nominated candidate for that office~~ or files an affidavit of withdrawal as provided in section 5; or

(b) A candidate for a nonpartisan office, for which one or two candidates filed, dies or ~~withdraws after the last day for filing for that office~~ files an affidavit of withdrawal as provided in section 204B.12, subdivision 1.

Sec. 9. Minnesota Statutes 1990, section 204B.13, subdivision 2, is amended to read:

Subd. 2. **PARTISAN OFFICE; NOMINATION BY PARTY.** (a) A vacancy in nomination for partisan office shall be filled as provided in this subdivision. A major political party has the authority to fill a vacancy in nomination of a major political party may be filled that party's candidate by filing a nomination certificate ~~not later than four days before the general election~~ with the same official who received the affidavits of candidacy for that office.

(b) A major political party may provide in its governing rules a procedure, including designation of an appropriate committee, to fill vacancies in nomination for all offices elected statewide. The nomination certificate shall be prepared under the direction of and executed by the chair and secretary of the ~~proper committee of that political party and filed within seven days after the vacancy in nomination occurs or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the candidate's death or catastrophic illness, the nomination certificate must be filed within seven days after the vacancy in nomination occurs but no later than four days before the general election.~~ The chair and secretary when filing the certificate shall attach an affidavit stating that the newly nominated candidate has been selected ~~by that committee under the rules of the party~~ and that the individuals signing the certificate and making the affidavit are the chair and secretary of the ~~committee party.~~

Sec. 10. Minnesota Statutes 1990, section 204B.13, subdivision 4, is amended to read:

Subd. 4. **PARTISAN OR NONPARTISAN OFFICE; FILLING VACANCY BY NOMINATING PETITIONS.** ~~If a vacancy in nomination cannot be filled pursuant to subdivision 2 or 3, the vacancy in a nonpartisan office~~ may be filled by nominating petition in the manner provided in sections 204B.06 to 204B.09. The petition shall be filed within one week after the vacancy in nomination occurs, but not later than four calendar days before the election.

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An eligible voter is eligible to sign a nominating petition to fill a vacancy in nomination without regard to whether that eligible voter intends to vote or did vote for any candidate for that office at the primary or signed other nominating petitions for candidates for that office.

Sec. 11. Minnesota Statutes 1990, section 204B.13, is amended by adding a subdivision to read:

Subd. 5. CANDIDATES FOR GOVERNOR AND LIEUTENANT GOVERNOR. (a) If a vacancy in nomination occurs in the race for governor, the candidate for governor determined under this section shall select the candidate for lieutenant governor. If a vacancy in nomination occurs in the race for lieutenant governor, due to a vacancy in nomination for governor or due to the withdrawal or death of the candidate for lieutenant governor, the candidate for governor shall select the candidate for lieutenant governor as provided in this subdivision.

(b) For a vacancy in nomination that occurs before the 16th day before the general election, the name of the lieutenant governor candidate must be submitted by the governor candidate to the filing officer within seven days after the vacancy occurs, or before the 14th day before the general election, whichever is sooner. If the vacancy in nomination occurs through the death or catastrophic illness of the candidate for lieutenant governor, the candidate for governor shall submit the name of the new lieutenant governor candidate to the secretary of state within seven days after the vacancy in nomination occurs but no later than four days before the general election. If the vacancy in nomination occurs through the death or catastrophic illness of the candidate for governor, the new candidate for governor shall submit the name of the lieutenant governor candidate within seven days after the vacancy in nomination for governor is filled under section 204B.13, subdivision 2, but no later than four days before the general election.

Sec. 12. Minnesota Statutes 1990, section 204B.13, is amended by adding a subdivision to read:

Subd. 6. VACANCY AFTER DEADLINE. If a candidate withdraws after the 16th day before the general election but before four days before the general election, the secretary of state shall instruct the election judges to strike the name of the withdrawn candidate from the general election ballot and shall substitute no other candidate's name. Filing officers may not accept a nomination certificate for filing to fill a vacancy in nomination resulting from the filing of an affidavit of withdrawal by a candidate after the 14th day before the general election. Vacancies occurring through death or catastrophic illness after the 16th day before the general election are governed by section 204B.41.

Sec. 13. Minnesota Statutes 1990, section 204B.41, is amended to read:

204B.41 VACANCY IN NOMINATION; CHANGING BALLOTS.

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When a vacancy in nomination is filled pursuant to section 204B.13, occurs through the death or catastrophic illness of a candidate after the ballots have been printed 16th day before the general election, the officer in charge of preparing the ballots shall prepare and distribute a sufficient number of separate paper ballots which shall be headed with the words "OFFICIAL SUPPLEMENTAL BALLOT." This ballot shall contain the title of the office for which the vacancy in nomination has been filled and the names of all the candidates nominated for that office. The ballot shall conform to the provisions governing the printing of other official ballots as far as practicable. The title of the office and the names of the candidates for that office shall be blotted out or stricken from the regular ballots by the election judges. The official supplemental ballot shall be given to each voter when the voter is given the regular ballot or is directed to the voting machine. Regular ballots shall not be changed nor shall official supplemental ballots be prepared as provided in this section during the three calendar days before an election. Absentee ballots that have been mailed prior to the preparation of official supplemental ballots shall be counted in the same manner as if the vacancy had not occurred. Official supplemental ballots shall not be mailed to absent voters to whom ballots were mailed before the official supplemental ballots were prepared.

Sec. 14. Minnesota Statutes 1990, section 204C.22, is amended by adding a subdivision to read:

Subd. 4a. WRITE-IN VOTE FOR CANDIDATE TEAM. A write-in vote cast for a candidate for governor without a write-in vote for a candidate for lieutenant governor must be counted as a vote for the candidate team including the lieutenant governor candidate selected by that candidate for governor.

Sec. 15. Minnesota Statutes 1990, section 308A.635, subdivision 6, is amended to read:

Subd. 6. **ABSENTEE BALLOTS.** (a) A member who is absent from a members' meeting may vote by mail on the ballot prescribed in this subdivision on any motion, resolution, or amendment that the board submits for vote by mail to the members.

(b) The ballot shall be in the form prescribed by the board and contain:

(1) the exact text of the proposed motion, resolution, or amendment to be acted on at the meeting; and

(2) spaces opposite the text of the motion, resolution, or amendment in which the member may indicate an affirmative or negative vote.

(c) The member shall express a choice by marking an "X" in the appropriate space on the ballot and mail or deliver the ballot to the cooperative in a plain, sealed envelope inside another envelope bearing the member's name. The ballot must be signed by the member.

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(d) A properly executed ballot shall be accepted by the board and counted as the vote of the absent member at the meeting.

Sec. 16. **REPEALER.**

Minnesota Statutes 1990, section 204B.13, subdivision 3, is repealed.

Presented to the governor May 30, 1991

Became law without the governor's signature June 4, 1991

[Revisor's Note: While the governor attempted to veto this chapter, the Ramsey County District Court found the attempted veto to be invalid.]

CHAPTER 321—H.F.No. 1142

An act relating to civil actions; permitting preliminary screening tests to be admitted as evidence in certain civil actions; providing that evidence of an alcohol or controlled substance violation may be sufficient to impose punitive damages; raising the dollar amount on no-fault claims that must be arbitrated; directing the supreme court to establish an alternative dispute resolution program and adopt rules; modifying community dispute resolution guidelines; providing for interest on arbitration awards and modifying prejudgment interest; requiring arbitrators to disclose conflicts of interest; modifying circumstances under which an arbitrator may change an award; amending Minnesota Statutes 1990, sections 65B.525, subdivision 1; 169.121, subdivision 6, and by adding a subdivision; 494.015; 494.03; 549.09; 572.10; 572.15; and 572.16; proposing coding for new law in Minnesota Statutes, chapter 484; repealing Minnesota Statutes 1990, section 494.01, subdivisions 3 and 5.

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

Section 1. Minnesota Statutes 1990, section 65B.525, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise provided in section 72A.327, the supreme court and the several courts of general trial jurisdiction of this state shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to binding arbitration of all cases at issue where the claim at the commencement of arbitration is in an amount of ~~\$5,000~~ \$10,000 or less against any insured's reparation obligor for no-fault benefits or comprehensive or collision damage coverage.

Sec. 2. Minnesota Statutes 1990, section 169.121, subdivision 6, is amended to read:

Subd. 6. **PRELIMINARY SCREENING TEST.** When a peace officer has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated subdivision 1, the officer may require the driver to provide a sample of the driver's breath for a preliminary screening test using a device approved by the com-

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