

CHAPTER 204A

CONDUCT OF ELECTIONS

Sec.
 204A.01 Definitions.
 204A.02 Application.
 204A.03 Notice of election, time.
 204A.04 Notice of election.
 204A.05 State elections, hours for voting.
 204A.06 Election precincts.
 204A.07 Metropolitan area districts.
 204A.08 Unorganized territory, election precincts.
 204A.09 Polling places designated.
 204A.10 Illegal polling places.
 204A.11 Polling place, requirements.
 204A.12 Conduct in polling place.
 204A.13 Secretary of state, election supplies, duties.
 204A.14 Clerks, election supplies, duties.
 204A.15 Judges, election supplies, duties.
 204A.16 Failure of judges to secure supplies.
 204A.17 Judges of election.
 204A.175 Training for election judges; duties of the county auditor.
 204A.18 Election judges, eligibility.
 204A.19 Election board, chairman.
 204A.20 Vacancies in judges.
 204A.21 Judges, oath.
 204A.22 Violations, penalty.
 204A.23 Compensation.
 204A.24 Expenses.
 204A.25 Opening of polls, ballot boxes.
 204A.26 Ballots, judges' initials.
 204A.27 Marking and reception of ballots.
 204A.28 Town meetings or elections on candidates; local issues; residence of voters.
 204A.29 Registration, voter's certificate.
 204A.295 Voting, no registration.
 204A.30 Ballots, voting, registration and otherwise.
 204A.31 Marking ballots, instructions.
 204A.32 Ballots, deposits.

Sec.
 204A.33 Spoiled ballots.
 204A.34 Assistance to voters.
 204A.341 Mismarking ballots; disclosing how marked; penalty.
 204A.35 Voting, secrecy.
 204A.36 Employees, time off to vote.
 204A.365 Public meetings prohibited on election day.
 204A.37 Persons in polling place.
 204A.38 Challengers.
 204A.39 Challenges.
 204A.40 Canvass of votes.
 204A.41 Ballots, proper number.
 204A.42 Counting ballots.
 204A.43 Rules for counting ballots.
 204A.44 Defective ballots.
 204A.45 Ballots, disposition.
 204A.46 Returns of election, summary statements.
 204A.47 Summary statement of the returns, disposition.
 204A.49 Ballots, returns, duties.
 204A.50 Noncompliance with law.
 204A.51 County canvassing board.
 204A.52 Errors in counting, correction.
 204A.53 State canvassing board.
 204A.54 Certificates of election; preparation, delivery.
 204A.55 False registration; penalty.
 204A.56 Refusing employee election privilege; penalty.
 204A.57 Damaging or removing election materials; penalty.
 204A.58 Damaging election equipment; penalty.
 204A.59 Offering duplicate ballots; penalty.
 204A.60 Only election officials may handle ballots; penalty.
 204A.61 Neglect of officials; penalty.
 204A.62 Election messenger's failure to deliver returns; penalty.

204A.01 DEFINITIONS. The words used in this chapter have the meanings prescribed to them in chapter 200.

[1975 c 5 s 62]

204A.02 APPLICATION. The provisions of sections 204A.01 to 204A.54 are applicable to all elections held in this state except as otherwise provided by law.

[1975 c 5 s 63]

204A.03 NOTICE OF ELECTION, TIME. Between June 1 and July 1 in each election year the secretary of state shall cause a notice to be delivered to the auditor of each county, specifying all the officers whose certificates of nomination are issued by the secretary to be voted for in the county at the next general election; and each auditor, within ten days after receipt thereof, shall cause a notice to be delivered to each town and city clerk in his county of all officers to be voted for in the county at the election.

[1975 c 5 s 64]

204A.04 NOTICE OF ELECTION. Subdivision 1. **Posting.** At least 15 days before the time of holding any general or primary election a notice stating the officers to be nominated or elected, the location of each polling place in the municipality, and the hours during which the polls will be open shall be posted in the office of the several town and city clerks by the clerk of each municipality. The governing body of each municipality also may elect to provide published notice in addition to the posted notice. Failure to give the notice required in this section does not invalidate a general election or primary.

Subd. 2. **Judicial office.** When one or more justices of the supreme court or one or more judges in a judicial or county court district are to be nominated at the same primary election or elected at the same general election, the notice of election shall state the name of each justice or judge whose successor is to be nominated or elected.

[1975 c 5 s 65]

204A.05 STATE ELECTIONS, HOURS FOR VOTING. Subdivision 1. **Opening and closing of polls.** Except as otherwise provided in this section, at the general election and the primary election the polls in every precinct in the state shall open at 7:00 a.m., and they shall be kept open continuously until 8:00 p.m., at which time they shall close. The governing body of any municipality of less than 1,000 inhabitants, situated entirely outside the metropolitan area as defined in section 473.02, subdivision 5, by resolution adopted 30 days prior to any general or primary election, may fix a time for the opening of the polls which may not be earlier than 7:00 a.m. nor later than 9:00 a.m. in the case of a general election, 5:00 p.m. in the case of a primary election. Resolutions adopted pursuant to this subdivision shall be effective for all ensuing general or primary elections until revoked. Under no circumstances shall the ballot boxes be opened and the ballots counted before closing of the polls.

Subd. 2. **Time, closing of polls.** On or before the opening of the polls the judges shall agree upon some standard of time to be used in opening and closing the polls. When the hour for closing the polls has arrived, the polls shall be closed, except that those voters who, at the time of closing, are either in the polling place or in line at the door thereof and have not been able to vote, are entitled to vote, and the polls shall remain open a sufficient time for them to do so.

[1975 c 5 s 66]

204A.06 ELECTION PRECINCTS. Subdivision 1. **Boundaries.** Each town, each statutory city that is separated from the town for election purposes, and each city ward, shall constitute at least one election precinct. The council of each municipality shall prescribe the boundaries of the precincts and the number of voters therein, and may rearrange the precincts from time to time, except that no changes in precinct boundaries may be made during the period beginning January 1 in any year ending in seven and ending January 1 in any year ending in two. If during the period beginning January 1 of a year ending in seven and ending January 1 of a year ending in two a municipality annexes an unincorporated area located in the same county as the municipality and adjacent to the corporate boundary, the annexed area may be included in the precinct immediately adjacent to it. During the period beginning January 1 in a year ending in seven and ending January 1 in a year ending in two, a municipality may establish new precincts lying entirely within any existing precinct for which the boundaries were established before that period; provided that: (a) the outer boundaries of the existing precinct are not altered and (b) the new precincts established within the existing precinct are assigned names that include the name of the existing precinct.

Subd. 1a. **Boundary change procedure.** Every change shall be adopted at least 90 days before the date of the next ensuing election, and 60 days notice thereof shall be posted in the office of the clerk before the change may take effect. The clerk shall notify each registered voter in the area affected by the change at least 30 days prior to the first election held after the change takes effect.

Subd. 1b. **Precinct boundaries; description, maps.** The clerk shall file with the secretary of state and the state demographer in the state planning agency a map showing the correct boundaries of the precincts in the municipality and shall keep on file in his office for public inspection a copy of the map. At least 30 days before any change in a precinct or corporate boundary becomes effective, the clerk shall place on file for public inspection a map setting forth the revised precinct boundaries and forward copies to the secretary of state and the state demographer. For every election held in the municipality the clerk shall furnish copies of the appropriate precinct map to the election judges for each polling place.

Subd. 2. [Repealed, 1977 c 149 s 2]

Subd. 3. **Municipality in two counties, common voting place.** When a city is situated in two or more counties, the council of the city may, by resolution adopted at least 30 days prior to any election, designate a single voting place in the city in which election for the entire city shall be held, and one set of election officials presiding thereat shall be sufficient; provided, that a separate ballot box for each precinct shall be furnished, in which the votes of the precinct shall be deposited and separate record thereof kept. When a single voting place has been so designated, it shall continue until changed by resolution of the council adopted at least 30 days prior to a subsequent election.

Subd. 4. **Precinct boundaries to follow physical features.** After the general election in 1976 and before January 1, 1977, the governing body of each municipality shall set all boundaries between precincts so that each boundary follows visible, clearly recognizable physical features. Where it is not possible to set the boundary between any two adjacent precincts along any such physical feature, the boundary around the two precincts combined shall be drawn so as to comply with the provisions of this subdivision, and the map of the precincts required under the provisions of subdivision 2 shall clearly indicate which boundaries are not in compliance with this subdivision. For the purposes of this subdivision, "clearly recognizable physical feature" means a street, road, boulevard, parkway, river, stream, shoreline, drainage ditch, railway right-of-way, or any other line which is clearly visible from the ground. A street or other roadway which has been platted but not graded is not a clearly recognizable physical feature for the purposes of this subdivision.

Subd. 5. **Application to municipalities.** Notwithstanding the provisions of section 410.21, or any other law, ordinance or charter, the provisions of subdivisions 1 and 4 shall apply to all municipalities.

[1975 c 5 s 67; 1976 c 132 s 2-4; 1977 c 149 s 1; 1978 c 725 s 5]

204A.07 METROPOLITAN AREA DISTRICTS. Notwithstanding the provisions of any law to the contrary each statutory city and each town located within the metropolitan area as defined in section 473.02, subdivision 5, shall constitute a separate election district.

[1975 c 5 s 68]

204A.08 UNORGANIZED TERRITORY, ELECTION PRECINCTS. Whenever any part of a county is not organized into towns, the county board, at their meetings in either January or July, upon the petition of not less than ten legal voters residing more than ten miles from the polling place in any established precinct, shall create and establish out of such unorganized territory an election precinct, and designate a polling place therein at such point as will be most convenient for the persons residing in the precinct, but no such polling place shall be located within ten miles of any other existing polling place.

[1975 c 5 s 69]

204A.09 POLLING PLACES DESIGNATED. Subdivision 1. **Method.** The council of every municipality shall, by ordinance or resolution, designate the place of holding the election for each precinct; otherwise the election shall be held as near as may be to the place where the preceding election was held, subject to change before the opening of the polls as provided by law. In any statutory city or in any city of the third or fourth class, having more than one precinct, the council of the municipality may, by ordinance or resolution, provide for the holding of all elections in the municipality in some building centrally located therein, and the voters of the municipality may vote at such place so designated, irrespective of whether the voting place is actually located in their precinct or not. At the place so designated there shall be provided separate statutory voting facilities for each precinct, and the voting shall otherwise be conducted in the same manner as though the voting places were located in the respective precincts. The council of any municipality may, by ordinance or resolution, designate a polling place for holding of elections for a specific precinct in a building outside the precinct, provided that the building must be located within 1500 feet of the precinct.

Subd. 2. **Bar room.** No election shall be held or appointed to be held in any place where intoxicating liquors or non-intoxicating malt beverages are served, or in any room used or occupied as a place of resort for idlers or disreputable persons, or in any room adjoining either. Nor shall any election be held in any room wherein the requirements of this chapter cannot be substantially complied with.

Subd. 3. **Access by elderly and handicapped.** Each polling place shall be accessible to and usable by elderly persons and by physically handicapped persons by complying with the following standards of accessibility:

(a) Doors, entrances, and exits used to gain access to or egress from the polling place shall have a minimum width of 31 inches.

(b) Any curb adjacent to the main entrance to a polling place shall have curb cuts or temporary ramps.

(c) Any stairs necessarily used to enter the polling place shall have a temporary handrail and ramp.

(d) In the polling place, no barrier shall impede the path of the physically handicapped to the voting booth.

A governing body shall select as polling places only those sites which meet the standards of accessibility prescribed in this subdivision, except that the governing body may select a site not meeting the standards if no available site within the precinct can be made accessible.

[1975 c 5 s 70; 1977 c 88 s 1]

204A.10 ILLEGAL POLLING PLACES. Subdivision 1. **Change of place.** When any place designated for holding an election does not comply with the provisions of this chapter the judges, on or before the opening of the polls on election day, shall procure a suitable place, subject to the approval of the municipal clerk, as near the designated place as may be, which is not subject to the objection, and shall notify the municipal clerk at once of the change.

Subd. 2. **Polling place changed.** When a change of the place of election has been determined, the judges shall meet at the place first designated and, after filling any vacancies in their number, adjourn to the new place selected, first publicly announcing the change to the electors present and posting in a conspicuous place at the first designated place a notice of the change made by them. They also shall post a similar notice at the new voting place. They shall certify to the proper authorities the expenses attending the change, which shall be allowed and paid as part of the election expenses.

[1975 c 5 s 71]

204A.11 POLLING PLACE, REQUIREMENTS. Subdivision 1. **National flag displayed.** The council of every municipality shall cause the national flag to be displayed on a suitable staff at the entrance to each polling place therein during all the hours of voting. The cost thereof shall be included in the general election expenses. The judges shall see that the flag is so placed and displayed, and willful failure on their part to do so shall cause a forfeiture of their compensation for the time of the failure. They shall make a statement of the number of hours the flag was so placed and maintained, and include the same with the payroll statement.

Subd. 2. **Booths, equipment.** Each polling place shall consist of a single room, containing a number of booths or compartments in proportion to the number of voters in the precinct. Each booth shall be six feet high, three feet deep, and at least two feet wide, with a shelf, at least one foot wide, extending from side to side at a convenient height for writing, to be provided with a door or curtain so that the voter may be free from observation while marking his ballot. Each compartment shall be constructed so that the voter may be free from observation while marking his ballot. At all times when in use the booths and compartments shall be provided with instructions, an indelible pencil, and other supplies needful in marking the ballots. The boxes, booths, compartments, and judges shall be in open public view.

Subd. 3. **Ballot boxes.** Each polling place shall be provided with one white, one pink, one canary, and one light green ballot box. As many of these ballot boxes shall be used at any election as there are kinds of ballots to be voted. Each box shall be of sufficient size, and with a sufficient opening, to receive and contain all the ballots likely to be placed therein.

Subd. 4. [Repealed, 1977 c 88 s 3]

[1975 c 5 s 72]

204A.12 CONDUCT IN POLLING PLACE. Subdivision 1. **Peace officers.** During the voting hours no person other than those receiving, marking, and depositing ballots shall be permitted to approach within six feet of the booths, unless by consent of the judges, given by authority of law. Any person guilty of riotous or disorderly conduct shall be arrested upon refusal to desist when warned. The judges may appoint a special peace officer when necessary. No peace officer may remain in the polling place unless so ordered by the judges, nor may a peace officer interfere in any manner with the voters.

Subd. 2. **Use of intoxicating liquor; penalty.** It is a misdemeanor to bring any malt or spirituous liquors into a place where an election is being held, or to drink any

MINNESOTA STATUTES 1978

3137

CONDUCT OF ELECTIONS 204A.14

malt or spiritous liquors or to be intoxicated in a place where an election is being held.

Subd. 3. **Lingering near polling place.** All voters shall be allowed to go to the polling place for the purpose of voting, and to return therefrom, without molestation, but neither voters nor others shall be allowed to congregate in any number within 100 feet of any polling place. Only election officers and voters who are waiting to vote shall be permitted to stand within 50 feet of the entrance to a polling place.

[1975 c 5 s 73]

204A.13 SECRETARY OF STATE, ELECTION SUPPLIES, DUTIES. Subdivision 1. **Blank forms.** At least 15 days before every state election the secretary of state shall transmit to each county auditor a sufficient number of suitable blank forms for lists, registers and affidavits, and such other blanks as are required in preparation for the conduct of the election.

Subd. 2. **Election law.** On or before July 1 of every even-numbered year the secretary of state shall furnish to the county auditors sufficient copies of the Minnesota election law. The secretary of state shall determine the manner of distribution of the Minnesota election law. The secretary of state also may prepare and transmit to the county auditors detailed written instructions on election laws relating to the conduct of elections, conduct of voter registration and voting procedures.

Subd. 3. **Cards.** Except where voting machines are used, the secretary of state shall furnish to each county auditor uniform instructions to voters, printed in large type upon cards or heavy paper and containing such information as will enable the voters quickly and correctly to designate their choice. The cards shall be sufficient in number to allow two for each precinct. The clerk of each municipality in the county shall secure from the county auditor the printed instruction cards supplied by the secretary of state under this section.

Subd. 4. **Pamphlets.** The secretary of state also may prepare and distribute to election officials printed instructions to voters in pamphlet form, containing material of impartial nature relating to registration and election procedure.

Subd. 5. **Conferences for county auditors.** Before each statewide primary election the secretary of state shall conduct conferences for county auditors for the purpose of giving instructions on the administration of election laws and the training of local election officials and election judges.

Subd. 6. **Election judges training.** The secretary of state shall adopt rules establishing a program for the training of election judges by county auditors as required by section 204A.175.

[1975 c 5 s 74; 1977 c 308 s 1,2; 1978 c 714 s 7,8]

204A.14 CLERKS, ELECTION SUPPLIES, DUTIES. Subdivision 1. **Instruction meetings for election officials.** Before each statewide primary election, the auditor of each county shall conduct a program of in service training for local election officials, and for this purpose may require the clerks of the municipalities and the chairmen of the several election boards within the county to meet with him at the time the clerks are required to secure the election supplies from him. The auditor shall conduct the meeting in such manner as he deems proper to instruct the clerks and chairmen of the several election boards as to election procedures including, but not to be restricted to, duties of municipal clerks and election judges. The expenses incidental to attending an in service training program with the county auditor shall be borne by the municipalities.

Subd. 2. **Election supplies, duty of clerks.** At least one week before every state election the clerk of each municipality in the county shall secure from the county auditor the necessary copies of each of the blanks and forms as are required in preparation for the conduct of the election, printed instruction cards, and any other instructions for election officers, for each precinct, and sufficient quantities of the necessary official ballots, ballot boxes, registers, and other supplies and materials so that the judges of the election precincts may comply with the provisions of the Minnesota election law. The clerk of each municipality shall post in a conspicuous manner in the polling place the printed instruction cards secured from the county auditor. If it is more convenient, and in lieu of complying with the foregoing provisions of this subdivision, the auditor may furnish the election supplies to the person entitled thereto in the same manner as the supplies are furnished in unorganized territory. If there are

election precincts in unorganized territory, the county auditor shall send by registered or certified mail, insured parcel post, express, or deliver to the judges in these precincts the supplies that are enumerated in this subdivision.

[1975 c 5 s 75; 1977 c 308 s 3; 1978 c 714 s 9]

204A.15 JUDGES, ELECTION SUPPLIES, DUTIES. Before 9:00 p.m. on the day preceding an election, at least one judge shall procure the election registers and other supplies provided for in this chapter from their legal custodian. The custodian of the ballot boxes and ballots shall deliver the same to the judges of the respective precincts together with their keys, stationery and materials required at the election. The judges shall be responsible for the safekeeping of the election registers and ballots unaltered, and shall have all such ballots, ballot boxes, election registers, printed instructions to voters, and materials at the polling places in their respective precincts at the opening of the polls on the day of election.

[1975 c 5 s 76]

204A.16 FAILURE OF JUDGES TO SECURE SUPPLIES. Subdivision 1. **Ballot delivery.** In case none of the judges appears at the office of the custodian of the ballots, as provided in the previous section, the custodian shall send forthwith to the proper precinct the ballots therefor, securely wrapped, tied, and sealed, by special messenger, who shall deliver the same forthwith to the judges, or one of them; or if unable to do so, he shall deliver them at the polling place at the hour for opening the polls. He shall take a receipt for the ballots and promptly file the same with the custodian together with his affidavit stating when, where, and to whom he made the delivery. The judges, and each of them, shall be chargeable with all expense incident to the delivery and report, together with mileage, the same as allowed to sheriffs for service of process, but nothing herein shall relieve any judge from the penalty provided by law for neglect of duty.

Subd. 2. **Unofficial ballots.** When no official or substitute ballots are ready for distribution at any polling place, or if the supply is exhausted before the polls are closed, unofficial ballots, printed or written as nearly as practicable in the form of the official ballots, or of any ticket or tickets forming a part or parts thereof, may be used until substitutes prepared by the proper official can be printed and delivered; and the fact shall be certified and accompany the returns of election.

[1975 c 5 s 77]

204A.17 JUDGES OF ELECTION. Subdivision 1. **Appointment, qualification.** At least 65 days before any election for a partisan political office, the county or legislative district chairman, whichever is designated by the state party, of each political party as defined in section 200.02, subdivision 7, shall furnish a list of qualified voters in each election precinct in the county or legislative district, whichever applies, to act as election judges, to the auditor of the county in which the precinct is located. At least 55 days before the date of the election, the county auditor shall furnish to each of the several appointing authorities of judges for the various election precincts, a list of the appropriate names for each election precinct. Separate lists shall be so submitted by the county auditor for each political party. If any county or legislative district chairman of a political party shall fail to submit a list to the county auditor as hereinbefore provided, the appointing authorities shall select and appoint qualified electors as herein or otherwise provided by law. The council of each municipality and the county board in unorganized territory shall appoint, in the manner provided for in this section, qualified voters in that municipality or county to be judges of election. The appointments shall be made at least 25 days before any election. The appointments shall be made from a list of qualified voters provided for in this section subject to the limitations of section 204A.18, subdivision 1. An individual may be appointed an election judge for a precinct in which he does not reside if an insufficient number of names of qualified voters in that precinct are on file in the office of the appointing authority. The council or county board may make such rules as it deems necessary including the examination of applicants, to determine the qualification of judges.

Subd. 2. [Repealed, 1978 c 714 s 31]

Subd. 3. **Number of judges.** Except as provided in subdivision 4, the council of each municipality and the county board in unorganized territory shall provide that there is one judge for every 150 voters in each precinct therein, provided that there shall be at least three judges in each precinct for every election. Before any election

the council of each municipality and the county board in unorganized territory shall determine how many judges there shall be for each precinct therein, considering the number of votes expected to be cast in each precinct at the next election, so that the provisions of this section shall be complied with. The council of each municipality and the county board in unorganized territory may provide for additional judges in any precinct in excess of one judge for every 150 voters who voted in the last general election, and they also may provide for additional judges to count the votes after the polls close. At general elections and state primary elections the council, or county board in unorganized territory, shall provide, in precincts having over 300 voters at the last such election, additional qualified judges to count the votes after the polls close, the new judges to replace the previously acting judges. The additional judges provided for in this subdivision are not required in precincts where voting machines are used.

Subd. 4. Number of judges, number of voting machines. In precincts where one voting machine is used three judges shall be appointed, and in precincts where more than one voting machine is used one or more additional judges may be appointed.

Subd. 5. Election judges, certain cases, towns and statutory cities. In towns the members of the town board and the town clerk and treasurer, and in the statutory cities the members of the city council and the city clerk, may be judges of election if the municipality has only one election precinct.

[1975 c 5 s 78; 1977 c 91 s 1; 1977 c 133 s 2; 1978 c 714 s 10]

204A.175 TRAINING FOR ELECTION JUDGES; DUTIES OF THE COUNTY AUDITOR. The county auditor of each county shall train all election judges who are appointed to serve at any election to be held in the county and shall provide a procedure for emergency training of judges appointed to fill vacancies in election boards after the opening of the polls when no regularly trained judges are available. The county auditor may delegate to a municipal election official the duties to train election judges for any municipality. Each precinct in which less than 100 individuals voted at the last general election shall have at least two judges who are members of different political parties who have received training as required in this section. In every other precinct, no individual may serve as an election judge who has not received training as required by this section.

[1977 c 308 s 4; 1978 c 714 s 11]

204A.18 ELECTION JUDGES, ELIGIBILITY. Subdivision 1. **Party balance.** No more than half of the number of judges in any precinct may be members of the same political party except where the election board consists of an odd number of judges in a precinct the number of judges who are members of the same political party may be one more than half the number of judges in that precinct.

Subd. 2. Eligibility of judges, relationship. No judge may bear the relationship of husband, wife, parent, child, brother, or sister to any other judge in the same precinct, a candidate, or any member of the council of the municipality in which he is a judge or of the county board if he is a judge in an unorganized territory.

Subd. 3. Eligibility of judges, other employment. No person may be a judge while he is receiving compensation as an employee or officer of the United States, the state, or any municipality or county within the state, except as provided in section 204A.17, subdivision 5; nor may any person be a judge at any election at which he is a candidate for elective public office.

Subd. 4. Eligibility of judges, literacy. No person may be a judge unless he can read, write, and speak the English language understandingly.

[1975 c 5 s 79; 1978 c 725 s 3]

204A.19 ELECTION BOARD, CHAIRMAN. At the time the judges are appointed, the city clerk in cities of the first class, the council of all other municipalities, and the county board in unorganized territory shall designate one of the appointed judges in each precinct as chairman of the election board. The chairman shall distribute the duties of election judges among the several judges, including himself, and he shall be responsible for the completion of forms, obtaining signatures, and the performance of all duties required of the election judges.

[1975 c 5 s 80]

MINNESOTA STATUTES 1978

204A.20 CONDUCT OF ELECTIONS

3140

204A.20 VACANCIES IN JUDGES. When any judge fails to attend at the time and place appointed for holding an election, within 30 minutes after the opening of the polls, or after entering upon the discharge of his duties, becomes unable, or for any reason fails or refuses, to complete the performance of his duties, the remaining judges of the precinct shall elect a qualified person from the precinct to fill the vacancy.

[1975 c 5 s 81]

204A.21 JUDGES, OATH. Before any judge enters upon the discharge of his duties, he shall subscribe the following oath: "I judge of election, do solemnly swear that I will perform the duties of judge of election according to law and the best of my ability and will studiously endeavor to prevent fraud, deceit and abuse in conducting this election, so help me God." The oath shall be affixed to the election register or returned with the election returns. If there is no person present authorized to administer oaths, the judges may administer it to each other. The judges, subsequent to the opening of the polls, shall constitute the election board.

[1975 c 5 s 82]

204A.22 VIOLATIONS, PENALTIES. Any person who serves as judge in violation of any of the provisions of sections 204A.17 to 204A.21 is guilty of a misdemeanor.

[1975 c 5 s 83]

204A.23 COMPENSATION. The compensation for services performed under the Minnesota election law shall be as follows:

(a) To presidential electors, \$10 for each day's attendance at the capitol, and an amount for each mile necessarily traveled in going to and returning from St. Paul, equal to the amount allowed for state employees in accordance with regulation under section 471.665, subdivision 1;

(b) To persons carrying ballots from, and returns to, the county auditor's office, \$2 for each hour necessarily spent and an amount for each mile of necessary travel, equal to the amount allowed for state employees in accordance with regulation under section 471.665, subdivision 1;

(c) To members of county canvassing boards, \$5 for each eight hours of service as members of the canvassing board and seven and one-half cents for each mile of necessary travel each day; provided that in counties now or hereafter having a population of 600,000 or more the members of the county canvassing boards in those counties shall be paid \$12 for each eight hours of service as members of the canvassing board, and mileage;

(d) The compensation for election judges shall be fixed by the governing body of the municipality and in the case of judges in unorganized territory, by the county board, except that the compensation for election judges in the case of townships shall be fixed at the annual town meeting.

(e) To special peace officers, an amount for each hour of service rendered by direction of the judges, to be fixed as in the case of judges of election.

[1975 c 5 s 84]

204A.24 EXPENSES. The compensation prescribed in section 204A.23, clause (a), the cost of printing the white and pink ballots, and all necessary expenses incurred by the secretary of state in connection with elections, shall be paid by the state out of moneys not otherwise appropriated. The compensation prescribed in section 204A.23, clauses (b) and (c), the cost of printing the county and district canary ballots, all necessary expenses incurred by auditors in connection with elections, and the expenses of special county elections, shall be paid by the respective counties. The compensation prescribed in section 204A.23, clauses (d) and (e), the cost of printing the municipal light green ballots, of providing ballot boxes and polling places, and equipping the same, and all necessary expenses of the clerks of municipalities on account of elections, except special county elections, shall be paid by the respective towns or cities where the elections are held. All disbursements hereunder shall be presented, audited, and paid as in the case of other public expenses.

[1975 c 5 s 85]

204A.25 OPENING OF POLLS, BALLOT BOXES. Subdivision 1. **Locking of ballot boxes.** Immediately before opening the polls, one of the judges shall open the ballot boxes in the presence of the people there assembled, turn them upside down so as to empty them of everything that is in them, then lock them and deliver the key to another of the judges. Having locked the ballot boxes, the judges shall proclaim that the polls are open, and they shall cause written or printed notices of the hour of closing to be conspicuously posted outside the polling place. The boxes may not be re-opened until opened for the purpose of counting the ballots therein at the close of the polls.

Subd. 2. **Ballot boxes, box-car seals.** The governing body of any municipality, by resolution, may direct the clerk to furnish each ballot box with two so-called "box-car seals" in lieu of a lock and key. Each seal shall consist of a metal strap with a number imprinted on the metal, no two straps bearing the same number, together with a self-locking device securely attached to one end of the strap, and so constructed that the other end may be inserted and securely locked in the seal. One of the seals shall be used in the same manner provided for locks in subdivision 1, and the other seal shall be attached after the ballots are counted as provided in section 204A.45. Whenever seals are used in lieu of a lock and key, the number on the seal used to lock the ballot box shall be written in a suitable space provided therefor on the tally sheets used in canvassing and tallying the votes.

[1975 c 5 s 86]

204A.26 BALLOTS, JUDGES' INITIALS. Subdivision 1. Before the voting begins, or as soon thereafter as possible, two judges shall place their initials on the backs of all the ballots they have, directly under or opposite the facsimile of the official signature, and they may not otherwise mark the ballots.

Subd. 2. No official ballot may be distributed except in the voting room to voters about to vote, and no ballot which is not officially endorsed in the handwriting of the judges may be placed in the ballot box. The ballot boxes shall at all times be kept in public view.

[1975 c 5 s 87]

204A.27 MARKING AND RECEPTION OF BALLOTS. Satisfied with the voter's qualifications, the election judge shall mark the duplicate registration card accordingly, and other judges shall have charge of and receive from each voter the ballots.

[1975 c 5 s 88]

204A.28 TOWN MEETINGS OR ELECTIONS ON CANDIDATES; LOCAL ISSUES; RESIDENCE OF VOTERS. The voters at a town meeting or the voters at an election on candidates who will serve, or on issues which will relate to only one precinct may be limited to voters who have resided within the precinct for 30 days.

[1975 c 5 s 89]

204A.29 REGISTRATION, VOTER'S CERTIFICATE. Subdivision 1. **Form of certificate.** Wherever voters are registered under a permanent registration system before any person desiring to vote receives the ballots from the judges, a certificate containing the following information shall be signed by the applicant:

I hereby certify that I am permanently registered in accordance with the Minnesota Election Law and am voting only in this precinct.

(Signature of Voter)

.....

(Address)

.....

(Approved)

.....

Judge of Election

Subd. 2. **Voter's certificate, use.** The certificate shall be approved by a judge who shall compare the signature on the voter's certificate with the signature as it appears on the duplicate registration card, and the judge shall record the fact of voting on the back of the duplicate registration card. The certificate, having been approved, shall be handed to the voter who shall deliver it to the judge in charge of ballots as

MINNESOTA STATUTES 1978

204A.295 CONDUCT OF ELECTIONS

3142

proof of his right to vote, and thereupon the judge shall hand to the voter the ballots.

[1975 c 5 s 90]

204A.295 VOTING, NO REGISTRATION. Subdivision 1. **Evidence of qualification to vote.** Except where voters are registered under a permanent registration system, any person desiring to vote at any election shall satisfy the election board by proper and sufficient evidence that he is qualified to vote at the election in the precinct, and by stating under oath, that he is at least 18 years of age and has been a resident of the state for at least 20 days.

Subd. 2. **Voting, examination.** Any person desiring to vote shall truly state, when he is asked, his first and last name and middle initial, his street or route, city and county address and the address of most recent prior registration. Upon refusal to make such statements, he shall not be allowed to vote.

Subd. 3. **Election registers, form.** Two election registers shall be provided by the county auditor or the clerk of the municipality, as the case may be, for each precinct. The election registers shall be kept and maintained in duplicate, and two judges shall have charge of them, each using one as provided in this section. Every election register shall be headed by the designation of the precinct, shall contain one column headed "Name of Voter," one headed "Residence," one headed "Address of Most Recent Prior Registration" and one headed "Remarks," and shall contain the names of the voters in separate groups, in alphabetical order according to the first letter of the surnames, each letter of the alphabet to form one group, with not more than one group on any one page, and each group to be separately numbered commencing with the numeral "1".

Subd. 4. **Voting, election register, use.** Having satisfied the judges of his qualifications, the voter's name, residence and address of most recent prior registration shall be entered in the proper place in the election registers, and the other judges shall have charge of and hand to and receive from each voter the ballots.

[1978 c 725 s 6]

204A.30 BALLOTS, VOTING, REGISTRATION AND OTHERWISE. Subdivision 1. **Removal of ballot from pad.** When the judges are satisfied that the person applying for ballots is a qualified voter, the judge having charge of the ballots shall tear from the pad one ballot of each kind that is to be voted, having the proper initials thereon, and hand the same to the voter. Each ballot shall be removed from the pad separately as required by each voter.

Subd. 2. **Voters, marking ballots.** One of the judges shall instruct the voter as to the proper method of marking and folding his ballots, and the voter shall then retire alone to an unoccupied booth, and without undue delay the voter shall mark the ballots as provided by law. The voter may take with him into the booth sample ballots to assist in marking the official ballots.

[1975 c 5 s 91]

204A.31 MARKING BALLOTS, INSTRUCTIONS. The voter shall mark and prepare each ballot in the following manner:

(a) The voter shall place a mark (X) in the square opposite the printed name of each candidate for whom he desires to vote, and in the square before the "YES" or "NO" if he desires to vote for or against any proposition.

(b) If he so desires, he may write other names in the blank spaces provided therefor under the printed names of the candidates, except that no names may be written in on primary election ballots.

(c) If, at any primary election the voter votes for the candidates of more than one party on the party ballot, that ballot is void.

(d) When he has prepared his ballots, he shall fold each of them separately so as to conceal the face and all marks thereon, and so as to expose only the facsimile of the official signature and the initials of the judges on the back of the ballot.

(e) Having marked and folded his ballots in the manner provided in this section, the voter shall withdraw from the voting booth with his ballot.

[1975 c 5 s 92]

204A.32 BALLOTS, DEPOSITS. Subdivision 1. **Deposit in box.** Having withdrawn from the voting booth with his ballots, the voter shall hand them to the judge in charge of the ballot boxes, and the judge immediately shall deposit each ballot in the proper box.

Subd. 2. **Ballots, secrecy.** No entry or notation shall be made in the register or otherwise showing to which political party any voter belonged or which political party ballot he voted, nor shall the judges knowingly permit any other person within the polling place to make such an entry or notation.

Subd. 3. **Ballots, identifying marks.** No voter, judge, or any other person may at any time place any mark as a means of identification upon any ballot handed to or cast by any voter or upon any spoiled or discarded ballots except the proper signature and initials provided by law to be placed upon ballots.

Subd. 4. **Challenge of voter; disposition of ballots.** At any time before the ballots of any voter are deposited in the ballot boxes, the judges or any person who was not present at the time the voter procured the ballots, but not otherwise, may challenge the qualifications of that voter and the deposit of any received absentee ballots in the ballot boxes. The judges shall determine the qualifications of any voter who is present in the polling place in the manner provided in section 204A.39, and if the voter is found to be disqualified, shall place the ballots of that voter unopened among the spoiled ballots. The judges shall determine whether to receive or reject the ballots of an absent voter and whether to deposit received absentee ballots in the ballot boxes in the manner provided in sections 207.11, 207.24 and 207.25, and shall dispose of any absentee ballots not received or deposited in the manner provided in section 207.11.

Subd. 5. **Voter to retire.** Having cast his ballot, or his ballot having been refused, the voter shall leave the polling place and not return unless he is given permission to do so by all of the judges.

Subd. 6. **Enforcement, violation, penalties.** The judges shall at all times observe and enforce the provisions of the Minnesota election law. Violation of subdivisions 3 or 4 is a gross misdemeanor.

[1975 c 5 s 93; 1978 c 725 s 7]

204A.33 SPOILED BALLOTS. When a voter spoils a ballot, he may return it to the judges and receive another. The judges shall preserve unused and spoiled ballots and return them to the officers from whom they were received, with a statement of the number spoiled and unused, and take a receipt therefor.

[1975 c 5 s 94]

204A.34 ASSISTANCE TO VOTERS. Subdivision 1. **Disability.** When any voter states under oath that he cannot read English, or that he is physically unable to mark his ballot, he may call to his aid two of the judges, of different political party affiliation, who shall mark his ballot as he desires and in as secret a manner as circumstances permit. When he also states that he cannot speak the English language or understand it when spoken, the judges may select two persons from different political parties to act as interpreters, who shall take an oath similar to that taken by the judges, and assist the person in marking his ballots. When the disabled voter prefers, he may call to his aid any voter of the same precinct who, unaccompanied by a judge, shall retire with him to one of the booths and mark the ballot for him, but no one who aids a voter shall mark the ballots of more than three voters at one election. Before his ballot is deposited, the voter may show it privately to one of the judges to ascertain that it is marked as directed. No judge or other person assisting a voter may in any manner request, persuade, induce, or attempt to persuade or induce, the voter to vote for any particular political party or candidate, but he shall mark the ballot as requested and may not reveal to any other person the name of any candidate for whom the voter has voted or anything that took place while so assisting him.

Subd. 2. **Disabled voter, assistance.** Any person who is unable to enter a polling place which uses paper ballots may register and vote without leaving his vehicle. Two judges, who are not members of the same political party, shall assist a voter who is unable to enter the polling place to register and to complete a voter's certificate, and shall provide him with the necessary ballots. The voter may request additional assistance in marking his ballots as provided in subdivision 1. In other polling places, two

judges, who are not members of the same political party, shall assist a disabled voter who is at the entry of the polling place. A person who is intoxicated may not vote.

[1975 c 5 s 95; 1977 c 88 s 2; 1977 c 308 s 5]

204A.341 MISMARKING BALLOTS; DISCLOSING HOW MARKED; PENALTY. Every election official or other person who marks the ballot of any voter, except in the cases and in the manner provided by law, and as directed by the voter, or who informs any person other than such voter how any such ballot was marked, shall be guilty of a gross misdemeanor.

[1975 c 284 s 45]

204A.35 VOTING, SECRECY. A voter may not divulge to any one within the polling place the name of any candidate for whom he intends to vote or has voted, and he may not ask for or receive assistance in the preparation of his ballot from any one within the polling place except as provided by law. If any voter, after having marked his ballot, shows it to any one except as provided by law, the judges shall refuse to receive the ballot and shall place it among the spoiled ballots. When the showing clearly has been intentional, no other ballot may be delivered to the voter.

[1975 c 5 s 96]

204A.36 EMPLOYEES, TIME OFF TO VOTE. Every employee who is entitled to vote at any statewide general election or at any election to fill a vacancy in the office of representative in congress is entitled to absent himself from his work for the purpose of voting during the forenoon of such election day without penalty or deduction from his salary or wages on account of such absence.

[1975 c 5 s 97]

204A.365 PUBLIC MEETINGS PROHIBITED ON ELECTION DAY. Subdivision 1. **School districts, counties and municipalities.** No school board, county board of commissioners, or governing board or council of a municipality may conduct a meeting between 6:00 p.m. and 8:00 p.m. on the day that an election is held within the boundaries of the school district, county or municipality, respectively.

Subd. 2. **State universities and community colleges.** Except for regularly scheduled classes, no state university or state community college may schedule an event between 6:00 p.m. and 8:00 p.m. on the day that an election is held in any political subdivision in which the university or college is located.

Subd. 3. **Public elementary and secondary schools.** Except for regularly scheduled classes, no public elementary or secondary school, located in the political subdivision in which an election is held, may hold a school sponsored event between 6:00 p.m. and 8:00 p.m. on the day that an election is held.

[1977 c 91 s 2]

204A.37 PERSONS IN POLLING PLACE. Subdivision 1. No individual other than an election judge, peace officer or challenger may remain inside the polling place unless he is in the process of voting, is providing proof of residence for an individual who is registering to vote, or is assisting a physically handicapped voter or a voter unable to read English to vote.

Subd. 2. **Time to vote.** The judges may make such regulations as they deem proper as to the time in which a voter may remain in the polling place while receiving, preparing, and voting his ballots.

[1975 c 5 s 98; 1977 c 395 s 9]

204A.38 CHALLENGERS. Subdivision 1. **Partisan.** At any election where partisan offices are to be filled the chairman of an authorized committee of each political party may appoint by written certificate and the judges shall permit one voter at any one time from each political party for each precinct to be in the polling place while the election is being held and to remain with the election board until the votes are canvassed and the results declared, to act as challenger of voters.

Subd. 2. **Nonpartisan.** At any election each nonpartisan candidate may appoint by written certificate, and the judges shall permit, one voter at a time for each nonpartisan candidate for each precinct to be in the polling place while the election is being held and to remain with the election board until the votes are canvassed and the results declared, to act as challenger of voters.

MINNESOTA STATUTES 1978

3145

CONDUCT OF ELECTIONS 204A.40

Subd. 3. **On proposition.** At any election where a proposition is to be voted upon, the mayor of the municipality, upon a written petition signed by at least 25 legal voters being presented to him, shall appoint by written certificate and the judges shall permit, one voter for each precinct to be in the polling place while the election is being held and to remain with the election board until the votes are canvassed and the results declared, to act as challenger of voters.

Subd. 4. **Regulations generally.** The challengers may not handle or inspect registration cards, files, or lists. Challengers shall not make or prepare in any manner any list of persons who have or have not voted. They may not attempt to converse with voters at any time except to establish whether the voter is qualified to vote in this precinct and then only with an election judge present at the conversation or to influence voting on election day in any manner. Representatives of the secretary of state's office and the county auditor's office may be present at the polling place during the hours of voting for the purpose of observing election procedure.

[1975 c 5 s 99]

204A.39 CHALLENGES. Subdivision 1. **Manner.** Each judge shall, and any authorized challenger or other voter may, challenge any person whom he knows or suspects not to be a qualified voter.

Subd. 2. **Ground, oath.** The challenger shall state the ground for the challenge, and a judge shall administer to the challenged person the following oath:

"Do you solemnly swear that you will fully and truly answer all such questions that shall be put to you relating to your qualifications as a voter at this election?" The judge shall then ask the challenged person such questions as tend to test his residence and his right to vote.

Subd. 3. **Determination of residence.** The judges, in determining the legal residence of any challenged person, shall be governed by the rules provided in the Minnesota election law; and if the challenged person by his answers to the questions put to him reveals that he is not a qualified voter, he may not be allowed to vote. If, after all questions have been answered, the challenge is not withdrawn, the judge shall administer the following oath:

"Do you swear that you are a citizen of the United States; that you are 18 years of age; that you are an actual resident of this precinct; that you are a qualified voter in this precinct and that you have not voted at this election?" After taking this oath, the challenged person is entitled to vote.

Subd. 4. **Challenged person may not vote, when.** If the challenged person refuses to answer the questions put to him or to take an oath, his name may not be placed upon the election registers, and he is not entitled to vote. The challenged person may not leave the polling place and return later willing to answer questions or take an oath.

[1975 c 5 s 100; 1977 c 91 s 3]

204A.40 CANVASS OF VOTES. Subdivision 1. **Procedure.** After the polls close the judges shall immediately proceed to canvass the votes cast at the election. The canvass shall be held at the polling place and be public, and it shall be continued without intermission until completed and the results declared, except that the judges may take a temporary recess for meals or other necessary purposes. During the canvass no person other than the judges may handle the ballots.

Subd. 2. **Ballots, order of canvass.** The ballot boxes shall be opened, the votes counted, and the results declared, one box at a time in the following order: the white box, the pink box, the canary box, the light green box, and other kinds of ballots voted at the election except that if sufficient judges are available to provide counting votes of four or more judges evenly divided between the political parties for each box, an additional box or boxes may be opened and counted. The returns may not be finally prepared until the votes in all the boxes have been counted so as to allow corrections in case any errors have occurred by reason of the deposit of ballots in the wrong boxes.

Subd. 3. **Primary ballots, manner of canvass.** Primary election ballots shall be canvassed in the same manner as general election ballots, except that the judges shall take the ballots from the boxes and count those cast for each political party and the non-partisan candidates separately.

[1975 c 5 s 101]

204A.41 BALLOTS, PROPER NUMBER. Subdivision 1. **Counting.** The judges shall determine the number of ballots distributed by adding the number of return envelopes of accepted absentee ballots to the number of signed voter's certificates, or by counting the number of names on the election register. The judges shall then remove all the ballots from the box, and without considering how the ballots are marked they shall ascertain that each ballot is single, and count them to determine whether the number of ballots corresponds with the number of ballots distributed.

Subd. 2. **Ballots, excess number.** If two or more ballots are found so folded together as to appear like a single ballot, the judges shall lay them aside until all of the ballots in the box have been counted; and if it is evident from the number of ballots distributed that the ballots folded together were cast by one voter, the judges shall preserve but not count them. If there is an excess of ballots in one box, the judges shall examine all the ballots in the box to ascertain that all are properly marked with the initials of the judges, and if any are not so marked, they shall preserve but not count them. If there is still an excess of properly marked ballots, the judges shall replace them in the box, and one judge, without looking, shall withdraw from the box a number of ballots equal to the excessive number, and the withdrawn ballots shall be preserved but not counted.

Subd. 3. **Ballots in wrong box.** If the judges find ballots in a ballot box that are different from the kind properly belonging therein, they shall lay the different ballots aside. If the number of ballots in any box equals or exceeds the number of ballots distributed, then ballots proper to have been placed therein, but found in another box, may not be counted. But if the number is less than the number of ballots distributed, and ballots properly belonging in that box are found in another box, they shall be counted the same as those in the proper box, but only to the extent of the deficiency and selected by lot when necessary.

Subd. 4. **Ballots not counted, disposition.** When the number of ballots as finally counted agrees with the number of ballots distributed, those ballots not counted shall be attached to a certificate made by the judges, stating why the ballots were not counted, and the certificate and uncounted ballots shall be sealed in a separate envelope and returned with the other returns to the officer from whom they were received.

[1975 c 5 s 102; 1977 c 91 s 4]

204A.42 COUNTING BALLOTS. Subdivision 1. **Method.** The judges shall take all the ballots of the same kind and count the votes cast for the first office or proposition on the ballot by separating the ballots into piles, one pile for each candidate who received votes for that office, or one pile for the "Yes" votes and one pile for the "No" votes if it is a proposition. The judges also shall pile the ballots that are blank or defective as to that office separately. After the separation into piles, the judges shall examine each pile and remove therefrom and place in the proper pile any ballots that are found to be in the wrong pile. After the examination, the judges shall count the ballots in each pile, and when their counts agree, they shall announce the number of ballots in each pile, and the number shall be written in the proper place on the summary statements. The judges may also pile ballots crosswise in groups of 25 in the same pile so as to facilitate counting.

Subd. 2. **Piling system.** Each office and proposition on the ballot should be counted and canvassed in the manner provided in subdivision 1.

Subd. 3. **More than one to be elected, piling.** Where more than one person is to be elected to an office, the votes for that office shall be counted and canvassed in the manner provided in subdivision 1 so far as practicable.

[1975 c 5 s 103; 1978 c 725 s 8]

204A.43 RULES FOR COUNTING BALLOTS. In counting ballots a ballot may not be rejected for any technical error that does not make it impossible to determine the voter's choice even though the ballot may be slightly soiled or defaced. All ballots shall be counted for the persons for whom they were intended, so far as the intent can be clearly ascertained from the ballots themselves; and in determining the intent the following rules are applicable and shall be observed:

(a) When a voter has placed a mark (X) against two or more names for the same office, where only one is to be elected, his vote may not be counted for either candidate, but the rest of his ballot shall be counted;

(b) When a voter has written the name of a person in the proper place, his vote shall be counted for that person whether he makes a mark (X) in the square opposite the blank line or not;

(c) When a voter has written the name of a person on a primary election ballot, the vote may not be counted for that office;

(d) When a mark (X) is made out of its proper place, but on or so near a name or space as to indicate clearly that the voter intended to mark the name, the vote shall be counted as so intended;

(e) When a number of persons are to be elected to the same office, all cross marks in squares opposite names, not exceeding the whole number to be elected, including written names thereon, shall be counted. When less than the number to be elected are marked, only those so marked shall be counted;

(f) The judges shall disregard misspelling or abbreviations of the names of candidates, if it can be clearly ascertained from the ballot for whom it was intended;

(g) When the judges can determine from a ballot the voter's choice for only a part of the offices, the ballot shall be counted for that part only;

(h) When a voter uniformly uses a mark other than (X) in marking his ballot, clearly indicating his intent to mark against a name, and does not use (X) anywhere else on the ballot his vote shall be counted for each candidate so marked; when a voter uses two or more distinct marks in expressing his vote on a ballot such as (X) and some other mark, the vote shall be counted for each candidate so marked, nonetheless, unless it is so marked by distinguishing characteristics so as to make the entire ballot defective as provided in (k);

(i) When a ballot shows that marks have been made against the names of two candidates, and an attempt made to erase or obliterate one of the marks, it shall be counted for the candidate for whom it was evidently intended;

(j) All ballots marked as hereinbefore provided shall be counted for the candidates or proposition therein shown to be voted for;

(k) When a ballot is so marked by distinguishing characteristics that it is evident that the voter intended to identify his ballot, the entire ballot is defective;

(l) When the number of candidates is equal to the number to be elected to an office, and the voter has not marked against any name, no vote may be counted for that office.

[1975 c 5 s 104]

204A.44 DEFECTIVE BALLOTS. Subdivision 1. **Marking; memorandum.** A ballot so defective in whole or in part that it cannot be counted by reason of inability of the judges to determine the intent of the voter shall be marked on the back "Defective" or "Defective as to" naming the office as to which it is defective. A memorandum of the number of defective ballots, and if defective in part only, of the defective parts not counted, shall be made, certified, and returned by the judges as part of the returns.

Subd. 2. Defective ballots, disposition. The defective ballots shall be placed with those not defective, and all the ballots shall be placed in the order they are read and canvassed, and they shall be disposed of in the manner provided in section 204A.45 for the disposition of ballots.

[1975 c 5 s 105]

204A.45 BALLOTS, DISPOSITION. Subdivision 1. **Envelopes.** After the canvass has been completed and in the presence of all the judges, the ballots cast shall be removed from the ballot boxes and placed in envelopes and sealed. Each judge shall write his name upon the envelope over the sealed part in such a way that the envelope cannot be opened without disturbing the continuity of the lines in the writing. The envelopes shall be of a heavy paper, of the same color as the ballots to be placed therein, and of a size suitable to hold all the ballots without folding. The official charged with printing the ballots shall furnish the envelopes required in this section; provided, however, that the official charged with printing the state pink ballot shall furnish the envelopes for the state pink ballot and the state white ballot. The number of ballots in each envelope, the kind thereof, the name of the town or city, and the number of the precinct shall be plainly written upon the envelopes. The unused and spoiled ballots or returns may not be placed in the envelopes.

Subd. 2. [Repealed, 1978 c 725 s 17]
 [1975 c 5 s 106; 1978 c 725 s 9]

204A.46 RETURNS OF ELECTION, SUMMARY STATEMENTS. Subdivision 1. **Summary statements.** Each official charged with printing the ballots shall furnish three or more forms for summary statements of the returns for each precinct at the same time and in the same manner as the ballots are furnished; provided that the official charged with printing the state white ballot shall furnish as a separate part of the form for the summary statement of the returns of the white ballot a form for the summary statement of the returns for the state pink ballot.

Subd. 2. **Summary statement, information required.** The judges shall complete three or more summary statements which shall include the following information:

(a) State of Minnesota, Summary Statement of the Returns for (Color) Ballots, (number) Precinct, (number) Ward, of the (City) (Town) of (Name) and the date and kind of election;

(b) The office or question, name of candidates, the number of votes each candidate received or the number of yes and no votes on each question, and the number of blank and defective ballots for each office or question;

(c) The number of persons who voted at the election in the precinct, and where there is permanent registration the number of persons registered at the time the polling place opened and the number of persons registering on election day in the precinct, the number of totally defective ballots, and the number of persons who returned spoiled ballots and received other ballots;

(d) A certificate in substantially the following form: "We, the undersigned judges of the (number) Precinct, (number) Ward, of the (City) (Town) of (Name), Minnesota, do hereby certify that all of the ballots cast at the (date and kind of election) Election, were carefully and properly piled, checked, and counted, and that the number of votes marked opposite the respective names of the candidates, correctly shows the number of votes so cast. The national flag was displayed on a suitable staff during all the hours of voting". The certificate shall be signed by all members of the election board.

Subd. 3. **Summary statement and returns, primary election.** The summary statement of the returns for the primary election shall be in the same form as the summary statement of the returns for the general election except that a separate part of the summary statement shall be provided for the political party ballot and a separate part for the ballot of candidates to be nominated without party designation. The primary summary statement shall be headed substantially as follows: "Summary Statement of the Returns for (number) Precinct, (number) Ward, of the (City) (Town) of (Name), Primary Election held (Date)".

Subd. 4. **Summary statement and returns, form.** The secretary of state shall prescribe the form for the summary statement of the returns, and may place thereon instructions for their use and such other matter that is authorized by law to be printed on summary statements of the returns. Any other official charged with furnishing summary statements shall prepare them in the manner prescribed by the secretary of state, so far as practicable.

Subd. 5. **Canvass of statewide elections.** On or before July 1 of each year in which there is to be a statewide general election, the secretary of state shall prescribe the form and method by which election returns for the statewide primary and general elections will be canvassed by precinct, county and state election officials. Notwithstanding the provisions of sections 206.185, subdivision 5, and 206.21, subdivisions 1 and 2, precinct summary statements shall be submitted by the election judges in every precinct.

[1975 c 5 s 107; 1976 c 56 s 1; 1978 c 725 s 10-13]

204A.47 SUMMARY STATEMENT OF THE RETURNS, DISPOSITION. Subdivision 1. **Envelope.** The judges in each precinct shall include a set of one of each of the completed summary statements of the returns in three separate envelopes. Each envelope shall be wrapped by drawing a substantial twine string twice around it. The ends of the string shall be tied together and the envelope sealed in three places with wax and stamp furnished by the county auditor, one of the places to be over the knot in the string. The judges shall then endorse the envelope in substantially the following form: "Summary statements of the returns of the election precinct, (Town) or (City) of, in the County of, State of Minnesota".

Subd. 2. Returns and materials, delivery. One or more of the judges in each precinct shall deliver two sets of summary statements in separate sealed envelopes, all unused and spoiled white, pink, and canary ballots, one election register in counties where there is no permanent voter registration system; and the envelopes containing the white, pink, and canary ballots to the county auditor at his office within 24 hours after the closing of the polls. One or more judges shall deliver the remaining set of summary statements and returns, all unused and spoiled municipal ballots, the remaining election register in counties where there is no permanent voter registration system, the envelopes containing municipal ballots and all other things furnished by the municipal clerk, to the municipal clerk at his office within 24 hours after the closing of the polls.

Subd. 2a. Delivery to secretary of state. The county auditor shall deliver to the secretary of state one of the sets of summary statements received from each precinct.

Subd. 2b. Notification of prior registration. In counties where there is no permanent voter registration, the county auditor shall examine all election registers from each precinct for names of voters who had prior registration at another address. The county auditor shall notify the county auditor of the voter's last registration using the form required by section 201.071, subdivision 4.

[1975 c 5 s 108; 1978 c 725 s 14]

204A.48 [Repealed, 1978 c 725 s 17]

204A.49 BALLOTS, RETURNS, DUTIES. Subdivision 1. **County auditor.** The auditor of every county shall remain in his office to receive delivery of the things required to be delivered to him, and to permit public inspection of the summary statements, and to tabulate the votes until all have been tabulated and the results made known, or until 24 hours have elapsed since the closing of the polls, whichever occurs first. The county auditor shall file all envelopes containing ballots delivered to him in his office and shall keep them in a safe place with seals unbroken unless previously opened by proper authority for examination or recount, and in that event, the auditor shall cause the envelopes to be sealed again with the names of the persons making the inspection or recount endorsed thereon. The envelopes may be opened by the county canvassing board, if necessary to procure any election returns that may inadvertently have been sealed up with the ballots by the judges; and the envelopes shall be sealed again and endorsed in the manner provided in this subdivision. Where ballots are strung and replaced in the boxes, and the boxes are locked and sealed with the ballots within, the ballots shall be stored in such manner as to admit at all times of actual, visual inspection of the exterior of the boxes, except that if the boxes are needed for use in another election, the ballots may be withdrawn from the boxes and wrapped and tied securely, and sealed and endorsed in the manner provided in this subdivision.

Subd. 2. Clerk. The clerk of every first, second, and third class city shall remain in his office to receive delivery of the things required to be delivered to him, or until 24 hours have elapsed since the closing of the polls, whichever occurs first. The clerk of every first class city shall keep a book in which, in the presence of the delivery judges, he shall make a record of all things delivered to him, and the time of delivery, and the names of the judges so delivering them. The book shall be preserved in his office for the same period as the ballots.

[1975 c 5 s 110]

204A.50 NONCOMPLIANCE WITH LAW. Subdivision 1. **Failure of judges to make delivery.** Whenever the judges fail to make and deliver returns as provided by law, the auditor or municipal clerk to whom the returns should have been made shall dispatch a special messenger to obtain them, and the messenger is entitled to the same compensation as a judge for like service, and he is subject to the same penalties.

Subd. 2. Irregularities, not fatal. An officer to whom election returns are required to be made may not refuse to receive them because they are returned or delivered to him in any manner other than that prescribed by law, except that the returns must be sealed. A canvassing board may not refuse to include any returns in its canvass of votes on account of any informality in holding the election or making returns thereof. All returns shall be received and the votes canvassed by the canvassing board and included in its statements where there is a substantial compliance with the provisions of the Minnesota election law.

[1975 c 5 s 111]

204A.51 COUNTY CANVASSING BOARD. Subdivision 1. **Membership.** The county canvassing board shall consist of the county auditor, the clerk of the district court, two members of the county board to be selected by the board from among its members who are not candidates for nomination or election to any office, and the mayor or president of the most populous municipality in the county. If any of these persons fail or refuse to serve on the canvassing board and in the absence of any selection by the county board from among its own members, the county auditor shall appoint a qualified voter of the county who may not hold or be a candidate for any public office, to take the place of the person on the canvassing board. Three members shall constitute a quorum and when sworn shall have the power to act.

Subd. 2. **County canvass, primary election information required.** The board shall meet at the auditor's office at 10:00 a.m. on or before the third day after the primary election, take the oath of office, and publicly canvass the returns of the election made to the county auditor. The board shall complete the canvass by the evening of the sixth day following the election, and it shall forthwith make the following report and file the same with the county auditor:

(a) A statement for each political party showing the names of all candidates thereof voted for at the primary election, the number of votes received by each, in each precinct and in the county, and for what office;

(b) A statement showing the names of candidates of each political party who are nominated;

(c) A statement of the total number of persons who voted at the election in the county, and in each precinct;

(d) A statement of the number of persons registering to vote on election day and the number of persons registered prior to election day; and

(e) A statement of the votes received by each of the nonpartisan candidates in each precinct in the county and the names of the nonpartisan candidates nominated. If any candidates receive an equal number of votes for the same nomination, the canvassing board shall determine the tie by lot. Upon completion of the canvass, the county auditor shall forthwith certify to the secretary of state the vote, as shown by the report of the county canvassing board, for all candidates to be voted for in more than one county, and he shall mail or deliver to each nominee who is to be voted for in his county only, a notice of his nomination and that his name will be placed upon the general election ballot.

If the difference between the votes of two or more candidates for legislative office which lies within a single county is 100 or less and the difference determines one or more nominations, the canvassing board shall recount the votes. A recount shall not delay any other part of the report of the board and shall be reported and certified as soon as possible. Time for notice of a contest of an election which is recounted shall begin to run upon completion of the recount and canvass for that office.

Subd. 3. **County canvass, general election, information required.** The canvassing board shall meet at the auditor's office on or before the third day after the general election, take the oath of office, and publicly canvass the returns of the general election made to the county auditor. The board shall complete the canvass without unnecessary delay, and it shall forthwith make the following report and file the same with the county auditor:

(a) A statement of the number of persons who voted at the election in each precinct in the county and the total number of persons who voted at the election in the county;

(b) A statement of the number of persons registering to vote on election day and the number of persons registered prior to election day;

(c) A statement of the names of all candidates for state offices, representatives and senators in the legislature, representatives and senators in congress, judges of the district court, and county offices; and the number of votes received by each in each precinct and in the whole county;

(d) A statement of the total number of votes counted for and against any proposed change of county lines or county seat; and

(e) A statement of the number of votes counted for and against any constitutional amendment or other proposition in any precinct, and the total number of votes counted therefor in the county.

If the difference between the votes of the candidates for legislative office which lies within a single county is 100 votes or less the canvassing board shall recount the votes. A recount shall not delay any other part of the report of the board and shall be reported and certified as soon as possible. Time for notice of a contest of an election which is recounted shall begin to run upon completion of the recount and canvass for that office.

In case of a tie, the canvassing board shall determine the results by lot. Upon completion of the canvass, the board shall declare the person receiving the highest number of votes for each county office duly elected thereto; and when the county constitutes or contains a senatorial or representative district in the legislature, it shall declare the person receiving the highest number of votes for each office in the legislature duly elected.

Subd. 4. County canvass, returns, to secretary. Two copies of each of the statements required in this section shall be made and certified under the official seal of the auditor; each enclosed in an envelope directed to the secretary of state, with the auditor's name and official address and the words, "Election Returns," endorsed thereon, and forwarded by different mails. If neither copy is received by the secretary of state within ten days after the election, he shall immediately notify the auditor of that fact, and the auditor shall transmit another copy thereof to the secretary by special messenger deputed by him.

[1975 c 5 s 112; 1976 c 56 s 2; 1978 c 725 s 15,16]

204A.52 ERRORS IN COUNTING, CORRECTION. Subdivision 1. **Manner of correction.** If in conducting the canvass of votes at any election it appears to a majority of the canvassing board or to any candidate that an obvious error in the counting and recording of the vote for any particular office has been made by the judges in any precincts such obvious errors may be corrected in accordance with the provisions of section 203A.18, subdivision 2.

Subd. 2. Ballots, inspection. The inspection shall be made by the canvassing board in the presence of all the candidates for the office or their representatives.

Subd. 3. Inspection, time, place. The inspection shall be conducted as soon as practicable at the office of the county auditor, and the auditor shall set the time of meeting, and give notice to the candidates a sufficient time before the meeting.

Subd. 4. Canvass, not delayed. The report of the canvassing board as to other offices on the ballot may not be delayed because of the inspection provided for in this section. Appropriate notation and report of the action taken with reference to the office in regard to which inspection has been ordered shall be made on the regular report of the canvassing board.

Subd. 5. Canvassing board, report. As soon as practicable after the board has reexamined the ballots and returns, it shall report to the county auditor. The report shall be signed by all the members of the canvassing board, and it shall contain the following information:

(a) A copy of the order of the court, if any;

(b) A statement of the minutes of the meeting of the board for the purposes of correcting the errors, showing the time, date, and place of the meetings, and appearances entered by or on behalf of the candidates;

(c) A copy of the notice of the meeting given to each candidate with proof of service;

(d) A statement showing action of the board with reference to the conduct of the inspection and reexamination; and

(e) A statement showing results of the action of the canvassing board.

Subd. 6. Canvassing board, declaration, notification. The canvassing board shall make its declaration of election with reference to the office in question. The report and declaration of election shall be filed by the auditor, and he shall mail a certified copy thereof to each candidate. The auditor immediately shall notify the secretary of state by registered or certified mail of the action of the county canvassing board.

[1975 c 5 s 113]

204A.53 STATE CANVASSING BOARD. Subdivision 1. **Membership.** The secretary of state shall call to his assistance two judges of the supreme court and two

judges of the district court none of whom may be candidates at the election, and the judges together with the secretary of state shall constitute the state canvassing board. The board shall meet at the office of the secretary of state on the second Tuesday after the primary and general election, except as otherwise provided for special elections. When a vacancy in the membership of the state canvassing board occurs by reason of the failure of any judge to attend the meeting of the board on the day appointed, the secretary of state shall fill the vacancy by selecting another disinterested judge from either court, but not more than two judges of the supreme court shall serve upon the canvassing board at any one time.

Subd. 2. State canvass, primary election. After the primary election the canvassing board shall canvass the returns of the election that were made to the secretary of state; and upon the completion of the canvass, the secretary of state shall forthwith certify to the several county auditors the names of the persons found to be nominated and mail to each nominee a notice of his nomination.

If the difference between the votes of two or more candidates for legislative office to be certified by the secretary of state is 100 or less and the difference determines one or more nominations, the canvassing board shall recount the votes. A recount shall not delay any other part of the canvass and the nominees shall be certified as soon as possible. Time for notice of a contest of an election which is recounted shall begin to run upon completion of the recount and canvass for that office.

Subd. 3. State canvass, general election. After the general election, the canvassing board shall canvass the certified copies of the statements made by the county canvassing boards, and they shall prepare therefrom a statement of the following information:

(a) A statement of the whole number of votes counted for candidates for state offices, congressional offices, and such other candidates as shall be voted for in more than one county, specifying the several counties in which they were cast;

(b) The names of the persons receiving the votes and the number received by each, specifying the several counties in which they were cast; and

(c) The number of votes counted for and against each constitutional amendment, specifying the several counties in which they were cast.

If the difference between the votes of the candidates for a legislative office to be certified by the state canvassing board is 100 or less the board shall recount the votes. A recount shall not delay any other part of the canvass and the results shall be certified as soon as possible. Time for notice of a contest of an election which is recounted shall begin to run upon completion of the recount and canvass for that office.

In case of a tie vote for any office, the result of which is to be certified by the state canvassing board, the board shall determine the tie by lot.

Subd. 4. State canvassing board, certification and declaration of results. All members of the state canvassing board shall subscribe their names to the statement and certify to its correctness; and within three days after the completion of the canvass, the board shall declare the result.

[1975 c 5 s 114]

204A.54 CERTIFICATES OF ELECTION; PREPARATION, DELIVERY. Subdivision 1. **Preparation, delivery.** The auditor of each county, and the secretary of state where the candidates for office are voted for in more than one county, shall make for every person declared elected by the canvassing board of the county or the state canvassing board a certificate of his election and, except as otherwise provided in this subdivision for election certificates of state legislators, shall deliver the certificate to the person entitled thereto upon demand, and without fee. In the case of election to the state house of representatives or senate, the original certificate of election shall be delivered by the auditor or secretary of state to the chief clerk of the house or the secretary of the senate, and shall be returned to the senator or representative upon taking the oath of office. Upon demand, the person elected shall be given a copy by the chief clerk of the house or the secretary of the senate without fee. No certificate of election shall be made or delivered while a recount is being done by a canvassing board because the difference between votes is 100 or less. The auditor of any county also shall make for any candidate or voter of his county, a certified copy of any statement of votes made by the county canvassing board upon payment or tender of one dollar therefor. In case of a contest, the court may invalidate and revoke the certificate, pursuant to chapter 209.

Subd. 2. **Certificates of election, issuance, contest.** The auditor of any county and the secretary of state may not issue a certificate of election to any person declared elected by the canvassing board of the county or the state canvassing board until 12 days after the canvassing board has canvassed the returns and declared the result of the election. In case of a contest, the certificate may not be issued until the proper court has determined the contest. This subdivision shall not apply to candidates elected to the office of state senator or representative.

[1975 c 5 s 115; 1977 c 32 s 1]

204A.55 FALSE REGISTRATION; PENALTY. Every person who causes or attempts to cause his name to be registered in more than one precinct, or in any precinct, knowing that he is not a qualified voter thereof, or who falsely represents himself to be a person other than he is, when attempting to register for the purpose of voting at any election, or when applying for a ballot or offering his ballot to be deposited in a ballot box, or when offering to vote by means of a voting machine or otherwise, whether the person he represents himself to be is living or dead, or a fictitious person, and every person who aids, abets, counsels, or procures any other person to do any of the acts herein mentioned, shall be guilty of a felony.

[1975 c 5 s 116]

204A.56 REFUSING EMPLOYEE ELECTION PRIVILEGE; PENALTY. Every person who as principal or as an official or agent of any other person, shall directly or indirectly refuse, abridge, or in any manner interfere with any of the election privileges or immunities of any employee of himself or his principal, shall be guilty of a misdemeanor.

[1975 c 5 s 117]

204A.57 DAMAGING OR REMOVING ELECTION MATERIALS; PENALTY. Every person who tears down, mutilates, defaces, or otherwise injures any file of names or card of instructions to voters posted or otherwise placed outside or inside of any polling place or booth by any board of registration or other official, or who, before the closing of the polls, removes from the polling place any ballots printed for use at such election, or any supplies or conveniences placed in or about any booth for the use of voters in preparing their ballots, shall be guilty of a gross misdemeanor.

[1975 c 5 s 118]

204A.58 DAMAGING ELECTION EQUIPMENT; PENALTY. Every person who shall wilfully take or carry away from any polling place, or deface, mutilate, damage, or add to any ballot, file, or election register or any name or figure therein, shall be guilty of a felony.

[1975 c 5 s 119]

204A.59 OFFERING DUPLICATE BALLOTS; PENALTY. Every person who wrongfully delivers to a judge, to be placed in a box, more than one ballot of the same kind and color, or who fraudulently puts a ballot into any box, or who, not being a qualified voter, votes at any election with unlawful intent, or who votes more than once at the same election, or who procures, aids, assists, or advises another to go into any county, town or precinct for the purpose of voting, knowing that such person is not qualified to vote therein, shall be guilty of a felony.

[1975 c 5 s 120]

204A.60 ONLY ELECTION OFFICIALS MAY HANDLE BALLOTS; PENALTY. Every person, except a judge, who during any canvass of votes shall handle, touch, or interfere with any of the ballots being canvassed, and every judge permitting the same to be done shall be guilty of a misdemeanor.

[1975 c 5 s 121]

204A.61 NEGLECT OF OFFICIALS; PENALTY. Every election officer or other person required by law to safely keep and produce on election day the ballots entrusted to him or to perform any other act, who wilfully fails or refuses to do the thing so required, or who is required by law to abstain from any act, and wilfully does such act, or who in either of such cases is guilty of any fraud, corruption, partiality or misbehavior in conducting or aiding in the conduct of any election, or in canvassing or

MINNESOTA STATUTES 1978

204A.62 CONDUCT OF ELECTIONS

3154

making returns of votes, or who wrongfully refuses to make or deliver any certificate of election, or who falsely or corruptly performs any required act, the punishment whereof has not been otherwise expressly provided for by law, shall be guilty of a felony.

[1975 c 5 s 122]

204A.62 ELECTION MESSENGER'S FAILURE TO DELIVER RETURNS; PENALTY. Every messenger appointed by authority of law to receive and carry a report, certificate, or certified copy of any statement relating to the result of any election, who shall wilfully mutilate, tear, deface, obliterate, or destroy the same, or do any other act which shall prevent the delivery of it as required by law, and every person who shall accept or take away from such messenger any such report, certificate, or copy, with intent to prevent its delivery, or who shall wilfully do any injury or act herein specified, shall be guilty of a felony.

[1975 c 5 s 123]