

## CHAPTER 204B

## ELECTIONS; GENERAL PROVISIONS

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**204B.01 DEFINITIONS.**

The definitions in chapter 200 apply to this chapter.

*History: 1981 c 29 art 4 s 1*

**204B.02 APPLICATION.**

This chapter applies to all elections held in this state except as otherwise provided by law.

*History: 1981 c 29 art 4 s 2; 1987 c 266 art 1 s 23*

**204B.03 MANNER OF NOMINATION.**

Candidates of a major political party for any partisan office except presidential elector and all candidates for nonpartisan office shall apply for a place on the primary ballot by filing an affidavit of candidacy as provided in section 204B.06, and except as otherwise provided in section 204D.07, subdivision 3, shall be nominated by primary. Candidates for any partisan office who do not seek the nomination of a major political party shall be nominated by nominating petition as provided in sections 204B.07 and 204B.08, and, except for presidential elector candidates, shall file an affidavit of candidacy as provided in section 204B.06.

*History: 1981 c 29 art 4 s 3; 1986 c 475 s 7*

**204B.04 CANDIDACY; PROHIBITIONS.**

Subdivision 1. **Major party candidates.** No individual shall be named on any ballot as the candidate of more than one major political party. No individual who has been certified by a canvassing board as the nominee of any major political party shall be

named on any ballot as the candidate of any other major political party at the next ensuing general election.

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

Subd. 3. **Nomination for nonpartisan office.** No individual shall be nominated by nominating petition for any nonpartisan office except in the event of a vacancy in nomination as provided in section 204B.13.

**History:** 1981 c 29 art 4 s 4; 1991 c 320 s 4

**204B.05** [Repealed, 1987 c 39 s 1]

**204B.06 FILING FOR PRIMARY; AFFIDAVIT OF CANDIDACY.**

Subdivision 1. **Form of affidavit.** An affidavit of candidacy shall state the name of the office sought and shall state that the candidate:

- (a) Is an eligible voter;
- (b) Has no other affidavit on file as a candidate for any office at the same primary or next ensuing general election; and
- (c) Is, or will be on assuming the office, 21 years of age or more, and will have maintained residence in the district from which the candidate seeks election for 30 days before the general election.

An affidavit of candidacy must include a statement that the candidate's name as written on the affidavit for ballot designation is the candidate's true name or the name by which the candidate is commonly and generally known in the community.

An affidavit of candidacy for partisan office shall also state the name of the candidate's political party or political principle, stated in three words or less.

Subd. 1a. **Presidential primary affidavit.** An affidavit of candidacy for the presidential primary must include the candidate's name, address, office sought, and the candidate's political party or principal in three words or less. The affidavit must include a statement that the candidate satisfies the federal constitutional requirements for holding office.

Subd. 2. **Major party candidates.** A candidate who seeks the nomination of a major political party for a partisan office shall state on the affidavit of candidacy that the candidate either participated in that party's most recent precinct caucus or intends to vote for a majority of that party's candidates at the next ensuing general election.

Subd. 3. [Repealed, 1983 c 253 s 26]

Subd. 4. **Particular offices.** Candidates who seek nomination for the following offices shall state the following additional information on the affidavit:

- (a) for United States senator, that the candidate will be 30 years of age or older and a citizen of the United States for not less than nine years on the next January 3 or, in the case of an election to fill a vacancy, within 21 days after the special election;
- (b) for United States representative, that the candidate will be 25 years of age or older and a citizen of the United States for not less than seven years on the next January 3 or, in the case of an election to fill a vacancy, within 21 days after the special election;
- (c) for governor or lieutenant governor, that on the first Monday of the next January the candidate will be 25 years of age or older and, on the day of the state general election, a resident of Minnesota for not less than one year;
- (d) for supreme court justice, court of appeals judge, or district court judge, that the candidate is learned in the law;
- (e) for county, municipal, school district, or special district office, that the candidate meets any other qualifications for that office prescribed by law;

(f) for senator or representative in the legislature, that on the day of the general or special election to fill the office the candidate will have resided not less than one year in the state and not less than six months in the legislative district from which the candidate seeks election.

**Subd. 5. United States senator; two candidates at same election.** When two candidates are to be elected United States senators from this state at the same election, each individual filing for the nomination shall state in the affidavit of candidacy the term for which the individual desires to be a candidate, by stating the date of the expiration of the term.

**Subd. 6. Judicial candidates; designation of term.** An individual who files as a candidate for the office of chief justice or associate justice of the supreme court, judge of the court of appeals, or judge of the district court shall state in the affidavit of candidacy the office of the particular justice or judge for which the individual is a candidate. The individual shall be a candidate only for the office identified in the affidavit. Each justice of the supreme court and each court of appeals and district court judge is deemed to hold a separate nonpartisan office.

**Subd. 7. Governor and lieutenant governor.** An individual who files as a candidate for governor or lieutenant governor shall file the affidavit of candidacy jointly with the affidavit of another individual who seeks nomination as a candidate for the other office.

**History:** 1981 c 29 art 4 s 6; 1982 c 501 s 14; 1983 c 247 s 83,84; 1986 c 444; 1986 c 475 s 8; 1990 c 603 s 2; 1993 c 223 s 7,8

#### 204B.07 NOMINATING PETITIONS.

**Subdivision 1. Form of petition.** A nominating petition may consist of one or more separate pages each of which shall state:

- (a) The office sought;
- (b) The candidate's name and residence address, including street and number if any; and
- (c) The candidate's political party or political principle expressed in not more than three words. No candidate who files for a partisan office by nominating petition shall use the term "nonpartisan" as a statement of political principle or the name of the candidate's political party. No part of the name of a major political party may be used to designate the political party or principle of a candidate who files for a partisan office by nominating petition, except that the word "independent" may be used to designate the party or principle. A candidate who files by nominating petition to fill a vacancy in nomination for a nonpartisan office pursuant to section 204B.13, shall not state any political principle or the name of any political party on the petition.

**Subd. 2. Petitions for presidential electors.** On petitions nominating presidential electors, the names of the candidates for president and vice-president shall be added to the political party or political principle stated on the petition. One petition may be filed to nominate a slate of presidential electors equal in number to the number of electors to which the state is entitled.

**Subd. 3. Number of candidates nominated.** No nominating petition shall contain the name of more than one candidate except a petition jointly nominating individuals for governor and lieutenant governor or nominating a slate of presidential electors.

**Subd. 4. Oath and address of signer.** Following the information required by subdivisions 1 and 2 and before the space for signing, each separate page that is part of the petition shall include an oath in the following form:

"I solemnly swear (or affirm) that I know the contents and purpose of this petition, that I do not intend to vote at the primary election for the office for which this nominating petition is made, and that I signed this petition of my own free will.

Notarization or certification of the signatures on a nominating petition is not required. Immediately after the signature, the signer shall write on the petition the signer's residence address including street and number, if any, and mailing address if different from residence address.

Subd. 5. **Sample forms.** An official with whom petitions are filed shall make sample forms for nominating petitions available upon request.

Subd. 6. **Penalty.** An individual who, in signing a nominating petition, makes a false oath is guilty of perjury.

**History:** 1981 c 29 art 4 s 7; 1986 c 444; 1986 c 475 s 9,10

#### 204B.08 SIGNING PETITIONS.

Subdivision 1. **Time for signing.** Nominating petitions shall be signed during the period when petitions may be filed as provided in section 204B.09.

Subd. 2. **Qualifications of signers.** A nominating petition may be signed only by individuals who are eligible to vote for the candidate who is nominated. No individual may sign more than one nominating petition for candidates for the same office unless more than one candidate is to be elected to that office. If more than one candidate is to be elected to the office, an individual may sign as many petitions as there are candidates to be elected.

Subd. 3. **Number of signatures.** The number of signatures required on a nominating petition shall be as follows:

(a) For a state office voted on statewide or for United States senator, one percent of the total number of individuals voting in the state at the last preceding state general election, or 2,000, whichever is less;

(b) For a congressional or judicial district office, five percent of the total number of individuals voting in the district at the last preceding state general election, or 1,000, whichever is less;

(c) For a county or legislative office, ten percent of the total number of individuals voting in the county or legislative district at the last preceding state or county general election, or 500, whichever is less;

(d) For a municipal office in a city of the first class, the number specified in section 205.121; and

(e) For any other municipal or school district office, ten percent of the total number of individuals voting in the municipality, ward, school district, or other election district at the last preceding municipal, or school district if applicable, general election, or 500, whichever is less.

**History:** 1981 c 29 art 4 s 8; 1990 c 453 s 3

#### 204B.09 TIME AND PLACE OF FILING AFFIDAVITS AND PETITIONS.

Subdivision 1. **Candidates in state and county general elections.** Except as otherwise provided by this subdivision, affidavits of candidacy and nominating petitions for county, state and federal offices filed at the state general election shall be filed not more than 70 days nor less than 56 days before the state primary. The affidavit may be prepared and signed at any time between 60 days before the filing period opens and the last day of the filing period. Notwithstanding other law to the contrary, the affidavit of candidacy must be signed in the presence of a notarial officer. Candidates for presidential electors may file petitions on or before the state primary day. Nominating petitions to fill vacancies in nominations shall be filed as provided in section 204B.13. No affidavit or petition shall be accepted later than 5:00 p.m. on the last day for filing. Affidavits and petitions for offices to be voted on in only one county shall be filed with the county auditor of that county. Affidavits and petitions for offices to be voted on in more than one county shall be filed with the secretary of state.

Subd. 1a. **Absent candidates.** A candidate for county, state, or federal office who will be absent from the state during the filing period may submit a properly executed affidavit of candidacy, the appropriate filing fee, and any necessary petitions in person to the filing officer. The candidate shall state in writing the reason for being unable to submit the affidavit during the filing period. The affidavit, filing fee, and petitions must be submitted to the filing officer during the seven days immediately preceding the can-

didate's absence from the state. Nominating petitions may be signed during the 14 days immediately preceding the date when the affidavit of candidacy is filed.

Subd. 2. **Other elections.** Affidavits of candidacy and nominating petitions for city, town or other elective offices shall be filed during the time and with the official specified in chapter 205 or other applicable law or charter. Affidavits of candidacy and applications filed on behalf of eligible voters for school board office shall be filed during the time and with the official specified in chapter 205A or other applicable law.

**History:** 1981 c 29 art 4 s 9; 1986 c 475 s 11; 1987 c 266 art 1 s 24; 1989 c 291 art 1 s 8; 1990 c 585 s 24; 1990 c 608 art 7 s 2; 1991 c 227 s 11

#### **204B.10 AFFIDAVITS OF CANDIDACY; NOMINATING PETITIONS; DUTIES OF ELECTION OFFICIALS.**

Subdivision 1. **Affidavits of candidacy; numbering.** The official with whom affidavits of candidacy are filed shall number them in the order received.

Subd. 2. **Nominating petitions; acknowledgment; numbering.** On the day a nominating petition is filed, the election official shall deliver or mail an acknowledgment of the petition to the individual who files it and to the candidate who is to be nominated. The election official shall also number the petitions in the order received. The petitions shall be retained as provided in section 204B.40, and shall be available for public inspection during that period.

Subd. 3. **Inspection.** The official with whom nominating petitions are filed shall inspect the petitions in the order filed to verify that there are a sufficient number of signatures of individuals whose residence address as shown on the petition is in the district where the candidate is to be nominated.

Subd. 4. **Certification.** The secretary of state shall certify to the county auditor of each county the names of all candidates nominated by petitions filed with the secretary of state. Certification shall be made at the same time as the secretary of state certifies the names of candidates who are nominated at the primary.

Subd. 5. **Improper name.** If the filing officer determines that use on the ballot of the candidate's name as written on the affidavit of candidacy would violate section 204B.35, subdivision 2, the filing officer shall immediately notify the candidate and shall certify for the ballot the candidate's true name instead of the name as written on the affidavit.

Subd. 6. **Ineligible voter.** Upon receipt of a certified copy of a final judgment or order of a court of competent jurisdiction that a person who has filed an affidavit of candidacy or who has been nominated by petition:

(1) has been convicted of treason or a felony and the person's civil rights have not been restored;

(2) is under guardianship of the person; or

(3) has been found by a court of law to be legally incompetent;

the filing officer shall notify the person by certified mail at the address shown on the affidavit or petition, and shall not certify the person's name to be placed on the ballot. The actions of a filing officer under this subdivision are subject to judicial review under section 204B.44.

**History:** 1981 c 29 art 4 s 10; 1986 c 475 s 12; 1993 c 364 s 1

#### **204B.11 CANDIDATES; FILING FEES; PETITION IN PLACE OF FILING FEE.**

Subdivision 1. **Amount; dishonored checks; consequences.** Except as provided by subdivision 2, a filing fee shall be paid by each candidate who files an affidavit of candidacy. The fee shall be paid at the time the affidavit is filed. The amount of the filing fee shall vary with the office sought as follows:

(a) for the office of governor, lieutenant governor, attorney general, state auditor, state treasurer, secretary of state, representative in Congress, judge of the supreme court, judge of the court of appeals, judge of the district court, or judge of the county municipal court of Hennepin county, \$300;

- (b) for the office of senator in Congress, \$400;
- (c) for office of senator or representative in the legislature, \$100;
- (d) for a county office, \$50; and
- (e) for the office of soil and water conservation district supervisor, \$20.

For the office of presidential elector, and for those offices for which no compensation is provided, no filing fee is required.

The filing fees received by the county auditor shall immediately be paid to the county treasurer. The filing fees received by the secretary of state shall immediately be paid to the state treasurer.

When an affidavit of candidacy has been filed with the appropriate filing officer and the requisite filing fee has been paid, the filing fee shall not be refunded. If a candidate's filing fee is paid with a check, draft, or similar negotiable instrument for which sufficient funds are not available or that is dishonored, notice to the candidate of the worthless instrument must be sent by the filing officer via registered mail no later than immediately upon the closing of the filing deadline with return receipt requested. The candidate will have five days from the time the filing officer receives proof of receipt to issue a check or other instrument for which sufficient funds are available. The candidate issuing the worthless instrument is liable for a service charge pursuant to section 332.50. If adequate payment is not made, the name of the candidate must not appear on any official ballot and the candidate is liable for all costs incurred by election officials in removing the name from the ballot.

**Subd. 2. Petition in place of filing fee.** At the time of filing an affidavit of candidacy, a candidate may present a petition in place of the filing fee. The petition may be signed by any individual eligible to vote for the candidate. A nominating petition filed pursuant to section 204B.07 or 204B.13, subdivision 4, is effective as a petition in place of a filing fee if the nominating petition includes a prominent statement informing the signers of the petition that it will be used for that purpose.

The number of signatures on a petition in place of a filing fee shall be as follows:

- (a) for a state office voted on statewide, or for president of the United States, or United States senator, 2,000;
- (b) for a congressional office, 1,000;
- (c) for a county or legislative office, or for the office of district, county, or county municipal judge, 500; and
- (d) for any other office which requires a filing fee as prescribed by law, municipal charter, or ordinance, the lesser of 500 signatures or five percent of the total number of votes cast in the municipality, ward, or other election district at the preceding general election at which that office was on the ballot.

An official with whom petitions are filed shall make sample forms for petitions in place of filing fees available upon request.

**History:** 1981 c 29 art 4 s 11; 3Sp1981 c 2 art 1 s 29; 1983 c 112 s 1; 1983 c 247 s 85; 1987 c 175 s 5; 1987 c 404 s 155; 1990 c 603 s 3; 1992 c 513 art 3 s 42

## 204B.12 WITHDRAWAL OF CANDIDATES.

**Subdivision 1. Before primary.** A candidate may withdraw from the primary ballot by filing an affidavit of withdrawal with the same official who received the affidavit of candidacy. The affidavit shall request that official to withdraw the candidate's name from the ballot and shall be filed no later than three days after the last day for filing for the office.

**Subd. 2. [Repealed, 1983 c 303 s 24]**

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

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

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

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

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

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

**Subd. 3. Time for filing.** An affidavit of withdrawal filed under this section shall not be accepted later than 5:00 p.m. on the last day for withdrawal.

**History:** 1981 c 29 art 4 s 12; 1983 c 303 s 6; 1986 c 444; 1986 c 475 s 13; 1991 c 320 s 5-7

### 204B.13 VACANCY IN NOMINATION.

**Subdivision 1. Death or withdrawal.** A vacancy in nomination may be filled in the manner provided by this section. A vacancy in nomination exists when:

(a) A major political party candidate or nonpartisan candidate who was nominated at a primary dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 2a; or

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

**Subd. 2. Partisan office; nomination by party.** (a) A vacancy in nomination for partisan office shall be filled as provided in this subdivision. A major political party has the authority to fill a vacancy in nomination of that party's candidate by filing a nomination certificate with the same official who received the affidavits of candidacy for that office.

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

**Subd. 3.** [Repealed, 1991 c 320 s 16]

**Subd. 4. Nonpartisan office; filling vacancy by nominating petitions.** A vacancy in nomination in a nonpartisan office may be filled by nominating petition in the manner provided in sections 204B.06 to 204B.09. The petition shall be filed within one week after the vacancy in nomination occurs, but not later than four calendar days before the election.

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

**Subd. 5. Candidates for governor and lieutenant governor.** (a) If a vacancy in nomination occurs in the race for governor, the candidate for governor determined under

this section shall select the candidate for lieutenant governor. If a vacancy in nomination occurs in the race for lieutenant governor, due to a vacancy in nomination for governor or due to the withdrawal or death of the candidate for lieutenant governor, the candidate for governor shall select the candidate for lieutenant governor as provided in this subdivision.

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

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

**History:** 1981 c 29 art 4 s 13; 1986 c 444; 1991 c 320 s 8-12

#### 204B.135 REDISTRICTING OF ELECTION DISTRICTS.

Subdivision 1. **Cities with wards.** A city that elects its council members by wards may not redistrict those wards before the legislature has been redistricted in a year ending in one or two. The wards must be redistricted within 60 days after the legislature has been redistricted or at least 19 weeks before the state primary election in the year ending in two, whichever is first.

Subd. 2. **Other election districts.** For purposes of this subdivision, "local government election district" means a county district, park and recreation district, school district, or soil and water conservation district. Local government election districts, other than city wards covered by subdivision 1, may not be redistricted until precinct boundaries are reestablished under section 204B.14, subdivision 3, paragraph (c). Election districts covered by this subdivision must be redistricted within 80 days of the time when the legislature has been redistricted or at least 15 weeks before the state primary election in the year ending in two, whichever comes first.

Subd. 3. **Voters rights.** (a) An eligible voter may apply to the district court for either a writ of mandamus requiring the redistricting of wards or local government election districts or to revise any plan adopted by the governing body responsible for redistricting of wards or local government election districts.

(b) If a city adopts a ward redistricting plan at least 19 weeks before the primary in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court within three weeks but no later than 18 weeks before the state primary election in the year ending in two, notwithstanding any charter provision. If a city adopts a ward redistricting plan less than 19 weeks before the state primary in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court no later than one week after the plan has been adopted, notwithstanding any charter provision.

(c) If a plan for redistricting of a local government election district is adopted at



least 15 weeks before the state primary election in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court within three weeks but no later than 14 weeks before the state primary election in the year ending in two. If a plan for redistricting of a local government election district is adopted less than 15 weeks before the state primary election in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court no later than one week after the plan has been adopted.

**Subd. 4. Special elections; limitations.** No municipality or school district may conduct a special election during the 19 weeks before the state primary election in the year ending in two, except for special elections conducted on the date of the school district general election. A school district special election required by any other law may be deferred until the date of the next school district general election, the state primary election, or the state general election.

**History:** 1987 c 297 s 1; 1991 c 349 s 30

#### 204B.14 ELECTION PRECINCTS.

**Subdivision 1. Boundaries.** The governing body of each municipality shall establish the boundaries of the election precincts in the municipality. The governing body of a county shall establish the boundaries of precincts in unorganized territory in the county. Except as provided in subdivision 3, a governing body may change the boundaries of any election precinct which it has established.

**Subd. 1a. Legislative policy.** It is the intention of the legislature to complete congressional and legislative redistricting activities in time to permit counties and municipalities to begin the process of reestablishing precinct boundaries as soon as possible after the adoption of the congressional and legislative redistricting plans but in no case later than 25 weeks before the state primary election in the year ending in two.

**Subd. 2. Separate precincts; combined polling place.** (a) The following shall constitute at least one election precinct:

- (1) each city ward; and
- (2) each town and each statutory city.

(b) A single, accessible, combined polling place may be established no later than June 1 of any year:

(1) for any city of the third or fourth class, any town, or any city having territory in more than one county, in which all the voters of the city or town shall cast their ballots;

(2) for two contiguous precincts in the same municipality that have a combined total of fewer than 500 registered voters; or

(3) for up to four contiguous municipalities located entirely outside the metropolitan area, as defined by section 473.121, subdivision 2, that are contained in the same congressional, legislative, and county commissioner district.

A copy of the ordinance or resolution establishing a combined polling place must be filed with the county auditor within 30 days after approval by the governing body. A polling place combined under clause (3) must be approved by the governing body of each participating municipality. A municipality withdrawing from participation in a combined polling place must do so by filing a resolution of withdrawal with the county auditor no later than May 1 of any year.

The secretary of state shall provide a separate polling place roster for each precinct served by the combined polling place. A single set of election judges may be appointed to serve at a combined polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all precincts to be voting at the combined polling place. Separate ballot boxes must be provided for the ballots from each precinct. The results of the election must be reported separately for each precinct served by the combined polling place, except in a polling place estab-

lished under clause (2) where one of the precincts has fewer than ten registered voters, in which case the results of that precinct must be reported in the manner specified by the secretary of state.

**Subd. 3. Boundary changes; prohibitions; exception.** Notwithstanding other law or charter provisions to the contrary, during the period from January 1 in any year ending in zero to the time when the legislature has been redistricted in a year ending in one or two, no changes may be made in the boundaries of any election precinct except as provided in this subdivision.

(a) If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

(b) A municipality or county may establish new election precincts lying entirely within the boundaries of any existing precinct and shall assign names to the new precincts which include the name of the former precinct.

(c) Precinct boundaries must be reestablished within 60 days of the time when the legislature has been redistricted, or at least 19 weeks before the state primary election in a year ending in two, whichever comes first. The adoption of reestablished precinct boundaries becomes effective on the date of the state primary election in the year ending in two.

Precincts must be arranged so that no precinct lies in more than one legislative or congressional district.

**Subd. 4. Boundary change procedure.** Any change in the boundary of an election precinct shall be adopted at least 90 days before the date of the next election and, for the state primary and general election, no later than June 1 in the year of the state general election. The precinct boundary change shall not take effect until notice of the change has been posted in the office of the municipal clerk or county auditor for at least 60 days.

The county auditor must publish a notice illustrating or describing the congressional, legislative, and county commissioner district boundaries in the county in one or more qualified newspapers in the county at least 14 days prior to the first day to file affidavits of candidacy for the state general election in the year ending in two.

Alternate dates for adopting changes in precinct boundaries, posting notices of boundary changes, and notifying voters affected by boundary changes pursuant to this subdivision may be established in the manner provided in the rules of the secretary of state.

**Subd. 5. Precinct boundaries; description; maps.** When a precinct boundary has been changed, the municipal clerk shall immediately notify the secretary of state. Upon receipt of this notice or a notice of annexation from the Minnesota municipal board, the secretary of state shall provide the municipal clerk with a base map on which the clerk shall note the boundary change. The clerk shall return the corrected base map to the secretary of state within 30 days after the boundary change was made. The secretary of state shall update the precinct boundary database, prepare a corrected precinct map, and provide the corrected precinct map to the county auditor and the municipal clerk who shall make them available for public inspection. The county auditor shall prepare and file precinct boundary maps for precincts in unorganized territories in the same manner as provided for precincts in municipalities. For every election held in the municipality the election judges shall be furnished precinct maps as provided in section 201.061, subdivision 6. If a municipality changes the boundary of an election precinct, the county auditor shall notify each school district with territory affected by the boundary change at least 30 days before the effective date of the change.

**Subd. 6. Precinct boundaries to follow physical features.** The boundaries of election precincts shall follow visible, clearly recognizable physical features. If it is not possible to establish the boundary between any two adjacent precincts along such features, the boundary around the two precincts combined shall be established in the manner provided in the rules of the secretary of state to comply with the provisions of this subdivi-

sion. The maps required by subdivision 5 shall clearly indicate which boundaries do not follow visible, clearly recognizable physical features.

For the purposes of this subdivision, "visible, 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 visible, clearly recognizable physical feature for the purposes of this subdivision.

If the secretary of state determines that a precinct boundary does not comply with this subdivision, the secretary of state shall send a notice to the county auditor or municipal clerk specifying the action needed to correct the precinct boundary. If, after 60 days, the county or municipal governing body has not taken action to correct the precinct boundary, the secretary of state shall correct the precinct boundary and notify the county auditor or municipal clerk of the action taken.

If a visible, clearly recognizable physical feature is not available for use as a precinct boundary, an alternate boundary used by the United States Bureau of the Census may be authorized by the secretary of state.

**Subd. 7. Application to municipalities.** Notwithstanding the provisions of section 410.21, or any other law, ordinance or charter to the contrary, the provisions of subdivisions 1, 3 and 6 apply to all municipalities.

**Subd. 8. [Repealed, 1994 c 607 s 7]**

**History:** 1981 c 29 art 4 s 14; 1Sp1981 c 4 art 4 s 43; 2Sp1981 c 2 s 2; 1983 c 289 s 115 subd 1; 1985 c 248 s 36; 1986 c 444; 1987 c 186 s 15; 1987 c 212 s 1-4; 1987 c 297 s 2; 1990 c 453 s 4; 1991 c 349 s 31-34; 1993 c 208 s 1,2; 1993 c 223 s 9; 1994 c 607 s 1-4

#### **204B.145 DUTIES OF SECRETARY OF STATE; REDISTRICTING.**

Following the completion of legislative redistricting, the secretary of state may coordinate and facilitate the exchange of information between the legislative redistricting computer system, the statewide voter registration system, and a computer system developed to assist the counties, municipalities, and school districts in redrawing election districts and establishing election precincts.

**History:** 1991 c 345 art 1 s 80

#### **204B.146 DUTIES OF SECRETARY OF STATE.**

**Subdivision 1. Redistricting.** The secretary of state shall conduct conferences with the county auditors, municipal clerks, and school district clerks to instruct them on the procedures for redistricting of election districts and establishment of election precincts in the year ending in one.

**Subd. 2. Precinct and election district boundaries.** The secretary of state shall maintain a computer database of precinct and election district boundaries. The secretary of state shall revise the information in the database whenever a precinct or election district boundary is changed. The secretary of state shall prepare maps illustrating precinct and election district boundaries in either paper or electronic formats and make them available to the public at the cost of production.

The secretary of state may authorize municipalities and counties to provide updated precinct and election district boundary information in electronic formats.

The secretary of state shall provide periodic updates of precinct and election district boundaries to the legislative coordinating commission, the state demographer, and the land management information center.

**History:** 1991 c 349 s 35; 1993 c 208 s 3

#### **204B.15 UNORGANIZED TERRITORY; ELECTION PRECINCTS.**

A county board, at its meeting in either January or July, upon the petition of not less than ten eligible voters residing in unorganized territory more than ten miles from

the polling place in any established precinct, shall establish a new election precinct. The board shall designate a polling place for the new precinct that is convenient for the individuals residing in it. No polling place designated under this section shall be located within ten miles of an existing polling place.

*History: 1981 c 29 art 4 s 15*

#### **204B.16 POLLING PLACES; DESIGNATION.**

**Subdivision 1. Authority; location.** The governing body of each municipality and of each county with precincts in unorganized territory shall designate by ordinance or resolution a polling place for each election precinct. Polling places must be designated and ballots must be distributed so that no one is required to go to more than one polling place to vote in a school district and municipal election held on the same day. The polling place for a precinct in a city or in a school district located in whole or in part in the metropolitan area defined by section 473.121 shall be located within the boundaries of the precinct or within 3,000 feet of one of those boundaries unless a single polling place is designated for a city pursuant to subdivision 2 or a school district pursuant to section 205A.11. The polling place for a precinct in unorganized territory may be located outside the precinct at a place which is convenient to the voters of the precinct. If no suitable place is available within a town or within a school district located outside the metropolitan area defined by section 473.121, then the polling place for a town or school district may be located outside the town or school district within five miles of one of the boundaries of the town or school district.

**Subd. 1a. Notice to voters.** If the location of polling place has been changed, the governing body establishing the polling place shall send each registered voter in the affected precinct a nonforwardable mailed notice stating the location of the new polling place at least 25 days before the next election. The secretary of state shall prepare a sample of this notice. A notice that is returned as undeliverable must be forwarded immediately to the county auditor, who shall change the registrant's status to "challenged" in the statewide registration system. This subdivision does not apply to a polling place location that is changed on election day under section 204B.17.

**Subd. 2. [Repealed, 1994 c 607 s 7]**

**Subd. 3. Designation effective until changed.** The designation of a polling place pursuant to this section shall remain effective until a different polling place is designated for that precinct. No designation of a new or different polling place shall become effective less than 30 days prior to an election.

**Subd. 4. Prohibited locations.** No polling place shall be designated in any place where intoxicating liquors or nonintoxicating malt beverages are served or in any adjoining room. No polling place shall be designated in any place in which substantial compliance with the requirements of this chapter cannot be attained.

**Subd. 5. Access by elderly and handicapped.** Each polling place shall be accessible to and usable by elderly and physically handicapped individuals. A polling place is deemed to be accessible and usable if it complies with the standards in paragraphs (a) to (f).

(a) At least one set of doors must have a minimum width of 31 inches if the doors must be used to enter or leave the polling place.

(b) Any curb adjacent to the main entrance to a polling place must have curb cuts or temporary ramps. Where the main entrance is not the accessible entrance, any curb adjacent to the accessible entrance must also have curb cuts or temporary ramps.

(c) Where the main entrance is not the accessible entrance, a sign shall be posted at the main entrance giving directions to the accessible entrance.

(d) At least one set of stairs must have a temporary handrail and ramp if stairs must be used to enter or leave the polling place.

(e) No barrier in the polling place may impede the path of the physically handicapped to the voting booth.

(f) At least one handicapped parking space, which may be temporarily so designated by the municipality for the day of the election, must be available near the accessible entrance.

The doorway, handrails, ramps, and handicapped parking provided pursuant to this subdivision must conform to the standards specified in the state building code for accessibility by handicapped persons.

A governing body shall designate as polling places only those places which meet the standards prescribed in this subdivision unless no available place within a precinct is accessible or can be made accessible.

**Subd. 6. Public facilities.** Every statutory city, home rule charter city, county, town, school district, and other public agency, including the University of Minnesota and other public colleges and universities, shall make their facilities, including parking, available for the holding of city, county, school district, state, and federal elections, subject to the approval of the local election official. A charge for the use of the facilities may be imposed in an amount that does not exceed the lowest amount charged to any public or private group.

**Subd. 7. Appropriate facilities.** The facilities provided in accordance with subdivision 6 shall be sufficient in size to accommodate all election activities and the requirements of subdivision 5. The space must be separated from other activities within the building. The local election official may approve space in two connecting rooms for registration and balloting activities. Except in the event of an emergency making the approved space unusable, the public facility may not move the election from the space approved by the local election official without prior approval. In addition to the requirements of subdivision 5, the public facility must make remaining parking spaces not in use for regularly scheduled activities available for voters.

**History:** 1981 c 29 art 4 s 16; 1983 c 124 s 4; 1984 c 471 s 5; 1985 c 307 s 1; 1987 c 266 art 1 s 25; 1991 c 227 s 12,13; 1991 c 349 s 36,37; 1992 c 474 s 1; 1993 c 223 s 10

#### **204B.17 CHANGE OF POLLING PLACE BY ELECTION JUDGES.**

When a designated polling place does not comply with the requirements of this chapter the election judges of that precinct, on or before the opening of the polls on election day and upon approval by the municipal clerk in municipalities or school districts or the county auditor in unorganized territory, shall procure a polling place which is as near the designated polling place as possible and which does comply with those requirements.

When a new polling place is procured by the election judges, they shall meet on election day at the original polling place where they shall fill any vacancies in their number, publicly announce the change in polling place to the voters who are present and post a notice in large print of the change in a conspicuous place. They shall also post a notice in a location visible by voters who vote from their motor vehicles as provided in section 204C.15, subdivision 2. Upon completing these duties the election judges shall adjourn to the new polling place, where they shall post a similar notice of the change in polling place. The election judges shall certify to the appropriate governing body the expenses incurred because of the change. These expenses shall be paid as part of the expenses of the election.

**History:** 1981 c 29 art 4 s 17; 1984 c 471 s 6; 1990 c 453 s 5

#### **204B.18 POLLING PLACES; EQUIPMENT.**

**Subdivision 1. Booths.** Each polling place must contain a number of voting booths in proportion to the number of individuals eligible to vote in the precinct. Each booth must be at least six feet high, three feet deep and two feet wide with a shelf at least two feet long and one foot wide placed at a convenient height for writing. The booth shall be provided with a door or curtains. Each accessible polling place must have at least one accessible voting booth or other accessible voting station. All booths or stations must be constructed so that a voter is free from observation while marking ballots. In

all other polling places every effort must be made to provide at least one accessible voting booth or other accessible voting station. During the hours of voting, the booths must have instructions, a pencil, and other supplies needed to mark the ballots. If needed, a chair must be provided for elderly and handicapped voters to use while in the voting booth. All ballot boxes, voting booths, and election judges must be in open public view in the polling place.

Subd. 2. **Ballot boxes.** Each polling place shall be provided with one ballot box for each kind of ballot to be cast at the election. The boxes shall be substantially the same color as the ballots to be deposited in them. Each box shall be of sufficient size and shall have a sufficient opening to receive and contain all the ballots likely to be deposited in it. When buff or goldenrod ballot boxes are required, a separate box must be provided for each school district for which ballots are to be cast at that polling place. The number and name of the school district must appear conspicuously on the top of each buff or goldenrod ballot box.

*History: 1981 c 29 art 4 s 18; 1984 c 471 s 7; 1987 c 266 art 1 s 26*

### 204B.19 ELECTION JUDGES; QUALIFICATIONS.

Subdivision 1. **Individuals qualified to be election judges.** Except as provided in subdivision 6, any individual who is eligible to vote in an election precinct is qualified to be appointed as an election judge for that precinct subject to this section. If the files of the appointing authority do not contain sufficient voters within a precinct who are qualified and willing to serve as election judges, election judges may be appointed who reside in another precinct in the same municipality, or for school district elections, in the same school district. If there are not sufficient voters within the municipality or school district who are qualified and willing to serve as election judges, election judges may be appointed who reside in the county where the precinct is located.

Subd. 2. **Individuals not qualified to be election judges.** No individual shall be appointed as an election judge for any precinct if that individual:

- (a) Is unable to read, write or speak the English language;
- (b) Is the spouse, parent, child or sibling of any election judge serving in the same precinct or of any candidate at that election; or
- (c) Is a candidate at that election.

Subd. 3. [Repealed, 1985 c 248 s 37]

Subd. 4. **Additional qualifications permitted; examination.** The appointing authority may establish additional qualifications which are not inconsistent with the provisions of this section and which relate to the ability of an individual to perform the duties of an election judge. The appointing authority may examine any individual who seeks appointment as an election judge to determine whether the individual meets any qualification established under this section.

Subd. 5. **Party balance requirement.** No more than half of the election judges in a precinct may be members of the same major political party unless the election board consists of an odd number of election judges, in which case the number of election judges who are members of the same major political party may be one more than half the number of election judges in that precinct.

Subd. 6. **High school students.** Notwithstanding any other requirements of this section, a student enrolled in a high school in Minnesota who has attained the age of 16 is eligible to be appointed as a without party affiliation trainee election judge in the municipality in which the student resides. The student must meet qualifications for trainee election judges specified in rules of the secretary of state. A student appointed as a trainee election judge may be excused from school attendance during the hours that the student is serving as a trainee election judge if the student submits a written request signed and approved by the student's parent or guardian to be absent from school and a certificate from the appointing authority stating the hours during which the student will serve as a trainee election judge to the principal of the school at least ten days prior to the election. Students shall not serve as trainee election judges after 10:00 p.m. Not-

withstanding section 177.24 to the contrary, trainee election judges may be paid not less than two-thirds of the minimum wage for a large employer. The principal of the school may approve a request to be absent from school conditioned on acceptable academic performance and the requirement that the student must have completed or be enrolled in a course of study in government at the time of service as a trainee election judge.

**History:** 1981 c 29 art 4 s 19; 1983 c 126 s 1; 1983 c 303 s 7; 1985 c 39 s 1; 1987 c 266 art 1 s 27; 1991 c 237 s 1,2

#### **204B.195 TIME OFF FROM WORK TO SERVE AS ELECTION JUDGE.**

An individual who is selected to serve as an election judge pursuant to section 204B.21, subdivision 2 may, after giving an employer at least 20 days' written notice, be absent from a place of work for the purpose of serving as an election judge without penalty. An employer may reduce the salary or wages of an employee serving as an election judge by the amount paid to the election judge by the appointing authority during the time the employee was absent from the place of employment.

The written request to be absent from work must be accompanied by a certification from the appointing authority stating the hourly compensation to be paid the employee for service as an election judge and the hours during which the employee will serve. An employer may restrict the number of persons to be absent from work for the purpose of serving as an election judge to no more than 20 percent of the total workforce at any single worksite.

**History:** 1983 c 126 s 2; 1986 c 444; 1991 c 237 s 3

#### **204B.20 ELECTION BOARD; CHAIR; DUTIES.**

The election judges appointed to serve in an election precinct shall constitute the election board for that precinct. The appointing authority shall designate one of the election judges in each precinct to serve as the chair of the election board. The chair shall assign specific duties to the election judges of that precinct as necessary or convenient to complete forms, obtain signatures, and perform all the other duties required of election judges.

**History:** 1981 c 29 art 4 s 20; 1986 c 444

#### **204B.21 APPOINTMENT OF ELECTION JUDGES.**

**Subdivision 1. Appointment lists; duties of political parties and county auditor.** On July 1 in a year in which there is an election for a partisan political office, the county or legislative district chairs of each major political party, whichever is designated by the state party, shall prepare a list of eligible voters to act as election judges in each election precinct in the county or legislative district. The chairs shall furnish the lists to the county auditor of the county in which the precinct is located.

By July 15, the county auditor shall furnish to the appointing authorities a list of the appropriate names for each election precinct in the jurisdiction of the appointing authority. Separate lists shall be submitted by the county auditor for each major political party.

**Subd. 2. Appointing authority; powers and duties.** Election judges for precincts in a municipality shall be appointed by the governing body of the municipality. Election judges for precincts in unorganized territory shall be appointed by the county board. Election judges for a precinct composed of two or more municipalities must be appointed by the governing body of the municipality or municipalities responsible for appointing election judges as provided in the agreement to combine for election purposes. Appointments shall be made from lists furnished pursuant to subdivision 1 subject to the eligibility requirements and other qualifications established or authorized under section 204B.19. If no lists have been furnished or if additional election judges are required after all listed names have been exhausted, the appointing authority may appoint any other individual to serve as an election judge subject to the same require-

ments and qualifications. The appointments shall be made at least 25 days before the election at which the election judges will serve.

*History: 1981 c 29 art 4 s 21; 1983 c 303 s 8; 1986 c 444; 1987 c 212 s 5*

#### **204B.22 ELECTION JUDGES; NUMBER REQUIRED.**

Subdivision 1. **Minimum number required.** A minimum of three election judges shall be appointed for each precinct. In a combined polling place under section 204B.14, subdivision 2, at least one judge must be appointed from each municipality in the combined polling place, provided that not less than three judges shall be appointed for each combined polling place. The appointing authorities may appoint election judges for any precinct in addition to the number required by this subdivision including additional election judges to count ballots after voting has ended.

Subd. 2. **Additional election judges in paper ballot precincts.** In precincts using paper ballots, one election judge shall be appointed for each 150 votes cast in that precinct at the last similar election. At each state primary or state general election in precincts using paper ballots and in which more than 300 votes were cast at the last similar election, additional election judges shall be appointed to count the ballots and complete the returns in place of the election board that served while voting was taking place.

Subd. 3. **Minimum number required in certain precincts.** At each state primary or state general election in precincts using lever voting machines or an electronic voting system with marking devices and in which more than 400 votes were cast at the last similar election, the minimum number of election judges is three plus one judge to demonstrate the use of the voting machine or device.

*History: 1981 c 29 art 4 s 22; 1986 c 362 s 3; 1987 c 212 s 6; 1994 c 607 s 5*

#### **204B.23 VACANCIES AMONG ELECTION JUDGES.**

A vacancy on an election board occurs when any election judge who is a member of that board:

(a) Fails to arrive at the polling place within 30 minutes after the time when the polling place is scheduled to open;

(b) Becomes unable to perform the duties of the office after assuming those duties; or

(c) For any reason fails or refuses to perform the duties of the office as assigned by the chair of the election board.

When a vacancy occurs, the remaining election judges of the precinct shall elect an individual to fill the vacancy subject to the provisions of section 204B.19. When possible the election judges shall elect individuals who have been trained as election judges pursuant to section 204B.25. The oath signed by the new election judge shall indicate that the new election judge was elected to fill a vacancy.

*History: 1981 c 29 art 4 s 23; 1986 c 444*

#### **204B.24 ELECTION JUDGES; OATH.**

Each election judge shall sign the following oath before assuming the duties of the office:

"I ..... solemnly swear that I will perform the duties of election judge according to law and the best of my ability and will diligently endeavor to prevent fraud, deceit and abuse in conducting this election."

The oath shall be attached to the summary statement of the election returns of that precinct. If there is no individual present who is authorized to administer oaths, the election judges may administer the oath to each other.

*History: 1981 c 29 art 4 s 24*



**204B.25 TRAINING FOR ELECTION JUDGES.**

Subdivision 1. **Duties of county auditor.** Each county auditor shall provide training for all election judges who are appointed to serve at any election to be held in the county. The county auditor shall also provide a procedure for emergency training of election judges elected to fill vacancies. The county auditor may delegate to a municipal election official the duty to provide training of election judges in that municipality or school district.

Subd. 2. **Rules of secretary of state.** The secretary of state shall adopt rules establishing a program for the training of election judges by county auditors as required by this section.

Subd. 3. **Trained election judges; number required.** Each election precinct in which less than 100 individuals voted at the last state general election shall have at least two election judges who are members of different major political parties who have received training as required in this section. In every other election precinct, no individual may serve as an election judge who has not received training as required by subdivision 1.

*History: 1981 c 29 art 4 s 25; 1987 c 266 art 1 s 28*

**204B.26 ELECTION JUDGES; VIOLATIONS; PENALTIES.**

Any individual who serves as an election judge in violation of any of the provisions of sections 204B.19 to 204B.25, is guilty of a misdemeanor.

*History: 1981 c 29 art 4 s 26*

**204B.27 DUTIES OF SECRETARY OF STATE.**

Subdivision 1. **Blank forms.** At least 25 days before every state election the secretary of state shall transmit to each county auditor a sufficient number of blank county abstract forms and other blank forms the secretary of state deems necessary for the conduct of the election.

Subd. 2. **Election law and instructions.** The secretary of state shall prepare and publish a volume containing all state general laws relating to elections. The attorney general shall provide annotations to the secretary of state for this volume. On or before July 1 of every even numbered year the secretary of state shall furnish to the county auditors and municipal clerks enough copies of this volume so that each county auditor and municipal clerk will have at least one copy. The secretary of state may prepare and transmit to the county auditors and municipal clerks detailed written instructions for complying with election laws relating to the conduct of elections, conduct of voter registration and voting procedures.

Subd. 3. **Instruction posters.** At least 25 days before every state election the secretary of state shall prepare and furnish to the county auditor of each county in which paper ballots are used, voter instruction posters printed in large type upon cards or heavy paper. The instruction posters must contain the information needed to enable the voters to cast their paper ballots quickly and correctly and indicate the types of assistance available for elderly and handicapped voters. Two instruction posters shall be furnished for each precinct in which paper ballots are used.

Subd. 4. **Pamphlets.** The secretary of state shall prepare and distribute to election officials pamphlets for voters containing impartial instructions relating to voter registration and election procedures. The pamphlets must indicate the types of registration and voting assistance available for elderly and handicapped individuals and residents of health care facilities and hospitals.

Subd. 5. **Conferences for county auditors.** Before each state primary the secretary of state shall conduct conferences with county auditors to instruct them on the administration of election laws and the training of local election officials and election judges.

Subd. 6. **Voter participation.** The secretary of state may sponsor or participate in nonpartisan activities to promote voter participation in Minnesota elections and in efforts to increase voter registration and voter turnout.

**Subd. 7. Educational activities.** The secretary of state may authorize educational activities related to voting and elections for elementary or secondary school students in the polling place on the day of a state, county, municipal, or school district election. Ballots used for educational activities must be a different color than any ballot used at the election. Activities authorized under this subdivision must be administered in a manner that does not interfere with the conduct of the election.

**Subd. 8. Voter information telephone line.** The secretary of state shall provide a voter information telephone line for use during the period beginning two weeks before the state primary and ending three days after the state general election. A toll-free number must be provided for use by persons residing outside the metropolitan calling area. The secretary of state shall make available information concerning voter registration, absentee voting, election results, and other election-related information considered by the secretary of state to be useful to the public.

**History:** 1981 c 29 art 4 s 27; 1983 c 303 s 9; 1984 c 471 s 8,9; 1984 c 560 s 10,11; 1987 c 175 s 6; 1989 c 291 art 1 s 9; 1991 c 237 s 4; 1992 c 513 art 3 s 43; 1994 c 632 art 3 s 54

#### 204B.28 CLERKS; ELECTION SUPPLIES; DUTIES.

**Subdivision 1. Training program for election officials.** Before each state primary, each county auditor shall conduct a training program for local election officials. The county auditor may require the municipal clerks and the chairs of the election boards in the county to meet for this training program before the election at a time and place set by the county auditor. The training program shall include instruction in election procedures and the duties of municipal clerks and election judges. The chairs of the election boards shall be compensated by the municipalities for the incidental expenses incurred by them to attend a training program.

**Subd. 2. Election supplies; duties of county auditors and clerks.** Except as otherwise provided for absentee ballots in section 204B.35, subdivision 4, the county auditor shall complete the preparation of the election materials for which the auditor is responsible at least four days before every state primary and state general election. At any time after all election materials are available from the county auditor but not later than four days before the election each municipal clerk shall secure from the county auditor:

- (a) The forms that are required for the conduct of the election;
- (b) Any printed voter instruction materials furnished by the secretary of state;
- (c) Any other instructions for election officers; and
- (d) A sufficient quantity of the official ballots, registration files, envelopes for ballot returns, and other supplies and materials required for each precinct in order to comply with the provisions of the Minnesota election law. The county auditor may furnish the election supplies to the municipal clerks in the same manner as the supplies are furnished to precincts in unorganized territory pursuant to section 204B.29, subdivision 1.

**History:** 1981 c 29 art 4 s 28; 1981 c 217 s 5; 1984 c 560 s 12; 1986 c 444; 1990 c 585 s 25

#### 204B.29 ELECTION JUDGES; ELECTION SUPPLIES; DUTIES.

**Subdivision 1. Securing election materials.** Before 9:00 p.m. on the day preceding an election, at least one election judge from each precinct in each municipality, or school district if applicable, shall secure voter registration files, ballots, forms, envelopes and other required supplies from the municipal clerk, school district clerk, or other legal custodian. The election judge shall deliver the materials to the polling place before the time when voting is scheduled to begin on election day. The county auditor shall send or deliver the election supplies enumerated in this section to the election judges in the precincts in unorganized territory. The election supplies may be sent by certified mail, parcel post, express mail or any other postal service providing assured delivery by no later than the day before the election. If the election supplies are deliv-

ered by any other means, they shall be delivered by no later than the day before the election.

Each precinct shall be furnished with 100 ballots of each kind for every 85 individuals who voted in that precinct at the last election for the same office or on similar questions, or with ballots of each kind in an amount at least ten percent greater than the number of votes which are reasonably expected to be cast in that precinct in that election, whichever supply of ballots is greater. No precinct shall be furnished with any ballots containing the name of any candidate who cannot properly be voted for in that precinct.

The election judges shall be responsible for the preservation of all election materials received by them until returned to the appropriate election officials after the voting has ended.

**Subd. 2. Failure of election judges to secure materials.** If no election judge secures the election materials for a precinct in any municipality, or school district if applicable, as provided in subdivision 1, the municipal or school district clerk shall deliver them to an election judge for that precinct not later than the time when voting is scheduled to begin. The municipal or school district clerk shall require the election judge accepting delivery of the election supplies to sign a receipt for them. The election judges of that precinct shall pay the expenses of delivery of the materials and shall be liable for the penalty provided by law for neglect of duty.

**History:** 1981 c 29 art 4 s 29; 1984 c 560 s 13; 1987 c 266 art 1 s 29

#### **204B.30 UNOFFICIAL BALLOTS.**

When no official or substitute ballots are ready at the time when voting is scheduled to begin or if the supply is exhausted before the voting ends, the election judges shall contact the municipal clerk and, at the clerk's direction, shall prepare unofficial ballots, printed or written as nearly as practicable in the form of the official ballots, which ballots may be used until official or substitute ballots are available. When unofficial ballots are prepared and used in any precinct, the election judges shall note that fact on the summary statement of the returns for that precinct and specify the number of unofficial ballots that were cast.

**History:** 1981 c 29 art 4 s 30; 1986 c 444

#### **204B.31 COMPENSATION FOR ELECTION SERVICES.**

The compensation for services performed under the Minnesota election law shall be as follows:

(a) To presidential electors from funds appropriated to the secretary of state for this purpose, \$35 for each day of attendance at the capitol and mileage for travel to and from the capitol in the amount allowed for state employees in accordance with section 43A.18, subdivision 2;

(b) To individuals, other than county, city, school district, or town employees during their normal work day, who are appointed by the county auditor to carry ballots to or from the county auditor's office, a sum not less than the prevailing Minnesota minimum wage for each hour spent in carrying ballots and mileage in the amount allowed pursuant to section 471.665, subdivision 1;

(c) To members of county canvassing boards, a sum not less than the prevailing Minnesota minimum wage for each hour necessarily spent and an amount for each mile of necessary travel equal to the amount allowed pursuant to section 471.665, subdivision 1;

(d) To election judges serving in any city, an amount fixed by the governing body of the city; to election judges serving in any school district election which is not held in conjunction with a state election, an amount fixed by the school board of the school district; to election judges serving in unorganized territory, an amount fixed by the county board; and to election judges serving in towns, an amount fixed by the town board. Election judges shall receive at least the prevailing Minnesota minimum wage

for each hour spent carrying out their duties at the polling places and in attending training sessions required by section 204B.25. An election judge who travels to pick up election supplies or to deliver election returns to the county auditor shall receive, in addition to other compensation authorized by this section, a sum not less than the prevailing Minnesota minimum wage for each hour spent performing these duties, plus mileage in the same amount as allowed pursuant to section 471.665, subdivision 1; and

(e) To sergeants at arms, an amount for each hour of service performed at the direction of the election judges, fixed in the same manner as compensation for election judges.

**History:** 1981 c 29 art 4 s 31; 1982 c 424 s 58; 1983 c 126 s 3; 1983 c 253 s 8; 1987 c 266 art 1 s 30

### 204B.32 ELECTION EXPENSES; PAYMENT.

Subdivision 1. **Payment.** (a) The secretary of state shall pay the compensation for presidential electors, the cost of printing the pink paper ballots, and all necessary expenses incurred by the secretary of state in connection with elections.

(b) The counties shall pay the compensation prescribed in section 204B.31, clauses (b) and (c), the cost of printing the canary ballots, the white ballots, the pink ballots when machines are used, the state partisan primary ballots, and the state and county nonpartisan primary ballots, all necessary expenses incurred by county auditors in connection with elections, and the expenses of special county elections.

(c) Subject to subdivision 2, the municipalities shall pay the compensation prescribed for election judges and sergeants at arms, the cost of printing the municipal ballots, providing ballot boxes, providing and equipping polling places and all necessary expenses of the municipal clerks in connection with elections, except special county elections.

(d) The school districts shall pay the compensation prescribed for election judges and sergeants-at-arms, the cost of printing the school district ballots, providing ballot boxes, providing and equipping polling places and all necessary expenses of the school district clerks in connection with school district elections not held in conjunction with state elections. When school district elections are held in conjunction with state elections, the school district shall pay the costs of printing the school district ballots, providing ballot boxes and all necessary expenses of the school district clerk.

All disbursements under this section shall be presented, audited, and paid as in the case of other public expenses.

Subd. 2. **Allocation of costs.** Municipalities or counties may allocate the costs of conducting elections to school districts for payment of their proportionate share of such expenses for elections held at the same time as the regular municipal or county primary and general election. Allocated costs include expenses for election equipment and supplies; polling locations; personnel (including election judge compensation and the portion of salaries of election administrative and technical employees attributable to the preparation and conduct of the election); transportation related to the conduct of the election; required election notices and newspaper publication of election information; communications devices; and postage (including mailings to election judges and for absentee voter applications and ballots).

**History:** 1981 c 29 art 4 s 32; 1983 c 301 s 162; 1987 c 266 art 1 s 31; 1991 c 227 s 14

### 204B.33 NOTICE OF FILING.

(a) Between June 1 and July 1 in each even numbered year, the secretary of state shall notify each county auditor of the offices to be voted for in that county at the next state general election for which candidates file with the secretary of state. The notice shall include the time and place of filing for those offices. Within ten days after notification by the secretary of state, each county auditor shall notify each municipal clerk in the county of all the offices to be voted for in the county at that election and the time

and place for filing for those offices. The county auditors and municipal clerks shall promptly post a copy of that notice in their offices.

(b) At least two weeks before the first day to file an affidavit of candidacy, the county auditor shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the county auditor's office and the closing time for filing on the last day for filing. The county auditor shall post a similar notice at least ten days before the first day to file affidavits of candidacy.

*History: 1981 c 29 art 4 s 33; 1983 c 253 s 9; 1993 c 59 s 1*

#### **204B.34 NOTICE OF ELECTION.**

**Subdivision 1. State elections.** At least 15 days before any state primary or state general election the municipal clerk shall post in the clerk's office a notice stating the officers to be nominated or elected, the location of each polling place in the municipality, and the hours for voting. An optional provision of the notice may include municipal officers to be nominated or elected. The county auditor shall post a similar notice in the auditor's office including information concerning any polling places in unorganized territory in the county. The governing body of a municipality or county may publish this notice in addition to posting it. Failure to give the notice required in this section shall not invalidate a state primary or state general election.

**Subd. 2. Municipal elections.** Notice of municipal elections shall be given as provided in sections 205.13, subdivision 2; and 205.16, subdivision 1.

**Subd. 3. Judicial elections.** When one or more justices of the supreme court or judges of the court of appeals or of a district, county or county municipal court are to be nominated at the same primary 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.

**Subd. 4. School district elections.** Notice of school district elections shall be given as provided in sections 205A.06, subdivision 2; and 205A.07, subdivision 1.

*History: 1981 c 29 art 4 s 34; 1982 c 501 s 15; 1983 c 247 s 86; 1983 c 303 s 10; 1986 c 444; 1987 c 266 art 1 s 32*

#### **204B.35 PREPARATION OF BALLOTS.**

**Subdivision 1. Application.** All ballots for every election shall be prepared in accordance with sections 204B.35 to 204B.44 and chapter 204D, except for voting machine ballots or as otherwise provided by law.

**Subd. 2. Manner of preparation.** Ballots shall be prepared in a manner that enables the voters to understand which questions are to be voted upon and the identity and number of candidates to be voted for in each office and to designate their choices easily and accurately. The name of a candidate shall not appear on a ballot in any way that gives the candidate an advantage over an opponent, including words descriptive of the candidate's occupation, qualifications, principles, or opinions, except as otherwise provided by law.

**Subd. 3. Number.** The official in charge of preparing ballots shall prepare a sufficient number of ballots:

(a) To fill applications of absentee voters; and

(b) To provide each precinct with a sufficient number of ballots of each kind as required by section 204B.29, subdivision 1.

**Subd. 4. Absentee ballots; preparation; delivery.** Ballots necessary to fill applications of absentee voters shall be prepared and delivered at least 30 days before the election to the officials who administer the provisions of chapter 203B.

This section applies to school district elections held on the same day as a statewide election or an election for a county or municipality located partially or wholly within the school district.

**Subd. 5. Combined local elections.** Municipalities shall determine the voting

method in combined local elections when other election jurisdictions located wholly or partially within the municipality schedule elections on the same date as the regular municipal primary or general election.

**History:** 1981 c 29 art 4 s 35; 1983 c 303 s 11; 1985 c 72 s 3; 1986 c 444; 1986 c 475 s 14; 1987 c 62 s 4; 1987 c 266 art 1 s 33; 1991 c 227 s 15

#### 204B.36 BALLOTS; FORM.

**Subdivision 1. Type.** All ballots shall be printed with black ink on paper of sufficient thickness to prevent the printing from being discernible from the back. All ballots of the same color shall be substantially uniform in style of printing, size, thickness and shade of color. When the ballots of a particular color vary in shade, those used in any one precinct shall be of the same shade. All ballots shall be printed in easily readable type with suitable lines dividing candidates, offices, instructions and other matter printed on ballots. The name of each candidate shall be printed in capital letters. The same type shall be used for the names of all candidates on the same ballot.

**Subd. 2. Candidates and offices.** The name of each candidate shall be printed at a right angle to the length of the ballot. At a general election the name of the political party or the political principle of each candidate for partisan office shall be printed above or below the name of the candidate. The name of a political party or a political principle shall be printed in capital and lower case letters of the same type, with the capital letters at least one-half the height of the capital letters used for names of the candidates. At a general election, blank lines shall be printed below the name of the last candidate for each office, or below the title of the office if no candidate has filed for that office, so that a voter may write in the names of individuals whose names are not on the ballot. One blank line shall be printed for each officer of that kind to be elected. At a primary election, no blank lines shall be provided for writing in the names of individuals whose names do not appear on the primary ballot.

On the left side of the ballot at the same level with the name of each candidate and each blank line shall be printed a square in which the voter may designate a vote by a mark (X). Each square shall be the same size. Above the first name on each ballot shall be printed the words, "Put an (X) in the square opposite the name of each candidate you wish to vote for." At the same level with these words and directly above the squares shall be printed a small arrow pointing downward. Directly underneath the official title of each office shall be printed the words "Vote for one" or "Vote for up to ..." (any greater number to be elected).

**Subd. 3. Question; form of ballot.** When a question is to be submitted to a vote, a concise statement of the nature of the question shall be printed on the ballot. The words, "YES" and "NO" shall be printed to the left of this statement, with a square to the left of each word so that the voter may indicate by a mark (X) either a negative or affirmative vote. The ballot shall include instructions directing the voter to put an (X) in the square before the word "YES" if the voter desires to vote for the question, or to put an (X) before the word "NO" if the voter desires to vote against the question.

**Subd. 4. Judicial candidates.** The official ballot shall contain the names of all candidates for each judicial office and shall state the number of those candidates for whom a voter may vote. Each seat for an associate justice, associate judge, or judge of the district court must be numbered. The title of each judicial office shall be printed on the official primary and general election ballot as follows:

(a) In the case of the supreme court:

"Chief justice - supreme court;

"Associate justice (number) - supreme court"

(b) In the case of the court of appeals:

"Judge (number) - court of appeals; or

(c) In the case of the district court:

"Judge (number) - (number) district court."

Subd. 5. **Designation of incumbent; judicial offices.** If a chief justice, associate justice, or judge is a candidate to succeed again, the word "incumbent" shall be printed after that judge's name as a candidate.

**History:** 1981 c 29 art 4 s 36; 1983 c 247 s 87; 1983 c 253 s 10; 1984 c 560 s 14; 1986 c 362 s 4; 1986 c 444; 1991 c 221 s 1; 1993 c 318 art 2 s 45

#### **204B.37 BACK OF BALLOT.**

On the back of all ballots shall be printed the words "Official Ballot", the date of the election and lines for the initials of at least two election judges. The words shall be printed so that they will be visible when the ballot is properly folded for deposit in the ballot box.

**History:** 1981 c 29 art 4 s 37

#### **204B.38 NAMES ON BALLOTS; IDENTICAL DESCRIPTIVE WORDS.**

When the similarity of surnames of two or more candidates for the same office at the same election may cause confusion to voters, up to three additional words may be printed on the ballot after each surname to indicate the candidate's occupation, office, residence or any combination of them if the candidate furnishes the identifying words to the filing officer by the last day for withdrawal of candidacy.

**History:** 1981 c 29 art 4 s 38

#### **204B.39 SUBSTITUTE BALLOTS.**

If a sufficient number of official ballots are not delivered or if the official ballots are stolen or destroyed and a sufficient number of official ballots cannot be procured, the official in charge of preparing the official ballots shall prepare substitute ballots in the form prescribed by this section. The substitute ballots shall be prepared in the same form as official ballots as far as practicable. The word "Substitute" shall be printed in brackets immediately above the words "Official Ballot". When the substitute ballots are delivered to the municipal clerks or election judges they shall be accompanied by an initialed affidavit of the officer preparing them. The affidavit shall state that the substitute ballots have been prepared and furnished in the manner prescribed by this section and shall state the reason why sufficient official ballots were not ready for delivery. The election judges shall include this affidavit with the election returns from that precinct.

**History:** 1981 c 29 art 4 s 39

#### **204B.40 BALLOTS; ELECTION RECORDS AND OTHER MATERIALS; DISPOSITION; INSPECTION OF BALLOTS.**

The county auditors and municipal clerks shall retain all election materials returned to them after any election for at least one year from the date of that election. All election materials involved in a contested election shall be retained for one year or until the contest has been finally determined, whichever is later. Abstracts filed by canvassing boards shall be retained permanently by any officer with whom those abstracts are filed. Election materials no longer required to be retained pursuant to this section shall be disposed of in accordance with sections 138.163 to 138.21. Sealed envelopes containing voted ballots must be retained unopened, except as provided in this section, in a secure location. The county auditor, municipal clerk, or school district clerk shall not permit any voted ballots to be tampered with or defaced.

After the time for filing a notice of contest for an election has passed, the secretary of state may open the sealed ballot envelopes and inspect the ballots for that election maintained by the county auditors, municipal clerks, or school district clerks for the purpose of monitoring and evaluating election procedures. No inspected ballot may be marked or identified in any manner. After inspection, all ballots must be returned to the ballot envelope and the ballot envelope must be securely resealed.

**History:** 1981 c 29 art 4 s 40; 1987 c 175 s 7; 1989 c 291 art 1 s 10

**204B.41 VACANCY IN NOMINATION; CHANGING BALLOTS.**

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

**History:** 1981 c 29 art 4 s 41; 1986 c 444; 1991 c 320 s 13

**204B.42 PAPER COLOR FOR SAMPLE BALLOTS; PENALTY.**

No sample ballot shall be printed on paper of the same color as any official ballots except when printed in black ink on white paper and appearing in a newspaper as news matter. A violation of this section is a misdemeanor.

**History:** 1981 c 29 art 4 s 42

**204B.43 UNLAWFUL PRINTING OR DISTRIBUTION OF BALLOTS; PENALTY.**

Every person authorized or employed to print official ballots who knowingly gives or delivers those ballots to, or knowingly permits them to be taken by, any person other than the official under whose direction they are being printed, or who knowingly prints any ballot or causes or permits any ballot to be printed in a form other than that prescribed by law, or with any other names on it, or with the names of candidates or the titles of offices arranged or the names of candidates spelled in any way other than that authorized and directed by that official, is guilty of a felony.

**History:** 1981 c 29 art 4 s 43

**204B.44 ERRORS AND OMISSIONS; REMEDY.**

Any individual may file a petition in the manner provided in this section for the correction of any of the following errors, omissions or wrongful acts which have occurred or are about to occur:

- (a) An error or omission in the placement or printing of the name or description of any candidate or any question on any official ballot;
- (b) Any other error in preparing or printing any official ballot;
- (c) Failure of the chair or secretary of the proper committee of a major political party to execute or file a certificate of nomination;
- (d) Any wrongful act, omission, or error of any election judge, municipal clerk, county auditor, canvassing board or any of its members, the secretary of state, or any other individual charged with any duty concerning an election.

The petition shall describe the error, omission or wrongful act and the correction sought by the petitioner. The petition shall be filed with any judge of the supreme court in the case of an election for state or federal office or any judge of the district court in that county in the case of an election for county, municipal, or school district office. The petitioner shall serve a copy of the petition on the officer, board or individual charged with the error, omission or wrongful act, and on any other party as required



by the court. Upon receipt of the petition the court shall immediately set a time for a hearing on the matter and order the officer, board or individual charged with the error, omission or wrongful act to correct the error or wrongful act or perform the duty or show cause for not doing so. The court shall issue its findings and a final order for appropriate relief as soon as possible after the hearing. Failure to obey the order is contempt of court.

*History: 1981 c 29 art 4 s 44; 1986 c 444; 1990 c 453 s 6*

#### **204B.45 MAIL BALLOTING.**

**Subdivision 1. Authorization.** Any statutory or home rule charter city or town having fewer than 400 registered voters on June 1 of an election year and not located in a metropolitan county as defined by section 473.121 may provide balloting by mail at any city, county, or state election with no polling place other than the office of the auditor or clerk. The governing body may apply to the county auditor for permission to conduct balloting by mail. The county board may provide for balloting by mail in unorganized territory.

**Subd. 1a. Experimental mail balloting; authorization.** The secretary of state may authorize Ramsey and Kittson counties to conduct elections entirely by mail on an experimental basis. A request from a county board seeking authorization to conduct an experimental mail election must be submitted to the secretary of state at least 90 days prior to the election. The county auditor must pay all costs related to mailing the ballots to and from the voters.

The secretary of state shall prepare a report to the legislature on the implementation of this subdivision by January 15, 1993.

**Subd. 2. Procedure.** Notice of the election and the special mail procedure must be given at least six weeks prior to the election. No earlier than 20 days or later than 14 days prior to the election, the auditor shall mail ballots by nonforwardable mail to all voters registered in the town or unorganized territory. Eligible voters not registered at the time the ballots are mailed may apply for ballots as provided in chapter 203B. Ballot return envelopes, with return postage provided, must be preaddressed to the auditor or clerk and the voter may return the ballot by mail or in person to the office of the auditor or clerk. The costs of the mailing shall be paid by the election jurisdiction in which the voter resides. Any ballot received by 8:00 p.m. on the day of the election must be counted.

**Subd. 3. Election law applied; rules.** The Minnesota election law is applicable to mail balloting except as provided by this section or by rules adopted by the secretary of state, but only paper ballots may be used. The secretary of state shall adopt rules for the conduct of mail balloting, including instructions to voters, procedures for challenge of voters, public observation of the counting of ballots, and procedures for proper handling and safeguarding of ballots to ensure the integrity of the election.

*History: 1987 c 212 s 8; 1990 c 585 s 26; 1991 c 227 s 16; 1993 c 318 art 1 s 1*

#### **204B.46 MAIL ELECTIONS; QUESTIONS.**

A county, municipality, or school district submitting questions to the voters at a special election may apply to the county auditor for approval of an election by mail with no polling place other than the office of the auditor or clerk. No more than two questions may be submitted at a mail election and no offices may be voted on. Notice of the election and the special mail procedure must be given at least six weeks prior to the election. No earlier than 20 or later than 14 days prior to the election, the auditor or clerk shall mail ballots by nonforwardable mail to all voters registered in the county, municipality, or school district. Eligible voters not registered at the time the ballots are mailed may apply for ballots pursuant to chapter 203B.

*History: 1987 c 213 s 1; 1989 c 291 art 1 s 11; 1993 c 223 s 11*