

## CHAPTER 203B

### ABSENTEE VOTING

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### GENERAL PROVISIONS

#### 203B.001 ELECTION LAW APPLICABILITY.

The Minnesota Election Law is applicable to voting by absentee ballot unless otherwise provided in this chapter.

**History:** 1989 c 291 art 1 s 3

#### 203B.01 ABSENTEE BALLOTING; DEFINITIONS.

Subdivision 1. **Application.** The definitions in chapter 200 and this section apply to this chapter.

Subd. 2. **Municipal clerk.** "Municipal clerk" means a full-time town or city clerk who is authorized or required to administer the provisions of sections 203B.04 to 203B.15, as provided in section 203B.05. "Municipal clerk" also means clerk of the school district who is authorized or required to administer the provisions of sections 203B.04 to 203B.15, as provided in section 203B.05 for a school district election not held on the same day as a statewide election.

Subd. 3. **Military.** "Military" means the Army, Navy, Air Force, Marine Corps, Coast Guard or Merchant Marine of the United States, all other uniformed services as defined in United States Code, title 52, section 20310, and military forces as defined by section 190.05, subdivision 3.

Subd. 4. **Health care facility.** "Health care facility" means a licensed hospital, sanitarium, or other institution as defined in section 144.50, subdivision 2, or a nursing home licensed to serve adults under section 144A.02.

**History:** 1981 c 29 art 3 s 1; 1987 c 266 art 1 s 12; 1997 c 147 s 12; 2005 c 156 art 6 s 20; 2015 c 70 art 1 s 11

### 203B.02 GENERAL ELIGIBILITY REQUIREMENTS.

Subdivision 1. **Absentee voting; eligibility.** Any eligible voter may vote by absentee ballot as provided in sections 203B.04 to 203B.15.

Subd. 1a. [Repealed, 2008 c 244 art 1 s 24]

Subd. 2. **Military service; temporary absence.** An eligible voter who is either in the military, or is a spouse or dependent of an individual serving in the military, or is temporarily outside the territorial limits of the United States may vote by absentee ballot either as provided in sections 203B.04 to 203B.15 or as provided in sections 203B.16 to 203B.27.

Subd. 3. **Indefinite residence abroad.** A United States citizen living indefinitely outside the United States who is eligible under federal law to vote in federal elections in Minnesota may vote by absentee ballot only as provided in sections 203B.16 to 203B.27.

**History:** 1981 c 29 art 3 s 2; 1983 c 303 s 2; 1984 c 471 s 3; 1986 c 444; 1991 c 227 s 9; 2006 c 242 s 16; 2010 c 201 s 14; 2013 c 131 art 1 s 2

### 203B.03 PROHIBITIONS; PENALTIES.

Subdivision 1. **Violation.** (a) No individual shall intentionally:

- (1) make or sign any false certificate required by this chapter;
  - (2) make any false or untrue statement in any application for absentee ballots;
  - (3) apply for absentee ballots more than once in any election with the intent to cast an illegal ballot;
  - (4) exhibit a ballot marked by that individual to any other individual;
  - (5) do any act in violation of the provisions of this chapter for the purpose of casting an illegal vote in any precinct or for the purpose of aiding another to cast an illegal vote;
  - (6) use information from absentee ballot materials or records for purposes unrelated to elections, political activities, or law enforcement;
  - (7) provide assistance to an absentee voter except in the manner provided by section 204C.15, subdivision 1;
  - (8) solicit the vote of an absentee voter while in the immediate presence of the voter during the time the individual knows the absentee voter is voting; or
  - (9) alter an absentee ballot application after it has been signed by the voter, except by an election official for administrative purposes.
- (b) Before inspecting information from absentee ballot materials or records, an individual shall provide identification to the public official having custody of the material or information.

Subd. 2. **Penalty.** A violation of this section is a felony.

**History:** 1981 c 29 art 3 s 3; 1987 c 175 s 3; 1997 c 147 s 13; 1999 c 132 s 8

## GENERAL ABSENTEE VOTING

### 203B.04 APPLICATION FOR BALLOTS.

Subdivision 1. **Application procedures.** (a) Except as otherwise allowed by subdivision 2 or by section 203B.11, subdivision 4, an application for absentee ballots for any election may be submitted at any time not less than one day before the day of that election. The county auditor shall prepare absentee ballot application forms in the format provided by the secretary of state and shall furnish them to any person on request. By January 1 of each even-numbered year, the secretary of state shall make the forms to be used available to auditors through electronic means. An application submitted pursuant to this subdivision shall be in writing. An application may be submitted in person, by electronic facsimile device, by electronic mail, or by mail to:

(1) the county auditor of the county where the applicant maintains residence; or

(2) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

For a federal, state, or county election, an absentee ballot application may alternatively be submitted electronically through a secure Web site that shall be maintained by the secretary of state for this purpose. Notwithstanding paragraph (b), the secretary of state must require applicants using the Web site to submit the applicant's e-mail address and verifiable Minnesota driver's license number, Minnesota state identification card number, or the last four digits of the applicant's Social Security number.

An application submitted electronically under this paragraph may only be transmitted to the county auditor for processing if the secretary of state has verified the application information matches the information in a government database associated with the applicant's driver's license number, state identification card number, or Social Security number. The secretary of state must review all unverifiable applications for evidence of suspicious activity and must forward any such application to an appropriate law enforcement agency for investigation.

(b) An application shall be approved if it is timely received, signed and dated by the applicant, contains the applicant's name and residence and mailing addresses, date of birth, and at least one of the following:

(1) the applicant's Minnesota driver's license number;

(2) Minnesota state identification card number;

(3) the last four digits of the applicant's Social Security number; or

(4) a statement that the applicant does not have any of these numbers.

(c) To be approved, the application must contain an oath that the information contained on the form is accurate, that the applicant is applying on the applicant's own behalf, and that the applicant is signing the form under penalty of perjury.

(d) An applicant's full date of birth, Minnesota driver's license or state identification number, and the last four digits of the applicant's Social Security number must not be made available for public inspection. An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device.

An application mailed or returned in person to the county auditor or municipal clerk on behalf of a voter by a person other than the voter must be deposited in the mail or returned in person to the county auditor or municipal clerk within ten days after it has been dated by the voter and no later than six days before the election. The absentee ballot applications or a list of persons applying for an absentee ballot may not be made available for public inspection until the close of voting on election day, except as authorized in section 203B.12.

(e) An application under this subdivision may contain an application under subdivision 5 to automatically receive an absentee ballot application.

**Subd. 2. Health care patient.** An eligible voter who on the day before an election becomes a resident or patient in a health care facility or hospital located in the municipality in which the eligible voter maintains residence may apply for absentee ballots on election day if the voter:

(1) requests an application form by telephone from the municipal clerk not later than 5:00 p.m. on the day before election day; or

(2) submits an absentee ballot application to the election judges engaged in delivering absentee ballots pursuant to section 203B.11.

**Subd. 3. Delivery of application forms.** The election judges designated to deliver absentee ballots pursuant to section 203B.11 shall deliver a blank application form for absentee ballots to any individual who requests one in order to apply for absentee ballots pursuant to subdivision 2.

**Subd. 4. Registration at time of application.** An eligible voter who is not registered to vote but who is otherwise eligible to vote by absentee ballot may register by including a completed voter registration application with the absentee ballot. The individual shall present proof of residence as required by section 201.061, subdivision 3, to the individual who witnesses the marking of the absentee ballots. A military voter, as defined in section 203B.01, may register in this manner if voting pursuant to sections 203B.04 to 203B.15, or may register pursuant to sections 203B.16 to 203B.27.

**Subd. 5. Permanent absentee voter status.** (a) An eligible voter may apply to a county auditor or municipal clerk to automatically receive an absentee ballot application before each election, other than an election by mail conducted under section 204B.45, and to have the status as a permanent absentee voter indicated on the voter's registration record. An eligible voter listed as an ongoing absentee voter as of July 31, 2013, pursuant to laws in effect on that date, shall be treated as if the voter applied for status as a permanent absentee voter pursuant to this subdivision.

(b) A voter who applies under paragraph (a) must automatically be provided an absentee ballot application for each eligible election. A voter's permanent absentee status ends and automatic ballot application delivery must be terminated on:

(1) the voter's written request;

(2) the voter's death;

(3) return of an absentee ballot as undeliverable; or

(4) a change in the voter's status to "challenged" or "inactive" in the statewide voter registration system.

(c) The secretary of state shall adopt rules governing procedures under this subdivision.

**Subd. 6.** [Repealed, 2013 c 131 art 1 s 9]

Subd. 7. **Web site security.** (a) The secretary of state shall maintain a log of each Internet Protocol address used to submit an absentee ballot application electronically under this section, and must monitor the log, volume of Web site use, and other appropriate indicators for suspicious activity. Evidence of suspicious activity that cannot be resolved by the secretary of state must be forwarded to an appropriate law enforcement agency for investigation.

(b) The electronic absentee ballot application system must be secure. The Web site shall maintain the confidentiality of all users and preserve the integrity of the data submitted. The secretary of state shall employ security measures to ensure the accuracy and integrity of absentee ballot applications submitted electronically pursuant to this section. All data sent and received through the Web site must be encrypted.

(c) The secretary of state must provide ongoing testing and monitoring to ensure continued security. The secretary of state must work with the chief information officer as defined in section 16E.01, subdivision 1, or another security expert to annually assess the security of the system. The security assessment must include a certification signed by the secretary of state that states that adequate security measures are in place. The certification must also be signed by the chief information officer or another security expert affirming that the assessment is accurate. The secretary of state must submit the security assessment to the legislative auditor and to the chairs and ranking minority members of the committees in the senate and house of representatives with primary jurisdiction over elections by January 1 of each year, except that the first annual security assessment must be submitted by September 30, 2014, and no report is required for January 1, 2015.

(d) In developing the electronic absentee ballot application system, the secretary of state must consult with the chief information officer or the chief's designee to ensure the site is secure.

**History:** 1981 c 29 art 3 s 4; 1983 c 303 s 3; 1984 c 560 s 4; 1987 c 266 art 1 s 13; 1990 c 585 s 19; 1991 c 227 s 10; 1997 c 147 s 14; 1999 c 132 s 9; 2000 c 467 s 6; 1Sp2001 c 10 art 18 s 10,11; 2005 c 156 art 6 s 21-23; 2008 c 244 art 2 s 10,11; 2010 c 194 s 2; 2010 c 201 s 15; 2013 c 131 art 1 s 3,4; 2014 c 185 s 8,9; 2014 c 264 s 8,9

## **203B.05 DESIGNATION OF MUNICIPAL CLERKS TO ADMINISTER ABSENTEE VOTING LAWS.**

Subdivision 1. **Generally.** The full-time clerk of any city or town shall administer the provisions of sections 203B.04 to 203B.15 if:

- (1) the county auditor of that county has designated the clerk to administer them; or
- (2) the clerk has given the county auditor of that county notice of intention to administer them.

The designation or notice must specify whether the clerk will be responsible for the administration of a ballot board as provided in section 203B.121.

A clerk of a city that is located in more than one county may only administer the provisions of sections 203B.04 to 203B.15 if the clerk has been designated by each of the county auditors or has provided notice to each of the county auditors that the city will administer absentee voting. A clerk may only administer the provisions of sections 203B.04 to 203B.15 if the clerk has technical capacity to access the statewide voter registration system in the secure manner prescribed by the secretary of state. The secretary of state must identify hardware, software, security, or other technical prerequisites necessary to ensure the security, access controls, and performance of the statewide voter registration system. A clerk must receive training approved by the secretary of state on the use of the statewide voter registration system before administering this section. A clerk may not use the statewide voter registration system until the clerk has received the required training.

The county auditor must notify the secretary of state of any municipal clerk who will be administering the provisions of this section and the duties that the clerk will administer.

**Subd. 2. City, school district, and town elections.** For city, town, and school district elections not held on the same day as a statewide election, applications for absentee ballots shall be filed with the city, school district, or town clerk and the duties prescribed by this chapter for the county auditor shall be performed by the city, school district, or town clerk unless the county auditor agrees to perform those duties on behalf of the city, school district, or town clerk. The costs incurred to provide absentee ballots and perform the duties prescribed by this subdivision shall be paid by the city, town, or school district holding the election.

Notwithstanding any other law, this chapter applies to school district elections held on the same day as a statewide election or an election for a county or municipality wholly or partially within the school district.

**History:** 1981 c 29 art 3 s 5; 1987 c 62 s 3; 1987 c 266 art 1 s 14; 2008 c 244 art 2 s 12; 2010 c 194 s 3; 2013 c 131 art 2 s 14

### **203B.06 APPLICATIONS; FILING WITH COUNTY AUDITOR OR MUNICIPAL CLERK; DELIVERY OF BALLOT.**

Subdivision 1. **Printing and delivery of forms.** Each county auditor and municipal clerk shall prepare and print a sufficient number of blank application forms for absentee ballots. The county auditor or municipal clerk shall deliver a blank application form to any voter who requests one pursuant to section 203B.04. Blank application forms must be mailed to eligible voters who have requested an application pursuant to section 203B.04, subdivision 5, at least 60 days before:

- (1) each regularly scheduled primary for federal, state, county, city, or school board office;
- (2) each regularly scheduled general election for city or school board office for which a primary is not held; and
- (3) a special primary to fill a federal or county office vacancy or special election to fill a federal or county office vacancy, if a primary is not required to be held pursuant to section 204D.03, subdivision 3, or 204D.07, subdivision 3; and
- (4) any election held in conjunction with an election described in clauses (1) to (3);

or at least 45 days before any other primary or other election for which a primary is not held.

**Subd. 2. Applications to wrong official.** If for any reason an application for absentee ballots is submitted to the wrong county auditor or municipal clerk, that official shall promptly forward it to the proper county auditor or municipal clerk.

**Subd. 3. Delivery of ballots.** (a) The commissioner of corrections must provide the secretary of state with a list of the names and mailing addresses of state adult correctional facilities. An application for an absentee ballot that provides an address included on the list provided by the commissioner of corrections must not be accepted and an absentee ballot must not be provided to the applicant. The county auditor or municipal clerk must promptly transmit a copy of the application to the county attorney. The Department of Corrections must implement procedures to ensure that absentee ballots issued under this chapter are not received or mailed by offenders incarcerated at state adult correctional facilities.

(b) If an application for absentee ballots is accepted at a time when absentee ballots are not yet available for distribution, the county auditor, or municipal clerk accepting the application shall file it and as soon as absentee ballots are available for distribution shall mail them to the address specified in the application. If

an application for absentee ballots is accepted when absentee ballots are available for distribution, the county auditor or municipal clerk accepting the application shall promptly:

(1) mail the ballots to the voter whose signature appears on the application if the application is submitted by mail and does not request commercial shipping under clause (2);

(2) ship the ballots to the voter using a commercial shipper requested by the voter at the voter's expense;

(3) deliver the absentee ballots directly to the voter if the application is submitted in person; or

(4) deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots, as provided in section 203B.11, subdivision 4, to a voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient in a health care facility, a resident of a facility providing assisted living services governed by chapter 144G, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4.

(c) If an application does not indicate the election for which absentee ballots are sought, the county auditor or municipal clerk shall mail or deliver only the ballots for the next election occurring after receipt of the application. Only one set of ballots may be mailed, shipped, or delivered to an applicant for any election, except as provided in section 203B.121, subdivision 2, or when a replacement ballot has been requested by the voter for a ballot that has been spoiled or lost in transit.

Subd. 3a. **Unofficial ballots.** If no official ballots are ready at the time absentee balloting is scheduled to begin or the supply is exhausted before absentee balloting ends, the county auditor or municipal clerk shall prepare unofficial ballots, printed or written as nearly as practicable in the form of the official ballots. These ballots may be used until the official ballots are available.

Subd. 4. **Registration check.** Upon receipt of an application for ballots, the county auditor, municipal clerk, or election judge acting pursuant to section 203B.11, who receives the application shall determine whether the applicant is a registered voter. If the applicant is not registered to vote, the county auditor, municipal clerk, or election judge shall include a voter registration application among the election materials provided to the applicant.

Subd. 5. **Preservation of records.** An application for absentee ballots shall be dated by the county auditor or municipal clerk when it is received and shall be initialed when absentee ballots are mailed or delivered to the applicant. All applications shall be preserved by the county auditor or municipal clerk for 22 months.

Subd. 6. **Requests from abroad.** If an application for absentee ballots requests delivery of absentee ballots to a point outside the continental United States, the absentee ballots must be sent by air mail. The transmittal and return envelopes must contain the text or symbol or both prescribed by the United States Postal Service for transmitting election mail outside the continental United States. Priority in mailing shall be given to all ballots sent by air mail.

Subd. 7. **Special postal services.** If the federal government or any of its branches, departments, agencies or other instrumentalities makes any special service available for the mailing of absentee voting materials, any county auditor or municipal clerk may use the service.

Subd. 8. **Names on envelopes, directions.** No envelope, return envelope, or directions for casting an absentee ballot shall contain the name of any candidate whose name appears on any of the absentee ballots.

**History:** 1981 c 29 art 3 s 6; 1984 c 560 s 5; 1987 c 175 s 4; 1987 c 266 art 1 s 15; 1997 c 147 s 15; 2000 c 467 s 7; 1Sp2001 c 10 art 18 s 12; 2004 c 293 art 1 s 21; 2006 c 242 s 17; 2008 c 295 s 9; 2010 c 184 s 5; 2010 c 201 s 16,17; 2011 c 76 art 1 s 26; 2013 c 131 art 1 s 5; art 3 s 4

### **203B.065 USING THE REGISTRATION SYSTEM.**

Upon accepting an application for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system the voter's name, date of birth, address of residence in Minnesota, mailing address, Minnesota driver's license or state identification number, or the last four digits of the voter's Social Security number, if provided by the voter. Upon acceptance of an absentee ballot application of a voter who is registered to vote at an address different from the residential address certified on the absentee ballot application, the voter registration record with the previous address shall be challenged. Once the absentee ballot has been transmitted to the voter, the method of transmission and the date of transmission must be recorded.

Upon receipt of a returned absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system that the voter has returned the ballot.

Upon receipt of notice that the ballot board has accepted or rejected the absentee ballot for a state primary or state general election, the county auditor or municipal clerk shall record in the statewide voter registration system whether the ballot was accepted or rejected, and if rejected, the reason for rejection. If a replacement ballot is transmitted to the voter, the county auditor or municipal clerk shall record this in the statewide voter registration system.

The labels provided for envelopes used for transmitting an absentee ballot to and from an applicant for an absentee ballot for a state primary or state general election must contain bar codes generated by the statewide voter registration system to facilitate the recording required under this section. A county auditor or municipal clerk entering information into the statewide voter registration system under this section must include the information provided on the bar code label whenever information is entered into the system.

**History:** 2010 c 194 s 4

### **203B.07 RETURN AND BALLOT ENVELOPES; DIRECTIONS TO VOTERS.**

Subdivision 1. **Delivery of envelopes, directions.** The county auditor or the municipal clerk shall prepare, print, and transmit a return envelope, a ballot envelope, and a copy of the directions for casting an absentee ballot to each applicant whose application for absentee ballots is accepted pursuant to section 203B.04. The county auditor or municipal clerk shall provide first class postage for the return envelope. The directions for casting an absentee ballot shall be printed in at least 14-point bold type with heavy leading and may be printed on the ballot envelope. When a person requests the directions in Braille or on audio file, the county auditor or municipal clerk shall provide them in the form requested. The secretary of state shall prepare Braille and audio file copies and make them available.

When a voter registration application is sent to the applicant as provided in section 203B.06, subdivision 4, the directions or registration application shall include instructions for registering to vote.



Subd. 2. **Design of envelopes.** The return envelope shall be of sufficient size to conveniently enclose and contain the ballot envelope and a folded voter registration application. The return envelope shall be designed to open on the left-hand end. The return envelope must be designed in one of the following ways:

(1) it must be of sufficient size to contain an additional envelope that when sealed, conceals the signature, identification, and other information; or

(2) it must provide an additional flap that when sealed, conceals the signature, identification, and other information.

Election officials may open the flap or the additional envelope at any time after receiving the returned ballot to inspect the returned certificate for completeness or to ascertain other information.

Subd. 3. **Eligibility certificate.** A certificate of eligibility to vote by absentee ballot shall be printed on the back of the return envelope. The certificate shall contain space for the voter's Minnesota driver's license number, state identification number, or the last four digits of the voter's Social Security number, or to indicate that the voter does not have one of these numbers. The space must be designed to ensure that the voter provides the same type of identification as provided on the voter's absentee ballot application for purposes of comparison. The certificate must also contain a statement to be signed and sworn by the voter indicating that the voter meets all of the requirements established by law for voting by absentee ballot and space for a statement signed by a person who is registered to vote in Minnesota or by a notary public or other individual authorized to administer oaths stating that:

(1) the ballots were displayed to that individual unmarked;

(2) the voter marked the ballots in that individual's presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them; and

(3) if the voter was not previously registered, the voter has provided proof of residence as required by section 201.061, subdivision 3.

**History:** 1981 c 29 art 3 s 7; 1984 c 471 s 4; 1999 c 132 s 10; 1Sp2001 c 10 art 18 s 13; 2005 c 156 art 6 s 24; 2008 c 244 art 1 s 6; art 2 s 13; 2010 c 194 s 5,6; 2015 c 70 art 1 s 12

## 203B.08 MARKING AND RETURN OF ABSENTEE BALLOTS.

Subdivision 1. **Marking and return by voter.** An eligible voter who receives absentee ballots as provided in this chapter shall mark them in the manner specified in the directions for casting the absentee ballots. The return envelope containing marked ballots may be mailed as provided in the directions for casting the absentee ballots or may be left with the county auditor or municipal clerk who transmitted the absentee ballots to the voter. If delivered in person, the return envelope must be submitted to the county auditor or municipal clerk by 3:00 p.m. on election day.

The voter may designate an agent to deliver in person the sealed absentee ballot return envelope to the county auditor or municipal clerk or to deposit the return envelope in the mail. An agent may deliver or mail the return envelopes of not more than three voters in any election. Any person designated as an agent who tampers with either the return envelope or the voted ballots or does not immediately mail or deliver the return envelope to the county auditor or municipal clerk is guilty of a misdemeanor.

Subd. 1a. [Repealed, 1999 c 132 s 46]

Subd. 2. **Address on return envelopes.** The county auditor or municipal clerk shall address return envelopes to allow direct mailing of the absentee ballots to the county auditor or municipal clerk who has the responsibility to accept and reject the absentee ballots.

Subd. 3. **Procedures on receipt of ballots.** When absentee ballots are returned to a county auditor or municipal clerk, that official shall stamp or initial and date the return envelope and place it in a secure location with other return envelopes received by that office. Within five days after receipt, the county auditor or municipal clerk shall deliver to the ballot board all ballots received, except that during the 14 days immediately preceding an election, the county auditor or municipal clerk shall deliver all ballots received to the ballot board within three days. Ballots received on election day either (1) after 3:00 p.m., if delivered in person; or (2) after 8:00 p.m., if delivered by mail or a package delivery service, shall be marked as received late by the county auditor or municipal clerk, and must not be delivered to the ballot board.

Subd. 3a. [Repealed, 1999 c 132 s 46]

Subd. 4. **Rules.** The secretary of state shall adopt rules establishing procedures to be followed by county auditors and municipal clerks to assure accurate and timely return of absentee ballots. The rules of the secretary of state may authorize procedures and methods of return in addition to those specified in this section.

**History:** 1981 c 29 art 3 s 8; 1983 c 253 s 2,3; 1986 c 362 s 1,2; 1987 c 266 art 1 s 16; 1990 c 453 s 2; 1997 c 147 s 16; 1999 c 132 s 11; 2004 c 293 art 1 s 22; 2008 c 244 art 2 s 14; 2010 c 194 s 7,8; 2013 c 131 art 2 s 15; 2015 c 70 art 1 s 13,14

### **203B.081 LOCATIONS AND METHODS FOR ABSENTEE VOTING IN PERSON.**

Subdivision 1. **Location; timing.** An eligible voter may vote by absentee ballot in the office of the county auditor and at any other polling place designated by the county auditor during the 46 days before the election, except as provided in this section.

Subd. 2. **Town elections.** Voters casting absentee ballots in person for a town election held in March may do so during the 30 days before the election. The county auditor shall make such designations at least 14 weeks before the election. At least one voting booth in each polling place must be made available by the county auditor for this purpose. The county auditor must also make available at least one electronic ballot marker in each polling place that has implemented a voting system that is accessible for individuals with disabilities pursuant to section 206.57, subdivision 5.

Subd. 3. **Alternative procedure.** (a) The county auditor may make available a ballot counter and ballot box for use by the voters during the seven days before the election. If a ballot counter and ballot box is provided, a voter must be given the option either (1) to vote using the process provided in section 203B.08, subdivision 1, or (2) to vote in the manner provided in this subdivision.

(b) If a voter chooses to vote in the manner provided in this subdivision, the voter must state the voter's name, address, and date of birth to the county auditor or municipal clerk. The voter shall sign a voter's certificate, which must include the voter's name, identification number, and the certification required by section 201.071, subdivision 1. The signature of an individual on the voter's certificate and the issuance of a ballot to the individual is evidence of the intent of the individual to vote at that election.

(c) After signing the voter's certificate, the voter shall be issued a ballot and immediately retire to a voting station or other designated location in the polling place to mark the ballot. The ballot must not be taken from the polling place. If the voter spoils the ballot, the voter may return it to the election official in exchange for a new ballot. After completing the ballot, the voter shall deposit the ballot into the ballot box.

(d) The election official must immediately record that the voter has voted in the manner provided in section 203B.121, subdivision 3.

(e) The election duties required by this subdivision must be performed by the county auditor, municipal clerk, or a deputy of the auditor or clerk.

**History:** 1997 c 147 s 17; 1999 c 132 s 12; 2008 c 244 art 1 s 7; 2010 c 184 s 6; 2010 c 201 s 18; 2013 c 131 art 2 s 16; 2016 c 161 art 1 s 2

### **203B.085 COUNTY AUDITOR'S AND MUNICIPAL CLERK'S OFFICES TO REMAIN OPEN DURING CERTAIN HOURS PRECEDING ELECTION.**

The county auditor's office in each county and the clerk's office in each city or town authorized under section 203B.05 to administer absentee balloting must be open for acceptance of absentee ballot applications and casting of absentee ballots from 10:00 a.m. to 3:00 p.m. on Saturday and until 5:00 p.m. on the day immediately preceding a primary, special, or general election unless that day falls on a Saturday or Sunday. Town clerks' offices must be open for absentee voting from 10:00 a.m. to 12:00 noon on the Saturday before a town general election held in March. The school district clerk, when performing the county auditor's election duties, need not comply with this section.

**History:** 1983 c 303 s 4; 1991 c 265 art 9 s 61; 1999 c 132 s 13; 2000 c 467 s 8; 2004 c 293 art 2 s 13

### **203B.09 FORM AND CONTENT OF REQUIRED MATERIALS; RULES OF SECRETARY OF STATE.**

The secretary of state shall adopt rules establishing the form, content, and type size and style for the printing of blank applications for absentee ballots, absentee voter lists, return envelopes, certificates of eligibility to vote by absentee ballot, ballot envelopes, and directions for casting an absentee ballot. Any official charged with the duty of printing any of these materials shall do so in accordance with these rules.

**History:** 1981 c 29 art 3 s 9; 1990 c 585 s 20

### **203B.10 [Repealed, 2010 c 194 s 27]**

### **203B.11 HOSPITAL PATIENTS AND RESIDENTS OF HEALTH CARE FACILITIES.**

Subdivision 1. **Generally.** Each full-time municipal clerk or school district clerk who has authority under section 203B.05 to administer absentee voting laws shall designate election judges to deliver absentee ballots in accordance with this section. The county auditor must also designate election judges to perform the duties in this section. A ballot may be delivered only to an eligible voter who is a temporary or permanent resident or patient in a health care facility or hospital located in the municipality in which the voter maintains residence. The ballots shall be delivered by two election judges, each of whom is affiliated with a different major political party. When the election judges deliver or return ballots as provided in this section, they shall travel together in the same vehicle. Both election judges shall be present when an applicant completes the certificate of eligibility and marks the absentee ballots, and may assist an applicant as provided in section 204C.15. The election judges shall deposit the return envelopes containing the marked absentee ballots in a sealed container and return them to the clerk on the same day that they are delivered and marked.

Subd. 2. **Twenty days before an election.** During the 20 days preceding an election, the election judges shall deliver absentee ballots only to an eligible voter who has applied for absentee ballots to the county auditor or municipal clerk under section 203B.04, subdivision 1.

Subd. 3. **Election day.** On election day, the election judges shall deliver absentee ballots only to an eligible voter who on the day before the election became a resident or patient in a health care facility or hospital and who has applied for absentee ballots under section 203B.04, subdivision 2.

Subd. 4. **Agent delivery of ballots.** During the seven days preceding an election and until 2:00 p.m. on election day, an eligible voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient of a health care facility, a resident of a facility providing assisted living services governed by chapter 144G, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4, may designate an agent to deliver the ballots to the voter from the county auditor or municipal clerk. An agent must have a preexisting relationship with the voter. A candidate at the election may not be designated as an agent. The voted ballots must be returned to the county auditor or municipal clerk no later than 3:00 p.m. on election day. The voter must complete an affidavit requesting the auditor or clerk to provide the agent with the ballots in a sealed transmittal envelope. The affidavit must include a statement from the voter stating that the ballots were delivered to the voter by the agent in the sealed transmittal envelope. An agent may deliver ballots to no more than three persons in any election. The secretary of state shall provide samples of the affidavit and transmission envelope for use by the county auditors.

**History:** 1981 c 29 art 3 s 11; 1983 c 253 s 4; 1997 c 147 s 18,19; 1999 c 132 s 14,15; 2005 c 156 art 6 s 25; 2006 c 242 s 18; 2008 c 295 s 10

#### **203B.12 ABSENTEE VOTER NAMES.**

Subdivision 1. [Repealed, 2010 c 194 s 27]

Subd. 2. [Repealed, 2010 c 194 s 27]

Subd. 3. [Repealed, 2010 c 194 s 27]

Subd. 4. [Repealed, 2010 c 194 s 27]

Subd. 5. [Repealed, 1999 c 132 s 46]

Subd. 6. [Repealed, 2010 c 194 s 27]

Subd. 7. **Names of persons; rejected absentee ballots.** The names of voters who have submitted an absentee ballot to the county auditor or municipal clerk that has not been accepted may not be made available for public inspection until the close of voting on election day.

Subd. 8. **Names of persons; accepted absentee ballots.** For all elections where use of the statewide voter registration system is required, the secretary of state must maintain a list of voters who have submitted absentee ballots that have been accepted. For all other elections, the county auditor or municipal clerk must maintain a list of voters who have submitted absentee ballots that have been accepted. The lists must be available to the public in the same manner as public information lists in section 201.091, subdivisions 4, 5, and 9.

**History:** 1981 c 29 art 3 s 12; 1981 c 185 s 2; 1983 c 253 s 5,6; 1984 c 560 s 6-9; 1987 c 266 art 1 s 18; 1989 c 291 art 1 s 5,6; 1990 c 585 s 21,22; 1991 c 320 s 1; 1997 c 147 s 20,21; 2004 c 293 art 1 s 23; 2005 c 156 art 6 s 26; 1Sp2005 c 7 s 21; 2014 c 264 s 10,11

**203B.121 BALLOT BOARDS.**

Subdivision 1. **Establishment; applicable laws.** (a) The governing body of each county, municipality, and school district with responsibility to accept and reject absentee ballots must, by ordinance or resolution, establish a ballot board. The board must consist of a sufficient number of election judges trained in the handling of absentee ballots and appointed as provided in sections 204B.19 to 204B.22. The board may include deputy county auditors or deputy city clerks who have received training in the processing and counting of absentee ballots.

(b) Each jurisdiction must pay a reasonable compensation to each member of that jurisdiction's ballot board for services rendered during an election.

(c) Except as otherwise provided by this section, all provisions of the Minnesota Election Law apply to a ballot board.

Subd. 2. **Duties of ballot board; absentee ballots.** (a) The members of the ballot board shall take possession of all return envelopes delivered to them in accordance with section 203B.08. Upon receipt from the county auditor, municipal clerk, or school district clerk, two or more members of the ballot board shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. Election judges performing the duties in this section must be of different major political parties, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10, subdivision 2.

(b) The members of the ballot board shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if a majority of the members of the ballot board examining the envelope are satisfied that:

(1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application;

(2) the voter signed the certification on the envelope;

(3) the voter's Minnesota driver's license, state identification number, or the last four digits of the voter's Social Security number are the same as a number on the voter's absentee ballot application or voter record. If the number does not match, the election judges must compare the signature provided by the applicant to determine whether the ballots were returned by the same person to whom they were transmitted;

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

(5) the certificate has been completed as prescribed in the directions for casting an absentee ballot; and

(6) the voter has not already voted at that election, either in person or, if it is after the close of business on the seventh day before the election, by absentee ballot.

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

(c)(1) If a majority of the members of the ballot board examining a return envelope find that an absentee voter has failed to meet one of the requirements provided in paragraph (b), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," list the reason for the rejection on the envelope, and return it to the county auditor. There is no other reason for rejecting an absentee ballot beyond those permitted by this section. Failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

(2) If an envelope has been rejected at least five days before the election, the envelope must remain sealed and the official in charge of the ballot board shall provide the voter with a replacement absentee ballot and return envelope in place of the rejected ballot.

(3) If an envelope is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

(d) The official in charge of the absentee ballot board must mail the voter a written notice of absentee ballot rejection between six and ten weeks following the election. If the official determines that the voter has otherwise cast a ballot in the election, no notice is required. If an absentee ballot arrives after the deadline for submission provided by this chapter, the notice must be provided between six to ten weeks after receipt of the ballot. A notice of absentee ballot rejection must contain the following information:

(1) the date on which the absentee ballot was rejected or, if the ballot was received after the required deadline for submission, the date on which the ballot was received;

(2) the reason for rejection; and

(3) the name of the appropriate election official to whom the voter may direct further questions, along with appropriate contact information.

(e) An absentee ballot return envelope marked "Rejected" may not be opened or subject to further review except in an election contest filed pursuant to chapter 209.

**Subd. 3. Record of voting.** (a) When applicable, the county auditor or municipal clerk must immediately record that a voter's absentee ballot has been accepted. After the close of business on the seventh day before the election, a voter whose record indicates that an absentee ballot has been accepted must not be permitted to cast another ballot at that election. In a state primary, general, or state special election for federal or state office, the auditor or clerk must also record this information in the statewide voter registration system.

(b) The roster must be marked, and a supplemental report of absentee voters who submitted a voter registration application with their ballot must be created, no later than the start of voting on election day to indicate the voters that have already cast a ballot at the election. The roster may be marked either:

(1) by the county auditor or municipal clerk before election day;

(2) by the ballot board before election day; or

(3) by the election judges at the polling place on election day.

The record of a voter whose absentee ballot was received after the close of business on the seventh day before the election is not required to be marked on the roster or contained in a supplemental report as required by this paragraph.

**Subd. 4. Opening of envelopes.** After the close of business on the seventh day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed in the manner provided in section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the appropriate ballot box. If more than one ballot is enclosed in the ballot envelope, the ballots must be returned in the manner provided by section 204C.25 for return of spoiled ballots, and may not be counted.

Subd. 5. **Storage and counting of absentee ballots.** (a) On a day on which absentee ballots are inserted into a ballot box, two members of the ballot board must:

- (1) remove the ballots from the ballot box at the end of the day;
- (2) without inspecting the ballots, ensure that the number of ballots removed from the ballot box is equal to the number of voters whose absentee ballots were accepted that day; and
- (3) seal and secure all voted and unvoted ballots present in that location at the end of the day.

(b) After the polls have closed on election day, two members of the ballot board must count the ballots, tabulating the vote in a manner that indicates each vote of the voter and the total votes cast for each candidate or question. In state primary and state general elections, the results must indicate the total votes cast for each candidate or question in each precinct and report the vote totals tabulated for each precinct. The count must be recorded on a summary statement in substantially the same format as provided in section 204C.26. The ballot board shall submit at least one completed summary statement to the county auditor or municipal clerk. The county auditor or municipal clerk may require the ballot board to submit a sufficient number of completed summary statements to comply with the provisions of section 204C.27, or the county auditor or municipal clerk may certify reports containing the details of the ballot board summary statement to the recipients of the summary statements designated in section 204C.27.

In state primary and state general elections, these vote totals shall be added to the vote totals on the summary statements of the returns for the appropriate precinct. In other elections, these vote totals may be added to the vote totals on the summary statement of returns for the appropriate precinct or may be reported as a separate total.

The count shall be public. No vote totals from ballots may be made public before the close of voting on election day.

(c) In addition to the requirements of paragraphs (a) and (b), if the task has not been completed previously, the members of the ballot board must verify as soon as possible, but no later than 24 hours after the end of the hours for voting, that voters whose absentee ballots arrived after the rosters were marked or supplemental reports were generated and whose ballots were accepted did not vote in person on election day. An absentee ballot submitted by a voter who has voted in person on election day must be rejected. All other accepted absentee ballots must be opened, duplicated if necessary, and counted by members of the ballot board. The vote totals from these ballots must be incorporated into the totals with the other absentee ballots and handled according to paragraph (b).

**History:** 2010 c 194 s 9; 2010 c 314 s 4; 2013 c 131 art 1 s 6-8; art 2 s 17,18; 2015 c 70 art 1 s 15

### **203B.125 SECRETARY OF STATE TO MAKE RULES.**

The secretary of state shall adopt rules establishing methods and procedures for issuing ballot cards and related absentee forms to be used as provided in section 203B.08, subdivision 1a, and for the reconciliation of voters and ballot cards before tabulation under section 204C.20, subdivision 1.

**History:** 1983 c 253 s 7; 2010 c 194 s 10

**203B.13** Subdivision 1. [Repealed, 2010 c 194 s 27]

Subd. 2. [Repealed, 2010 c 194 s 27]

Subd. 3. [Repealed, 2010 c 194 s 27]

Subd. 3a. [Repealed, 2008 c 244 art 1 s 24]

Subd. 4. [Repealed, 2010 c 194 s 27]

#### **203B.14 COUNTY AUDITOR OR MUNICIPAL CLERK MAY EMPLOY ADDITIONAL HELP.**

Each county auditor and each municipal clerk may employ additional clerical assistance as necessary to discharge the responsibilities imposed on the county auditor or municipal clerk as provided in this chapter.

**History:** *1981 c 29 art 3 s 14*

#### **203B.15 ADMINISTRATIVE EXPENSES.**

Each county shall pay the expenses incurred by its county auditor and each municipality or school district shall pay the expenses incurred by its clerk for administering the provisions of sections 203B.04 to 203B.15.

**History:** *1981 c 29 art 3 s 15; 1987 c 266 art 1 s 20*

### **MILITARY AND OVERSEAS CITIZENS ABSENTEE VOTING**

#### **203B.16 ABSENT VOTERS IN THE MILITARY OR OUTSIDE THE UNITED STATES.**

Subdivision 1. **Military service; temporary residence outside United States.** Sections 203B.16 to 203B.27 provide alternative voting procedures for eligible voters who are absent from the precinct where they maintain residence because they are:

- (1) either in the military or the spouses or dependents of individuals serving in the military; or
- (2) temporarily outside the territorial limits of the United States.

Sections 203B.16 to 203B.27 are intended to implement the federal Uniformed and Overseas Citizens Absentee Voting Act, United States Code, title 52, sections 20301 to 20310.

Subd. 2. **Indefinite residence outside United States.** Sections 203B.16 to 203B.27 provide the exclusive voting procedure for United States citizens who are living indefinitely outside the territorial limits of the United States who meet all the qualifications of an eligible voter except residence in Minnesota, but who are authorized by federal law to vote in Minnesota because they or, if they have never resided in the United States, a parent maintained residence in Minnesota for at least 20 days immediately prior to their departure from the United States. Individuals described in this subdivision shall be permitted to vote only for the offices of president, vice-president, senator in Congress, and representative in Congress.

Subd. 3. [Repealed, 2008 c 190 s 14]

Subd. 4. **Duties of secretary of state.** The secretary of state shall provide information regarding voter registration and absentee balloting procedures to be used by absent uniformed services voters, their spouses and dependents, and overseas voters.

**History:** *1981 c 29 art 3 s 16; 1997 c 147 s 24; 1Sp2001 c 10 art 18 s 14; 2004 c 293 art 1 s 24; 2010 c 201 s 19; 2015 c 70 art 1 s 16,17*

#### **203B.17 APPLICATION FOR BALLOT.**

Subdivision 1. **Submission of application.** (a) An application for absentee ballots for a voter described in section 203B.16 must be in writing and may be submitted in person, by mail, by electronic facsimile



device, by electronic mail, or electronically through a secure Web site that shall be maintained by the secretary of state for this purpose, upon determination by the secretary of state that security concerns have been adequately addressed. An application for absentee ballots for a voter described in section 203B.16 may be submitted by that voter or by that voter's parent, spouse, sister, brother, or child over the age of 18 years.

(b) An application for a voter described in section 203B.16, subdivision 1, shall be submitted to the county auditor of the county where the voter maintains residence or through the secure Web site maintained by the secretary of state.

(c) An application for a voter described in section 203B.16, subdivision 2, shall be submitted to the county auditor of the county where the voter or the voter's parent last maintained residence in Minnesota or through the secure Web site maintained by the secretary of state.

(d) An application for absentee ballots shall be valid for any primary, special primary, general election, or special election from the time the application is received through the end of that calendar year or through the next regularly scheduled state general election, whichever is later.

(e) There shall be no limitation of time for filing and receiving applications for ballots under sections 203B.16 to 203B.27.

Subd. 2. **Required information.** (a) An application shall be accepted if it contains the following information stated under oath:

(1) the voter's name, birthdate, and present address of residence in Minnesota, or former address of residence or parent's former address of residence in Minnesota if the voter is living permanently outside the United States;

(2) a statement indicating that the voter is in the military, or is the spouse or dependent of an individual serving in the military, or is temporarily outside the territorial limits of the United States, or is living permanently outside the territorial limits of the United States and voting under federal law;

(3) a statement that the voter expects to be absent from the precinct at the time of the election;

(4) the address to which absentee ballots are to be mailed;

(5) the voter's signature or the signature and relationship of the individual authorized to apply on the voter's behalf;

(6) the voter's passport number, Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number; if the voter does not have access to any of these documents, the voter or other individual requesting absentee ballots may attest to the truthfulness of the contents of the application under penalty of perjury; and

(7) the voter's e-mail address, if the application was submitted electronically through the secure Web site maintained by the secretary of state.

(b) Notwithstanding paragraph (a), clause (6), an application submitted through the secretary of state's Web site must include the voter's verifiable Minnesota driver's license number, Minnesota state identification card number, or the last four digits of the voter's Social Security number, and may only be transmitted to the county auditor for processing if the secretary of state has verified the application information matches the information in a government database associated with the applicant's driver's license number, state identification card number, or Social Security number. The secretary of state must review all unverifiable

applications for evidence of suspicious activity and must forward any such application to an appropriate law enforcement agency for investigation.

Subd. 3. **Web site security.** (a) The secretary of state shall maintain a log of each Internet Protocol address used to submit an absentee ballot application electronically under this section, and must monitor the log, volume of Web site use, and other appropriate indicators for suspicious activity. Evidence of suspicious activity that cannot be resolved by the secretary of state must be forwarded to an appropriate law enforcement agency for investigation.

(b) The electronic absentee ballot application system must be secure. The Web site shall maintain the confidentiality of all users and preserve the integrity of the data submitted. The secretary of state shall employ security measures to ensure the accuracy and integrity of absentee ballot applications submitted electronically pursuant to this section. All data sent and received through the Web site must be encrypted.

(c) The secretary of state must provide ongoing testing and monitoring to ensure continued security. The secretary of state must work with the chief information officer as defined in section 16E.01, subdivision 1, or another security expert to annually assess the security of the system. The security assessment must include a certification signed by the secretary of state that states that adequate security measures are in place. The certification must also be signed by the chief information officer or another security expert affirming that the assessment is accurate. The secretary of state must submit the security assessment to the legislative auditor and to the chairs and ranking minority members of the committees in the senate and house of representatives with primary jurisdiction over elections by January 1 of each year, except that the first annual security assessment must be submitted by September 30, 2014, and no report is required for January 1, 2015.

(d) In developing the electronic absentee ballot application system, the secretary of state must consult with the chief information officer or the chief's designee to ensure the site is secure.

**History:** 1981 c 29 art 3 s 17; 1985 c 72 s 1; 1Sp2001 c 10 art 18 s 15; 2004 c 293 art 1 s 25; 2008 c 190 s 2; 2010 c 184 s 8; 2014 c 185 s 10; 2014 c 264 s 12; 2015 c 70 art 1 s 18,19; 2016 c 161 art 1 s 3

### **203B.18 FORWARDING APPLICATIONS.**

If an application for absentee ballots under sections 203B.16 to 203B.27 is received by the secretary of state or by any election official other than the proper county auditor described in section 203B.17, subdivision 1, that official shall forward the application to the appropriate county auditor.

**History:** 1981 c 29 art 3 s 18

### **203B.19 RECORDING APPLICATIONS.**

Upon accepting an application, the county auditor shall record in the statewide registration system the voter's name, address of present or former residence in Minnesota, mailing address, school district number, passport number, Minnesota driver's license number or state identification card number, or the last four digits of the voter's Social Security number, and whether the voter is in the military or the spouse or dependent of an individual serving in the military, is a voter temporarily outside the territorial limits of the United States, or is living permanently outside the territorial limits of the United States and voting under federal law. The county auditor shall retain the record for six years. A voter whose name is recorded as provided in this section shall not be required to register under any other provision of law in order to vote under sections 203B.16 to 203B.27. Persons from whom applications are not accepted must be notified by the county auditor and provided with the reasons for the rejection.

No later than 60 days after the general election, the county auditor shall report to the secretary of state the combined number of absentee ballots transmitted to and the combined number of absentee ballots returned and cast by absent voters described in section 203B.16. The secretary of state may require the information be reported by category under section 203B.16 or by precinct.

No later than 90 days after the general election, the secretary of state shall report to the federal Election Assistance Commission the number of absentee ballots transmitted to voters under section 203B.16.

**History:** 1981 c 29 art 3 s 19; 1987 c 266 art 1 s 21; 1997 c 147 s 25; 2004 c 293 art 1 s 26; 2008 c 190 s 3; 2010 c 201 s 20

### **203B.20 CHALLENGES.**

Except as provided in this section, the eligibility or residence of a voter whose application for absentee ballots is recorded under section 203B.19 may be challenged in the manner set forth by section 201.195. The county auditor shall not be required to serve a copy of the petition and notice of hearing on the challenged voter. If the absentee ballot application was submitted on behalf of a voter by an individual authorized under section 203B.17, subdivision 1, paragraph (a), the county auditor must attempt to notify the individual who submitted the application of the challenge. The county auditor may contact other registered voters to request information that may resolve any discrepancies appearing in the application. All reasonable doubt shall be resolved in favor of the validity of the application. If the voter's challenge is affirmed, the county auditor shall provide the challenged voter with a copy of the petition and the decision and shall inform the voter of the right to appeal as provided in section 201.195.

**History:** 1981 c 29 art 3 s 20; 2005 c 156 art 6 s 27; 2008 c 190 s 4

### **203B.21 BALLOTS AND ENVELOPES.**

Subdivision 1. **Form.** Absentee ballots under sections 203B.16 to 203B.27 shall conform to the requirements of the Minnesota Election Law, except that modifications in the size or form of ballots or envelopes may be made if necessary to satisfy the requirements of the United States postal service. The return envelope must be designed in one of the following ways:

(1) it must be of sufficient size to contain an additional envelope that when sealed, conceals the signature, identification, and other information; or

(2) it must provide an additional flap that when sealed, conceals the signature, identification, and other information.

The flap or the additional envelope must be perforated to permit election officials to inspect the returned certificate for completeness or to ascertain other information at any time after receiving the returned ballot without opening the return envelope.

Subd. 2. **Mailing of ballots; return.** Ballots and instructions for marking them, ballot envelopes, and return envelopes shall be sent by first class mail to addresses within the continental United States and by air mail to addresses outside the continental United States. The ballot envelope and return envelope shall be marked "Official Ballot," and shall contain sufficient postage to assure proper return delivery. The return envelope shall be addressed to comply with any method for return of absentee ballots as authorized under section 203B.08, subdivision 2. The requirements of this subdivision do not apply to ballots and related materials provided under section 203B.225.

Subd. 3. **Back of return envelope.** On the back of the return envelope a certificate shall appear with space for:

- (1) the voter's address of present or former residence in Minnesota;
- (2) the voter's current e-mail address, if the voter has one;
- (3) a statement indicating the category described in section 203B.16 to which the voter belongs;
- (4) a statement that the voter has not cast and will not cast another absentee ballot in the same election or elections;
- (5) a statement that the voter personally marked the ballots without showing them to anyone, or if physically unable to mark them, that the voter directed another individual to mark them; and
- (6) the same voter's passport number, Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number as provided on the absentee ballot application; if the voter does not have access to any of these documents, the voter may attest to the truthfulness of the contents of the certificate under penalty of perjury.

The certificate shall also contain a signed oath in the form required by section 705 of the Help America Vote Act, Public Law 107-252, which must read:

"I swear or affirm, under penalty of perjury, that:

I am a member of the uniformed services or merchant marine on active duty or an eligible spouse or dependent of such a member; a United States citizen temporarily residing outside the United States; or other United States citizen residing outside the United States; and I am a United States citizen, at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States except the jurisdiction cited in this voting form. In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under state or federal law. I have not been influenced.

The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction for perjury."

Subd. 4. **Names on envelopes, instructions.** No envelope, return envelope, or instruction to voters shall contain the name of an individual who appears as a candidate on any enclosed ballot.

**History:** 1981 c 29 art 3 s 21; 1983 c 303 s 5; 1985 c 72 s 2; 1991 c 320 s 3; 2005 c 156 art 6 s 28,29; 2008 c 190 s 5,6; 2012 c 250 s 1

### **203B.22 TRANSMITTING BALLOTS.**

(a) The county auditor shall transmit the appropriate ballots, as promptly as possible, to an absent voter whose application has been recorded under section 203B.19. If the county auditor determines that a voter is not eligible to vote at the primary but will be eligible to vote at the general election, only general election ballots shall be transmitted. Only one set of ballots shall be transmitted to any applicant for any election, except that the county auditor may transmit a replacement ballot to a voter whose ballot has been spoiled or lost in transit or whose mailing address has changed after the date on which the original application was

submitted as confirmed by the county auditor. Ballots to be sent outside the United States shall be given priority in transmission. A county auditor may make use of any special service provided by the United States government for the transmission of voting materials under sections 203B.16 to 203B.27.

(b) The county auditor must transmit the appropriate ballots by express mail immediately upon discovery that the ballots were not properly transmitted to the voter as a result of the following circumstances: (1) an application was received by the county auditor by the close of business at least 46 days before the election; (2) the county auditor failed to transmit the appropriate ballots by the 46th day before the election; and (3) the voter did not request that the ballots be electronically transmitted to the voter under section 203B.225, subdivision 1.

**History:** 1981 c 29 art 3 s 22; 2008 c 190 s 7; 2010 c 184 s 9; 2014 c 264 s 13

### **203B.225 TRANSMITTING AND RETURNING BALLOTS.**

Subdivision 1. **Transmitting ballot and certificate of voter eligibility.** A voter described in section 203B.16 may include in an application for absentee ballots a request that the ballots, instructions, and a certificate of voter eligibility meeting the requirements of section 203B.21, subdivision 3, be transmitted to the voter electronically. Upon receipt of a properly completed application requesting electronic transmission, the county auditor shall electronically transmit the requested materials to the voter. The county auditor is not required to provide return postage to voters to whom ballots are transmitted electronically.

Subd. 2. **Returning voted ballots.** The voter must return the voted ballots and the certificate of voter eligibility to the county auditor in a sealed envelope.

**History:** 2008 c 190 s 8; 2010 c 184 s 10

### **203B.227 WRITE-IN ABSENTEE BALLOT.**

(a) A voter described in section 203B.16, subdivision 1, may use the federal write-in absentee ballot to vote in any federal, state, or local election. In a state or local election, a vote for a political party without specifying the name of a candidate must not be counted.

(b) If a voter submits a federal write-in absentee ballot for which a federal post card application was not received, the federal write-in absentee ballot serves as a voter registration, for voters who are eligible to register, in lieu of the voter's federal post card application. If the voter has not already voted and the accompanying certificate is properly completed, the absentee ballot board must accept the federal write-in absentee ballot.

**History:** 2008 c 190 s 9; 2008 c 336 s 1; 2010 c 201 s 21; 2013 c 131 art 2 s 19

### **203B.23 ABSENTEE BALLOT BOARD.**

Subdivision 1. **Establishment.** The county auditor must establish an absentee ballot board for ballots issued under sections 203B.16 to 203B.27. The board may consist of staff trained as election judges, in which case, the board is exempt from sections 204B.19, subdivision 5, and 204C.15, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties.

Subd. 2. **Duties.** The absentee ballot board must examine all returned absentee ballot envelopes for ballots issued under sections 203B.16 to 203B.27 and accept or reject the absentee ballots in the manner provided in section 203B.24. If the certificate of voter eligibility is not printed on the return or administrative envelope, the certificate must be attached to the ballot secrecy envelope.

The absentee ballot board must immediately examine the return envelopes and mark them "accepted" or "rejected" during the 45 days before the election. If an envelope has been rejected at least five days before the election, the ballots in the envelope must be considered spoiled ballots and the official in charge of the absentee ballot board must provide the voter with a replacement absentee ballot and return envelope in place of the spoiled ballot.

If a county has delegated the responsibility for administering absentee balloting to a municipality under section 203B.05, accepted absentee ballots must be delivered to the appropriate municipality's absentee ballot board. The absentee ballot board with the authority to open and count the ballots must do so in accordance with section 203B.121, subdivisions 4 and 5.

Subd. 3. **Applicable laws.** Except as otherwise provided in this section, all the laws applicable to absentee ballots and absentee voters and all other provisions of the Minnesota Election Law apply to an absentee ballot board.

**History:** 1981 c 29 art 3 s 23; 1987 c 266 art 1 s 22; 2008 c 190 s 10; 2010 c 184 s 11; 2010 c 194 s 11,12

### 203B.24 DUTIES OF ELECTION JUDGES.

Subdivision 1. **Check of voter eligibility; proper execution of certificate.** Upon receipt of an absentee ballot returned as provided in sections 203B.16 to 203B.27, the election judges shall compare the voter's name with the names recorded under section 203B.19 in the statewide registration system to insure that the ballot is from a voter eligible to cast an absentee ballot under sections 203B.16 to 203B.27. The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges are satisfied that:

(1) the voter's name on the return envelope appears in substantially the same form as on the application records provided to the election judges by the county auditor;

(2) the voter has signed the federal oath prescribed pursuant to section 705(b)(2) of the Help America Vote Act, Public Law 107-252;

(3) the voter has set forth the same voter's passport number, or Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number as submitted on the application, if the voter has one of these documents;

(4) the voter is not known to have died; and

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

If the identification number described in clause (3) does not match the number as submitted on the application, the election judges must make a reasonable effort to satisfy themselves through other information provided by the applicant, or by an individual authorized to apply on behalf of the voter, that the ballots were returned by the same person to whom the ballots were transmitted.

An absentee ballot cast pursuant to sections 203B.16 to 203B.27 may only be rejected for the lack of one of clauses (1) to (5). In particular, failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

Election judges must note the reason for rejection on the back of the envelope in the space provided for that purpose.

Failure to return unused ballots shall not invalidate a marked ballot, but a ballot shall not be counted if the certificate on the return envelope is not properly executed. In all other respects the provisions of the Minnesota Election Law governing deposit and counting of ballots shall apply. Notwithstanding other provisions of this section, the counting of the absentee ballot of a deceased voter does not invalidate the election.

**Subd. 2. Recording accepted and rejected ballots.** The election judges shall compare the voter's name with the names recorded under section 203B.19 in the statewide registration system. For each returned ballot, the election judges must indicate on the record in the statewide registration system whether the absentee ballot was accepted or rejected.

**History:** 1981 c 29 art 3 s 24; 2004 c 293 art 1 s 27; 2005 c 156 art 6 s 30; 1Sp2005 c 7 s 22; 2008 c 190 s 11; 2010 c 194 s 13

**203B.25** [Repealed, 2010 c 194 s 27]

#### **203B.26 SEPARATE RECORD.**

A separate record of the ballots of absent voters cast under sections 203B.16 to 203B.27 must be generated from the statewide registration system for each precinct and retained with the other election materials.

**History:** 1981 c 29 art 3 s 26; 2004 c 293 art 1 s 28; 2008 c 190 s 13; 2010 c 194 s 14

#### **203B.27 EXPENSE CHARGEABLE TO GENERAL REVENUE.**

Expenses incurred by a county auditor to carry out the provisions of sections 203B.16 to 203B.27 shall be paid by that county from its general revenue fund.

**History:** 1981 c 29 art 3 s 27

#### **203B.28 POSTELECTION REPORT TO LEGISLATURE.**

By January 15 of every odd-numbered year, the secretary of state shall provide to the chair and ranking minority members of the legislative committees with jurisdiction over elections a statistical report related to absentee voting in the most recent general election cycle. The statistics must be organized by county, and include:

- (1) the number of absentee ballots transmitted to voters;
- (2) the number of absentee ballots returned by voters;
- (3) the number of absentee ballots that were rejected, categorized by the reason for rejection;
- (4) the number of absentee ballots submitted pursuant to sections 203B.16 to 203B.27, along with the number of returned ballots that were accepted, rejected, and the reason for any rejections; and
- (5) the number of absentee ballots that were not counted because the ballot return envelope was received after the deadlines provided in this chapter.

**History:** 2010 c 194 s 15; 2013 c 131 art 2 s 20