

## CHAPTER 204D

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### GENERAL PROVISIONS

#### 204D.01 DEFINITIONS.

The definitions in chapter 200 apply to this chapter.

**History:** 1981 c 29 art 6 s 1

#### 204D.02 OFFICERS CHOSEN AT STATE GENERAL ELECTION; TERMS OF OFFICE.

Subdivision 1. **Officers.** All elective state and county officers, justices of the supreme court, judges of the court of appeals and district court, state senators and state representatives, and senators and representatives in Congress shall be elected at the state general election held in the year before their terms of office expire. Presidential electors shall be chosen at the state general election held in the year before the expiration of a term of a president of the United States.

Subd. 2. **Term of office.** The term of office of all elective state and county officers shall begin on the first Monday in January of the odd-numbered year following their election.

**History:** 1981 c 29 art 6 s 2; 1983 c 247 s 88; 1998 c 254 art 2 s 25

**204D.03 TIME OF STATE ELECTIONS.**

Subdivision 1. **State primary.** The state primary shall be held on the second Tuesday in August in each even-numbered year to select the nominees of the major political parties for partisan offices and the nominees for nonpartisan offices to be filled at the state general election, other than presidential electors.

Subd. 2. **State general election.** The state general election shall be held on the first Tuesday after the first Monday in November in each even-numbered year.

Subd. 3. **Exception; certain partisan candidates.** (a) If no more than one candidate files for nomination by a major political party for a partisan office, the candidate who filed must be declared the nominee upon the close of filing. If every candidate for a partisan office has been declared the nominee upon the close of filing, the office must be omitted from the state primary ballot. If all offices, both partisan and nonpartisan, have been omitted from the state primary ballot in a municipality or county, the governing body of the municipality or county may decide that the state primary will not be conducted in that municipality or county.

(b) Within 15 days after the close of filing, each municipal clerk or county auditor whose governing body has decided not to conduct the state primary shall post notice that the offices have been so omitted and the state primary canceled and shall send a copy of the notice to the secretary of state.

**History:** 1981 c 29 art 6 s 3; 2005 c 156 art 6 s 51; 2010 c 184 s 20

**BALLOTS****204D.04 BALLOT PREPARATION.**

Subdivision 1. **Rotation of offices; prohibition.** There shall be no rotation of offices on any ballot required to be prepared pursuant to this chapter for a state primary or a state general election.

Subd. 2. **Instructions to printer; printer's bond.** (a) The official charged with the preparation and distribution of the ballots shall prepare instructions to the printer for rotation of the names of candidates and for layout of the ballot.

(b) Except as provided in paragraph (c), the instructions shall be approved by the legal advisor of the official before delivery to the printer.

(c) The legal advisor of a town official is not required to approve instructions regarding the rotation of the names of candidates on the ballot or the layout of the ballot.

(d) Before a contract exceeding \$1,000 is awarded for printing ballots, the printer shall furnish, if requested by the official, a sufficient bond, letter of credit, or certified check, acceptable to the official responsible for printing the ballots, conditioned on printing the ballots in conformity with the Minnesota Election Law and the instructions delivered. The official responsible for printing the ballots shall set the amount of the bond, letter of credit, or certified check in an amount equal to the value of the purchase.

**History:** 1981 c 29 art 6 s 4; 1986 c 444; 1987 c 175 s 11; 1990 c 453 s 11; 1993 c 223 s 15; 1Sp2001 c 10 art 18 s 31; 2003 c 76 s 1; 2010 c 201 s 49

**204D.05 STATE PRIMARY BALLOTS; PARTISAN AND NONPARTISAN; OFFICIAL IN CHARGE.**

Subdivision 1. **State partisan primary ballot.** The state partisan primary ballot shall contain the names of the candidates seeking the nomination of each major political party for the partisan offices filled at the state general election.

Subd. 2. **State and county nonpartisan primary ballot.** The state and county nonpartisan primary ballot shall contain the names of the candidates seeking nomination for the nonpartisan offices filled at the state general election.

Subd. 3. **County auditor to prepare.** The county auditor of each county shall prepare the state partisan primary ballot and the state and county nonpartisan primary ballot.

**History:** 1981 c 29 art 6 s 5

#### **204D.06 CERTIFICATION OF NAMES BY SECRETARY OF STATE.**

At least 42 days before a state primary, the secretary of state shall certify to the county auditors the names of all candidates who have properly filed affidavits of candidacy with the secretary of state and who will be voted for in their respective counties at that primary.

**History:** 1981 c 29 art 6 s 6; 1983 c 303 s 16

#### **204D.07 PLACING NAMES ON BALLOTS.**

Subdivision 1. **Duties of county auditor.** Except as provided in subdivisions 2 and 3, the county auditor shall place on the appropriate state primary ballot the name of each candidate who has properly filed an affidavit of candidacy with the auditor and of each candidate certified by the secretary of state pursuant to section 204D.06.

Subd. 2. **Exception; petition candidates.** The name of a candidate nominated by petition shall not be placed on any state primary ballot.

Subd. 3. **Exception; certain nonpartisan candidate.** If not more than twice the number of individuals to be elected to a nonpartisan office file for the nomination, their names and the name of the office shall be omitted from the state and county nonpartisan primary ballot and the candidates who filed shall be the nominees.

**History:** 1981 c 29 art 6 s 7; 1986 c 444

#### **204D.08 STATE PRIMARY BALLOTS.**

Subdivision 1. **Form.** Except as provided in this section, state primary ballots shall be printed in the same manner as state general election ballots as far as practicable. A sufficient number shall be printed for each precinct and ward in the state.

The secretary of state shall adopt rules for the format and preparation of the state primary ballot.

Subd. 2. **Blank lines prohibited.** 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.

Subd. 3. **Rotation of names.** On state primary ballots the name of each candidate for nomination to a partisan or nonpartisan office shall be rotated with the names of the other candidates for nomination to that office so that the name of each candidate appears substantially an equal number of times at the top, at the bottom, and at each intermediate place in that group of candidates. If the number of candidates for an office is equal to or less than the number to be elected, no rotation of candidate names is required and the official preparing the ballot shall determine the position of the candidates by lot.

Subd. 4. **State partisan primary ballot; party columns.** The state partisan primary ballot shall be headed by the words "State Partisan Primary Ballot." The ballot shall be printed on white paper. There must

be at least three vertical columns on the ballot and each major political party shall have a separate column headed by the words "..... Party," giving the party name. Above the party names, the following statement shall be printed.

"Minnesota Election Law permits you to vote for the candidates of only one political party in a state partisan primary election."

If there are only two major political parties to be listed on the ballot, one party must occupy the left-hand column, the other party must occupy the right-hand column, and the center column must contain the following statement:

"Do not vote for candidates of more than one party."

The names of the candidates seeking the nomination of each major political party shall be listed in that party's column. If only one individual files an affidavit of candidacy seeking the nomination of a major political party for an office, the name of that individual shall be placed on the state partisan primary ballot at the appropriate location in that party's column.

In each column, the candidates for senator in Congress shall be listed first, candidates for representative in Congress second, candidates for state senator third, candidates for state representative fourth and then candidates for state office in the order specified by the secretary of state.

The party columns shall be substantially the same in width, type, and appearance. The columns shall be separated by a 12-point solid line.

**Subd. 5. Party columns; arrangement.** The names of candidates for nomination of the major political party that received the smallest average vote at the last state general election must be placed in the first column on the left side of the ballot. The names of candidates for nomination of the major political party that received the next smallest average vote at the last state general election must be placed in the second column, and so on. The average vote shall be computed in the manner provided in section 204D.13, subdivision 2.

**Subd. 6. State and county nonpartisan primary ballot.** The state and county nonpartisan primary ballot shall be headed "State and County Nonpartisan Primary Ballot." It shall be printed in the manner provided in the rules of the secretary of state. The names of candidates for nomination to the supreme court, court of appeals, district court, and all county offices shall be placed on this ballot.

No candidate whose name is placed on the state and county nonpartisan primary ballot shall be designated or identified as the candidate of any political party or in any other manner except as expressly provided by law.

**History:** 1981 c 29 art 6 s 8; 1983 c 247 s 89; 1987 c 222 s 3; 1988 c 646 s 7,8; 1989 c 291 art 1 s 17; 1998 c 254 art 2 s 26; 1999 c 132 s 25,26; 2013 c 131 art 2 s 40

## **204D.09 EXAMPLE BALLOTS; SAMPLE PRIMARY BALLOTS.**

Subdivision 1. **Example ballot.** No later than May 1 of each year, the secretary of state shall supply each auditor with a copy of an example ballot to be used at the state primary and state general election. The example ballot must illustrate the format required for the ballots used in the primary and general elections that year. The county auditor shall distribute copies of the example ballot to municipal and school district clerks in municipalities and school districts holding elections that year. The official ballot must conform in all respects to the example ballot.

Subd. 2. **Sample ballot.** At least 46 days before the state primary the county auditor shall prepare a sample ballot for each precinct for public inspection and transmit an electronic copy of these sample ballots to the secretary of state. The names of the candidates to be voted for in the county shall be placed on the sample ballots, with the names of the candidates for each office arranged in the base rotation as determined by section 206.61, subdivision 5. The county auditor shall post the sample ballots in a conspicuous place in the auditor's office and shall cause them to be published at least one week before the state primary in at least one newspaper of general circulation in the county.

**History:** 1981 c 29 art 6 s 9; 1986 c 444; 1Sp2001 c 10 art 18 s 32; 2010 c 184 s 21; 2010 c 201 s 50; 2013 c 131 art 2 s 41; 2016 c 162 s 8

#### **204D.10 PRIMARY RESULTS; NOMINEES.**

Subdivision 1. **Partisan offices; nominees.** The candidate for nomination of a major political party for a partisan office on the state partisan primary ballot who receives the highest number of votes shall be the nominee of that political party for that office.

Subd. 2. [Repealed, 2010 c 201 s 82]

Subd. 3. **Nonpartisan offices; nominees.** The candidates for each office on the state and county nonpartisan primary ballot receiving the highest and the next highest number of votes shall be the nominees for that office. When more than one individual is to be elected to the same nonpartisan office, the number of nominees shall be equal to twice the number of individuals to be elected, and that number of candidates receiving the highest number of votes shall be the nominees for that office.

**History:** 1981 c 29 art 6 s 10; 1996 c 419 s 9,10; 2003 c 112 art 2 s 50; 2010 c 201 s 51

#### **204D.11 STATE GENERAL ELECTION BALLOTS; CANDIDATES; OFFICIAL IN CHARGE; RULES.**

Subdivision 1. **State general election ballot; rules.** The names of the candidates for all state and federal offices, all proposed constitutional amendments, all county offices and questions, and all judicial offices voted on at the state general election shall be placed on a single ballot that shall be known as the "state general election ballot." This ballot shall be prepared by the county auditor subject to the rules of the secretary of state. The secretary of state shall adopt rules for preparation and time of delivery of the state general election ballot.

Subd. 2. [Repealed, 2013 c 131 art 2 s 85]

Subd. 3. [Repealed, 2013 c 131 art 2 s 85]

Subd. 4. **Special federal ballot.** (a) The names of all candidates for the offices of president and vice-president of the United States and senator and representative in Congress shall be placed on a ballot that shall be known as the "special federal ballot."

(b) This ballot shall be prepared by the county auditor in the same manner as the state general election ballot and shall be subject to the rules adopted by the secretary of state pursuant to subdivision 1. This ballot must be prepared and furnished in accordance with the federal Uniformed and Overseas Citizens Absentee Voting Act, United States Code, title 52, sections 20301 to 20310.

(c) The special federal ballot shall be the only ballot sent to citizens of the United States who are eligible to vote by absentee ballot for federal candidates in Minnesota.

Subd. 5. **Ballot headings.** The ballot containing the offices and questions in subdivisions 1 and 4 shall be headed with the words "State General Election Ballot."

Subd. 6. **Judicial ballot.** When it would not be possible to place all offices on a single ballot card for the state general election, the judicial offices may be placed instead on a separate judicial ballot. The judicial ballot shall be prepared by the county auditor in the manner provided in the rules of the secretary of state.

The judicial ballot must be headed with the words: "Judicial Nonpartisan General Election Ballot." Separate ballot boxes must be provided for these judicial ballots.

**History:** 1981 c 29 art 6 s 11; 1983 c 216 art 2 s 26; 1983 c 247 s 90; 1983 c 301 s 163; 1983 c 303 s 17,18; 1984 c 560 s 18-21; 1986 c 444; 1986 c 475 s 16-18; 1987 c 175 s 12; 1992 c 513 art 3 s 44,45; 1993 c 223 s 16-18; 1999 c 132 s 27; 1Sp2001 c 10 art 18 s 33; 2013 c 131 art 2 s 42-45; 2015 c 70 art 1 s 47

#### **204D.12 NAMES PLACED ON GENERAL ELECTION BALLOTS.**

Without payment of an additional fee, the county auditor shall place on the appropriate state general election ballot the name of every candidate:

- (1) whose nomination at the state primary has been certified by the appropriate canvassing board;
- (2) who has been nominated by petition, including candidates certified by the secretary of state; and
- (3) who was nominated and whose name was omitted from the state nonpartisan primary ballot pursuant to section 204D.07, subdivision 3. Only the names of duly nominated candidates may be placed on a ballot.

**History:** 1981 c 29 art 6 s 12; 1996 c 419 s 7,10

#### **204D.13 BALLOT; PARTISAN OFFICES.**

Subdivision 1. **Order of offices.** The candidates for partisan offices shall be placed on the state general election ballot in the following order: senator in Congress shall be first; representative in Congress, second; state senator, third; and state representative, fourth. The candidates for state offices shall follow in the order specified by the secretary of state. Candidates for governor and lieutenant governor shall appear so that a single vote may be cast for both offices.

Subd. 2. **Order of political parties.** The first name printed for each partisan office on the state general election ballot shall be that of the candidate of the major political party that received the smallest average number of votes at the last state general election. The succeeding names shall be those of the candidates of the other major political parties that received a succeeding higher average number of votes respectively. For the purposes of this subdivision, the average number of votes of a major political party shall be computed by dividing the total number of votes counted for all of the party's candidates for statewide office at the state general election by the number of those candidates at the election.

Subd. 3. **Nominees by petition; placement on ballot.** The names of candidates nominated by petition for a partisan office voted on at the state general election shall be placed on the state general election ballot after the names of the candidates for that office who were nominated at the state primary. No later than 11 weeks before the state general election, the secretary of state shall determine by lot the order of candidates nominated by petition. The drawing of lots must be by political party or principle. The political party or political principle of the candidate as stated on the petition shall be placed after the name of a candidate nominated by petition. The word "nonpartisan" shall not be used to designate any partisan candidate whose name is placed on the state general election ballot by nominating petition.

Subd. 4. [Expired]

**History:** 1981 c 29 art 6 s 13; 1983 c 253 s 20; 1996 c 419 s 8,10; 1999 c 132 s 28,29; 2000 c 467 s 23; 2013 c 131 art 2 s 46; 2014 c 264 s 19,20

#### **204D.14 BALLOTS; NONPARTISAN OFFICES.**

Subdivision 1. **Rotation of names.** The names of candidates for nonpartisan offices on the state general election ballot and the judicial nonpartisan general election ballot shall be rotated in the manner provided for rotation of names on state partisan primary ballots by section 204D.08, subdivision 3.

Subd. 2. [Repealed, 1999 c 132 s 46]

Subd. 3. **Uncontested judicial offices.** Judicial offices for a specific court for which there is only one candidate filed must appear after all other judicial offices for that same court on the ballot.

**History:** 1981 c 29 art 6 s 14; 1983 c 303 s 19; 1986 c 362 s 5; 2004 c 293 art 2 s 31; 2005 c 156 art 6 s 52; 2013 c 131 art 2 s 47,48

#### **204D.15 BALLOT; CONSTITUTIONAL AMENDMENT SAMPLE.**

Subdivision 1. **Titles for constitutional amendments.** The secretary of state shall provide an appropriate title for each question printed on the state general election ballot. The title shall be approved by the attorney general, and shall consist of not more than one printed line above the question to which it refers. At the top of the ballot just below the heading, a conspicuous notice shall be printed stating that a voter's failure to vote on a constitutional amendment has the effect of a negative vote.

Subd. 2. [Repealed, 1997 c 147 s 79]

Subd. 3. **Sample ballot; constitutional amendments.** Four weeks before the state general election the secretary of state shall file sample copies of the portion of the state general election ballot that contains the proposed constitutional amendments in the Secretary of State's Office for public inspection. Three weeks before the state general election the secretary of state shall transmit sample copies of the sample ballot to each county auditor. Each auditor shall post the sample ballot in a conspicuous place in the auditor's office.

**History:** 1981 c 29 art 6 s 15; 1981 c 217 s 9; 1983 c 303 s 20; 1986 c 444; 2013 c 131 art 2 s 49; 2014 c 264 s 21

#### **204D.16 SAMPLE GENERAL ELECTION BALLOTS; POSTING; PUBLICATION.**

At least 46 days before the state general election, the county auditor shall post sample ballots for each precinct in the auditor's office for public inspection and transmit an electronic copy of these sample ballots to the secretary of state. No earlier than 15 days and no later than two days before the state general election the county auditor shall cause a sample state general election ballot to be published in at least one newspaper of general circulation in the county.

**History:** 1981 c 29 art 6 s 16; 1981 c 217 s 10; 2Sp1981 c 2 s 3; 1986 c 444; 2013 c 131 art 2 s 50

#### **204D.165 SAMPLE BALLOTS TO SCHOOLS.**

The county auditor, two weeks before the applicable primary or general election, shall provide one copy of an appropriate sample ballot to a school district upon request. The school district may have the sample

ballots reproduced at its expense for classroom educational purposes and for educational activities authorized under section 204B.27, subdivision 7.

**History:** *1990 c 608 art 7 s 3; 1991 c 237 s 6; 2013 c 131 art 2 s 51*

**204D.169** [Repealed, 2011 c 65 s 9]

## SPECIAL ELECTIONS; STATE LEGISLATIVE VACANCY

### **204D.17 STATE SENATOR; STATE REPRESENTATIVE; VACANCY IN OFFICE; SPECIAL ELECTION.**

Subdivision 1. **Special elections; exceptions.** A vacancy in the office of state senator or state representative shall be filled for the unexpired term by special election upon the writ of the governor as provided in sections 204D.17 to 204D.27; except that if the legislature will not be in session before the expiration of the vacant term no special election is required.

Subd. 2. **Two or more vacancies.** Two or more vacancies may be filled at the same special election and the candidates may be nominated at the same special primary. Any special primary or special election held pursuant to sections 204D.17 to 204D.27 may be held on the same day as any other election.

**History:** *1981 c 29 art 6 s 17; 2010 c 201 s 52*

### **204D.18 GENERAL ELECTION LAWS; APPLICATION.**

Except as provided in sections 204D.17 to 204D.27, all of the provisions of the Minnesota Election Law are applicable to special elections as far as practicable.

**History:** *1981 c 29 art 6 s 18*

### **204D.19 SPECIAL ELECTIONS; WHEN HELD.**

Subdivision 1. **Vacancy filled at general election.** When a vacancy occurs more than 150 days before the next state general election, and the legislature will not be in session before the final canvass of the state general election returns, the vacancy shall be filled at the next state general election.

Subd. 2. **Special election when legislature will be in session.** Except for vacancies in the legislature which occur at any time between the last day of session in an odd-numbered year and the 40th day prior to the opening day of session in the succeeding even-numbered year, when a vacancy occurs and the legislature will be in session so that the individual elected as provided by this section could take office and exercise the duties of the office immediately upon election, the governor shall issue within five days after the vacancy occurs a writ calling for a special election. The special election shall be held as soon as possible, consistent with the notice requirements of section 204D.22, subdivision 3, but in no event more than 35 days after the issuance of the writ. A special election must not be held during the four days before or the four days after a holiday as defined in section 645.44, subdivision 5.

Subd. 3. **Special election at other times.** When a vacancy occurs at a time other than those described in subdivisions 1 and 2 the governor shall issue a writ, calling for a special election to be held so that the individual elected may take office at the opening of the next session of the legislature, or at the reconvening of a session of the legislature.

Subd. 4. **Writ when vacancy results from election contest.** If a vacancy results from a successful election contest, the governor shall issue 22 days after the first day of the legislative session a writ calling



for a special election unless the house in which the contest may be tried has passed a resolution which states that it will or will not review the court's determination of the contest. If the resolution states that the house will not review the court's determination, the writ shall be issued within five days of the passage of the resolution.

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

Subd. 6. **Writ when vacancy results from vacancy in nomination.** If a vacancy in office is due to a vacancy in nomination under section 204B.13, the governor shall issue a writ in the manner provided in that section.

**History:** 1981 c 29 art 6 s 19; 1993 c 375 art 7 s 6; 2008 c 295 s 14; 2010 c 201 s 53; 2013 c 131 art 2 s 52; art 5 s 9

#### **204D.195 DATE OF SPECIAL ELECTION; CERTAIN TIMES PROHIBITED.**

Notwithstanding any other provision of law, a special primary and special general election may not be held for a period beginning the day following the date of the state primary election and ending the day prior to the date of the state general election.

**History:** 2010 c 201 s 54

#### **204D.20 NOMINATIONS; VACANCY.**

Subdivision 1. **Special primary.** Except as provided in subdivision 2, the candidates of the major political parties to fill a vacancy shall be nominated at a special primary. The candidate of each party who receives the highest number of votes at the special primary shall be nominated.

Subd. 2. **No special primary; when.** No special primary shall be held to nominate candidates to fill a vacancy if only one individual from each major political party files as a candidate for that party's nomination. In that case, the individuals who have filed are nominated.

Subd. 3. **Nominations by petition.** Candidates to fill a vacancy may also be nominated by petition under the conditions and in the manner provided by law for candidates filing by petition for like office at the state general election as far as practicable.

**History:** 1981 c 29 art 6 s 20; 2010 c 201 s 55

#### **204D.21 TIME OF SPECIAL PRIMARY.**

Subdivision 1. **Nomination at state primary.** When a special election is to be held on the same day as the state general election, as provided in section 204D.19, subdivision 1, candidates for nomination to fill the vacancy shall be nominated at the state primary.

Subd. 2. **Nomination at special primary on day of regular primary.** Candidates for nomination to fill a vacancy shall be nominated at a special primary on the day of the regular state primary when the vacancy is to be filled at a special election to be held more than 14 days after the regular state primary.

Subd. 3. **Nomination at special primary on other day.** In all cases other than those provided in subdivisions 1 and 2, a special primary for the nomination of candidates shall be held not later than the 14th day before the special election.

**History:** 1981 c 29 art 6 s 21

**204D.22 WRIT OF ELECTION.**

Subdivision 1. **Filing with secretary of state.** A writ calling for a special election shall state the office to be filled, the opening and closing dates of filing for candidacy, and the dates of the special primary and special election. The writ shall be filed with the secretary of state immediately upon issuance.

Subd. 2. **Posting of writ.** Immediately upon receipt of the writ, the secretary of state shall send a certified copy of the writ by United States mail and electronic mail to the county auditor of each county in which candidates to fill the vacancy are to be voted upon. The county auditor shall post a copy of the writ in the auditor's office at least five days before the close of the time for filing affidavits of candidacy for the special election.

Subd. 3. **Notice of special election.** The county auditor of a county in which a special election is to be held shall direct the clerk of each municipality in which the election is to be held to post a notice of the special primary and special election at least seven days before the special primary and at least 14 days before the special election in the manner provided in sections 204B.33 and 204B.34. If the special primary is to be held 14 days before the special election, a single notice of both elections may be posted seven days before the primary.

When the special primary or special election is to be held on the same day as any other election, notice of the special primary or special election may be included in the notice of the other election, if practicable.

Subd. 4. **Failure of notice.** No omission or defect in any notice required to be given by this section shall invalidate a special primary or special election.

**History:** 1981 c 29 art 6 s 22; 1986 c 444; 2016 c 161 art 1 s 12

**204D.23 AFFIDAVITS OF CANDIDACY; NOMINATING PETITIONS.**

Subdivision 1. **Place and manner of filing.** Candidates for nomination to fill a vacancy at a special primary shall file their affidavits of candidacy and nominating petitions with the same officers and in the same manner and shall pay the same fees as provided by law for candidates for like offices at the state primary.

Subd. 2. **Time of filing.** Except as provided in subdivision 3, the affidavits and petitions shall be filed no later than 14 days before the special primary.

Subd. 3. **Filing at regular time.** If a vacancy occurs before the opening of the time for filing affidavits of candidacy for the state primary and the special primary is held on the same day as the state primary, the affidavits and petitions shall be filed during the time for filing affidavits for the state primary.

Subd. 4. **Filing with the secretary of state; certification.** Within 24 hours after the filings have closed, the secretary of state shall certify to the county auditors the names of the candidates who have filed with the secretary of state and who will be voted for in those counties at the special primary.

Subd. 5. **Withdrawal of candidates.** A candidate may withdraw from the special primary ballot by filing an affidavit of withdrawal with the same official who received the affidavit of candidacy. The affidavit of withdrawal must be filed no later than 5:00 p.m. of the day after the last day for filing affidavits of candidacy.

**History:** 1981 c 29 art 6 s 23; 1989 c 291 art 1 s 18; 2008 c 295 s 15

**204D.24 SPECIAL ELECTIONS; PRECINCTS; ELECTION JUDGES; VOTERS.**

Subdivision 1. **Precincts; polling places; officials.** The election precincts, polling places and officials for any special primary or special election shall be the same as at the last preceding general election in that municipality unless changed according to law. When a special primary or special election is held on the same day as another primary or election, the same precincts, polling places and officials shall be used for both. If separate special election ballots are required pursuant to section 204D.25, separate ballot boxes shall be used.

Subd. 2. **Voter registration.** An individual may register to vote at a special primary or special election at any time before the day that the polling place rosters for the special primary or special election are prepared by the secretary of state. The secretary of state shall provide the county auditors with notice of this date at least seven days before the printing of the rosters. This subdivision does not apply to a special election held on the same day as the state primary, state general election, or the regularly scheduled primary or general election of a municipality, school district, or special district.

**History:** 1981 c 29 art 6 s 24; 1993 c 223 s 19; 1Sp2001 c 10 art 18 s 34

**204D.25 SPECIAL ELECTION BALLOTS.**

Subdivision 1. **Form.** Except as provided in subdivision 2, the county auditor shall prepare separate ballots for a special primary and special election as required by sections 204D.17 to 204D.27. The ballots shall be headed "Special Primary Ballot" or "Special Election Ballot" as the case may be, followed by the date of the special primary or special election. Immediately below the title of each office to be filled shall be printed the words "To fill vacancy in term expiring .....", with the date of expiration of the term and any other information that is necessary to distinguish the office from any other office to be voted upon at the same election. For a special primary or special election, the instructions to voters may use the singular form of the word when referring to candidates and offices when only one office is to be filled at the special election. Otherwise the form of the ballots shall comply as far as practicable with the laws relating to ballots for state primaries and state general elections. The county auditor shall post a sample of each ballot in the auditor's office as soon as prepared and not later than four days before the special primary or special election. Publication of the sample ballot for a special primary or special election is not required.

Subd. 2. **Use of regular ballots.** The county auditor shall place the names of the candidates to fill the vacancy upon the regular ballots used for like offices at the state primary or state general election, designating the office to be filled in the same manner as provided in subdivision 1 for separate special primary or special election ballots if:

(a) the candidates at the special election are to be voted for on the day of the state general election or are to be nominated on the day of the state primary; and

(b) the ballots for the state general election or state primary have not been printed when the names of the candidates to be elected or nominated to fill a vacancy have been finally determined.

**History:** 1981 c 29 art 6 s 25; 1986 c 444; 2000 c 467 s 24; 2001 c 7 s 45

**204D.26 CONGRESSIONAL OR LEGISLATIVE DISTRICTS; CHANGE IN BOUNDARIES.**

No change in the boundaries of any congressional or legislative district is effective with respect to any election to fill a vacancy in the representation of that district if the term of the office which is vacant commenced before the change was made.

**History:** 1981 c 29 art 6 s 26

**204D.27 SPECIAL ELECTION RETURNS.**

Subdivision 1. **County canvass.** The returns of a special primary or special election held pursuant to sections 204D.17 to 204D.27 shall be delivered promptly upon completion to the county auditor of the county in which the special primary or special election is held. Except as provided in subdivisions 2 to 4, the county canvassing board shall canvass and certify the returns to the secretary of state on the next day, excluding Sundays and legal holidays, following the special primary or special election.

Subd. 2. **County canvass; special primary on day of regular state primary.** When a special primary is held on the day of the state primary and the special election will be held on the day of the next state general election, the returns of the special primary shall be canvassed and certified by the county canvassing board at their regular meeting.

Subd. 3. **State canvass; special primary.** When the special primary is held on the day of the state primary and the special election will be held more than 20 days after that day, the returns of the special primary shall be canvassed by the county canvassing board at its regular meeting.

Subd. 4. **County and state canvass; vacancy filled at state general election.** When the special election is held on the day of the state general election and separate special election ballots were not required, the returns of the special election shall be canvassed and certified by the county and state canvassing boards at their regular meetings.

Subd. 5. **Canvass; special primary; state canvassing board.** Not later than four days after the returns of the county canvassing boards are certified to the secretary of state, the State Canvassing Board shall complete its canvass of the special primary. The secretary of state shall then promptly certify to the county auditors the names of the nominated individuals, prepare notices of nomination, and notify each nominee of the nomination.

Subd. 6. **Canvass; special election; senator or representative in Congress; State Canvassing Board.** Except as provided in subdivision 4, the State Canvassing Board shall complete its canvass of a special election for senator or representative in Congress and declare the results within seven days after the returns of the county canvassing boards are certified to the secretary of state.

Subd. 7. **Special congressional election contest; conduct.** In case of a contest of a special election for senator or representative in Congress the notice of contest shall be filed within five days after the canvass is completed, and the contest otherwise shall proceed in the manner provided by law for contesting elections.

Subd. 8. **Certificate of congressional election.** No certificate of election in a special election for senator or representative in Congress may be issued by the secretary of state to any individual declared elected by the county or state canvassing board until seven days after the canvassing board has canvassed the returns and declared the results of the election. In case of a contest the certificate may not be issued until the district court determines the contest.

Subd. 9. **Canvass; special legislative election; State Canvassing Board.** Except as provided in subdivision 4, the State Canvassing Board shall complete its canvass of a special election for state senator or state representative and declare the results within four days, excluding Sundays and legal holidays, after the returns of the county canvassing boards are certified to the secretary of state.

Subd. 10. **Special legislative election contest; conduct.** In case of a contest of a special election for state senator or state representative, the notice of contest shall be filed within two days, excluding Sundays and legal holidays, after the canvass is completed, and the contest otherwise shall proceed in the manner provided by law for contesting elections.

Subd. 11. **Certificate of legislative election.** A certificate of election in a special election for state senator or state representative shall be issued by the secretary of state to the chief clerk of the house or the secretary of the senate two days, excluding Sundays and legal holidays, after the appropriate canvassing board finishes canvassing the returns for the election.

In case of a contest the certificate shall not be issued until the district court determines the contest.

Subd. 12. **Recounts.** In a special primary or special election, the provisions of section 204C.35 apply, except that the secretary of state may immediately proceed to recount the votes upon review of the certified reports of the county canvassing boards if it is apparent from the review that a recount is required.

**History:** 1981 c 29 art 6 s 27; 1986 c 444; 1989 c 291 art 1 s 19; 1993 c 223 s 20; 2000 c 467 s 25; 2004 c 293 art 2 s 33; 2005 c 156 art 6 s 53; 2008 c 295 s 16; 2015 c 70 art 1 s 48

## CONGRESSIONAL VACANCY

### 204D.28 UNITED STATES SENATE VACANCY; MANNER OF FILLING.

Subdivision 1. **Scope of section.** Every vacancy in the office of United States senator shall be filled in the manner provided in this section.

Subd. 2. **Definitions.** The definitions in subdivisions 3 to 5 apply to this section.

Subd. 3. **Vacancy.** "Vacancy" means a vacancy in the Office of United States Senator.

Subd. 4. **November election.** "November election" means:

- (a) the state general election in even-numbered years; or
- (b) the first Tuesday after the first Monday in November of odd-numbered years.

Subd. 5. **Regular state primary.** "Regular state primary" means:

(a) the state primary at which candidates are nominated for offices elected at the state general election;  
or

- (b) a primary held on the second Tuesday in August of odd-numbered years.

Subd. 6. **Special election required; exception; when held.** Every vacancy shall be filled for the remainder of the term by a special election held pursuant to this subdivision; except that no special election shall be held in the year before the term expires.

The special election shall be held at the next November election if the vacancy occurs at least 11 weeks before the regular state primary preceding that election. If the vacancy occurs less than 11 weeks before the

regular state primary preceding the next November election, the special election shall be held at the second November election after the vacancy occurs.

Subd. 7. **Special primary; when held.** A special primary shall be held at the regular state primary preceding the November election at which the special election is held.

Subd. 8. **Notice of special election.** The secretary of state shall issue an official notice of any special election required to be held pursuant to this section not later than 16 weeks before the special primary, except that if the vacancy occurs 16 weeks or less before the special primary, the secretary of state shall issue the notice no later than two days after the vacancy occurs. The notice shall state the office to be filled, the opening and closing dates for filing of candidacy and the dates of the special primary and special election. For the purposes of those provisions of sections 204D.17 to 204D.27 that apply generally to special elections, this notice shall be used in place of the writ of the governor.

Subd. 9. **Filing by candidates.** The time for filing of affidavits and nominating petitions for candidates to fill a vacancy at a special election shall open 12 weeks before the special primary or on the day the secretary of state issues notice of the special election, whichever occurs later. Filings shall close ten weeks before the special primary.

Subd. 10. **United States senator; candidates; designation of term.** When the names of candidates for both offices of United States senator are required to be placed on the same ballot, the expiration date of the term of each office shall be printed on the ballot opposite the name of each candidate for nomination or election to that office.

Subd. 11. **Temporary appointment.** The governor may make a temporary appointment to fill any vacancy. An appointee shall hold office until a successor is elected and qualified at a special election or until a successor is elected pursuant to subdivision 12.

Subd. 12. **Succession by regularly elected senator.** An individual who is elected to the office of United States senator for a regular six-year term when the office is vacant or is filled by an individual appointed pursuant to subdivision 11, shall also succeed to the office for the remainder of the unexpired term.

Subd. 13. **Application of other laws.** Except as otherwise provided in this section, all of the provisions of sections 204D.22 to 204D.27 that apply generally to other special elections apply to a special election held pursuant to this section.

**History:** 1981 c 29 art 6 s 28; 2010 c 184 s 22-25

## **204D.29 REPRESENTATIVE IN CONGRESS VACANCY.**

Subdivision 1. **Scope; definition.** (a) A vacancy in the office of representative in Congress must be filled as specified in this section.

(b) "Vacancy," as used in this section, means a vacancy in the office of representative in Congress.

Subd. 2. **Vacancy 27 weeks or more before state primary.** (a) If a vacancy occurs 27 weeks or more before the state primary, the governor must issue a writ within three days of the vacancy for a special election for that office to be held between 20 and 24 weeks of the vacancy, but not fewer than 47 days before a state primary. A special primary must be held 11 weeks before the special election or on the second Tuesday in August if the general election is held on the first Tuesday after the first Monday in November if any major party has more than one candidate after the time for withdrawal has expired.

(b) The filing period for a special election under this subdivision must end on or before the 131st day before the special election. Minor party and independent candidates must submit their petitions by the last day for filing and signatures on the petitions must be dated from the date of the vacancy through the last day for filing. There must be a one-day period for withdrawal of candidates after the last day for filing.

Subd. 3. **Vacancy more than 22 weeks but fewer than 27 weeks before state primary.** (a) If a vacancy occurs more than 22 weeks but fewer than 27 weeks before the state primary, the governor must issue a writ within three days of the vacancy for a special election for that office to be held on the day of the state primary with a special primary held 11 weeks before the state primary, if any major party has more than one candidate after the time for withdrawal has expired. The regularly scheduled election to fill the next full term shall proceed pursuant to law.

(b) The filing period for a special election under this subdivision must end on or before the 147th day before the state primary. Minor party and independent candidates must submit their petitions by the last day for filing and signatures on the petitions must be dated from the date of the vacancy through the last day for filing. There must be a one-day period for withdrawal of candidates after the last day for filing. Candidates for a special election under this subdivision are not subject to the prohibition in section 204B.06 against having more than one affidavit of candidacy on file for the same election.

(c) The winner of a special election on the day of the state primary under this subdivision shall serve the remainder of the vacant term and is eligible to be seated in Congress upon issuance of the certificate of election. The winner of the regularly scheduled term for that office at the general election shall take office on the day new members of Congress take office.

Subd. 4. **Vacancy 22 or fewer weeks before state primary but before general election day.** (a) If a vacancy occurs from 22 weeks before the state primary to the day before the general election, no special election will be held. The winner of the general election for the next full term for that office will serve the remainder of the unexpired term and is eligible to be seated in Congress immediately upon issuance of a certificate of election.

(b) If the incumbent filed an affidavit of candidacy for reelection as the candidate of a major political party and was nominated for the general election ballot by that party and a vacancy occurs from the day of the state primary until the date of the general election, there is a vacancy in nomination to be resolved pursuant to section 204B.13.

Subd. 5. **Vacancy on or after election day and before the day new members of Congress take office.** (a) If a vacancy occurs between the day of the general election and the day new members of Congress take office and the incumbent was not the winner of the general election, the winner of the general election for the next full term for that office is eligible to be seated in Congress immediately upon issuance of a certificate of election or the vacancy, whichever occurs last.

(b) If a vacancy occurs on or after election day but before the day new members of Congress take office and the incumbent was the winner of the general election, the vacancy must be filled pursuant to subdivision 2.

**History:** 2010 c 201 s 56