

**PART II**  
**ELECTIONS, ELECTED OFFICIALS, AND BOARD MEETINGS**

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**CHAPTER 5: ELECTION PROCEDURES**

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# 1. Election procedures

Conducting elections is one of the most important responsibilities local officials have, particularly county auditors. As a subdivision of state government, the county must administer elections for federal, state, county, and special-district offices and questions.

County officials are expected to recognize the significance of this duty. For most citizens, voting is their most direct participation in government. It is important that each voter has ample opportunity to go to the polls, fully understands how to cast a ballot, and has confidence in the observance of voter privacy and secrecy of the ballot. Finally, all citizens must have the opportunity to file for any elective office for which they are qualified.

Election results bestow political power on those elected to office. Elections must be free of fraud or the appearance of fraud. Local officials must be meticulous in adhering to legal requirements to ensure fair and open elections.

[Secretary of State](#), 180 State Office Building, 100 Constitution Avenue, St. Paul, MN 55155, (651) 215-1440 or (877) 600-VOTE.

[Filing for Office in Minnesota](#).

Copies of the [Minnesota Legislative Manual](#) are available electronically. Copies are also available from the Secretary of State's Office at the above address and phone numbers, or by ordering them.

The secretary of state makes available a brochure entitled *Filing for Office In Minnesota*, which gives information to those running for the offices of U.S. senator, U.S. representative, governor, lieutenant governor, state auditor, state attorney general, secretary of state, state senator, state representative, and for judicial, county, city, town, and school-district offices.

The secretary of state also publishes the *Minnesota Legislative Manual*. This publication contains information about the state's elected and appointed officials, the state legislature and the legislative process, as well as individual legislative district maps and color election maps. The book also includes historical documents, facts about Minnesota, and precinct-by-precinct election results.

This chapter describes election laws as they apply to county. New county election officials may find this information useful as a guide. Those already familiar with the election process should find this chapter useful as a checklist. The material is organized under the following headings:

## **I. Voters**

## **II. Candidates for office**

## **III. Election procedures**

## **IV. Special elections**

## **V.**

## **VI.**

## I. Voters

In determining who may vote in any particular election, county officials have a dual responsibility: they must guarantee every qualified voter the right to vote, and they must prevent fraudulent and improper voting activities.

Minn. Const. art. VII, § 1.

The Minnesota Constitution and state statutes have defined the qualifications for voting in Minnesota. To vote in any public election in Minnesota, a person must meet all of the following criteria on the day of the election.

- Age 18 or older.
- A citizen of the United States for three months.
- Resident of the state for at least 30 days.

Minn. Stat. § 201.014, subd. 2.

Individuals in the following categories may not vote even if they meet the above qualifications:

Minn. Stat. § 609.165; *See also* A.G. Op. 68-h (Dec. 27, 1971).

- Anyone convicted of treason or any felony whose sentence has not expired or been discharged.
- Anyone who is under guardianship in which the court order revokes the ward's right to vote.
- Anyone who is found by a court of law to be legally incompetent.

Minn. Stat. § 201.014, subd. 3.

Any person who votes knowing they are ineligible to vote is guilty of a felony.

### A. Definition of residence

Minn. Stat. § 200.031.

Legal residence for voting largely depends on the voter's intent. No general rules uniformly resolve residency questions even though the statutes provide guidance. Generally speaking, if someone challenges an individual's right to vote, and the individual's answers apparently entitle him or her to vote, that individual must be allowed to vote, subject to any voter-registration requirements.

An individual's residence is in the precinct where the individual's home is located—from which the individual has no present intention of moving, and to which the individual intends to return after any time spent away.

Minn. Stat. § 200.031.

Fundamentally, residence is that place where an individual habitually resides, receives mail, and otherwise considers it an official residence and permanent home. The statutes provide some guidelines for determining residency.

Minn. Stat. § 200.031 (m). If an individual's home is destroyed or rendered uninhabitable by fire or natural disaster, the individual does not lose residence in the election district where the home is located if the individual intends to return to the home when it is reconstructed or made habitable.

Minn. Stat. § 200.031 (d); Minn. Const. art. VII, § 2. The statutes specify that if an individual registers to vote in another state, he or she loses residency in Minnesota. Individuals working for the federal government, including those in military service, do not lose their eligibility to vote while residing elsewhere. Likewise, members of the armed forces do not obtain residence in Minnesota for voting purposes solely because they are stationed there.

Minn. Stat. § 201.016, subd. 1a. A voter who votes in a precinct, other than a precinct in which he or she maintains residence, must provide proof of residence to the auditor or election judge before voting in the next election. A voter who continues to vote in a precinct other than the one in which he or she maintains residence is guilty of a petty misdemeanor. Subsequent violations are misdemeanors.

## **B. Permanent registration**

Minn. Stat. ch. 201. The Legislature has established statewide voter registration with county systems linked to a centralized state system. The county auditor is the chief custodian of the official registration records, while the secretary of state administers the centralized state system.

Minn. Stat. § 201.221, subd. 4. Although the county auditor is chief registrar, the auditor may delegate some election duties to city officials. This delegation, however, requires the approval of the governing body as well as an agreement that includes a plan to allocate the cost of the duties being delegated. The auditor must prepare precinct lists and an annual report.

### **1. Registration files**

Minn. Stat. § 201.091, subd. 4. The county auditor must prepare and maintain a current list of registered voters in each precinct in the county. To create this master list, the county auditor enters each completed voter-registration card into the statewide voter-registration system. Public access to this list is somewhat limited, and the county auditor has responsibility for dealing with access issues.

### **2. Forms**

Minn. Stat. § 201.061. Eligible voters, or individuals who will be eligible voters at the time of the next election, may register to vote in the precinct where the voter maintains residence at any time, except during the 20 days immediately preceding any regularly scheduled election. To register, the voter must complete a registration application and submit it in person or by mail to the county auditor or to the secretary of state.

See discussion below under *Registration at the polling place*. Voters may register at the polls on the day of the election under certain circumstances.

### 3. Pre-registration

Minn. Stat. § 201.091, subd. 8.

Throughout the year, the county auditor must have voter-registration applications available at the county auditor's office and at several locations in the county where voters may complete the applications and forward them to the county auditor's office. The county auditor can determine the number of public buildings that will have applications available, but there must be at least one location for every 30,000 residents.

Minn. Stat. § 201.091, subd. 8.

State law requires assistance to be provided to those seeking to register, including assistance filling out the registration applications if necessary.

### 4. Registration at the polling place

Minn. Stat. § 201.061, subd. 3.

State law requires election judges to allow voters to register on election day. Judges may trade duties during the day, except that judges who register voters may not hand that same voter the ballot.

On election day, a voter may prove residence in the precinct with any of the following:

- Any document approved by the secretary of state as proper identification.
- A driver's license or identification card issued by the Minnesota Dept. of Public Safety.
- A current, valid student identification card (if a school list has been prepared and certified to the county auditor), or a current student-fee statement that includes the student's valid address in the precinct and a picture-identification card.
- An oath by a registered voter in the precinct or by an employee employed and working in a residential facility in the precinct that is vouching for a resident in the facility, signed in the presence of an election judge. An individual who registers on election day may not also sign an oath for another registrant.
- Tribal band members, regardless of whether they live on an Indian reservation, may show an identification card issued by the tribal government of a tribe recognized by the Bureau of Indian Affairs, U.S. Dept. of the Interior, which includes the name, signature, and picture of the individual and must also present one of the documents listed in Minnesota Rule 8200.5100, subpart 2, item B.

See Minn. Stat. § 201.061, subd. 3 (4) for the requirements for registration by an oath from a registered voter or an employee of a residential facility.

Minn. R. 8200.5100.

Minn. Stat. § 201.061, subd. 4.

Election judges may attest to the residence of any number of voters; however, when a judge attests to a voter's residence, a different judge must sign as witness.

## **5. Election-day oath**

Minn. Stat. § 201.071, subd. 1.

Every person who registers on election day must sign the oath printed on the registration application. This oath is in addition to the one used as proof of residence.

## **6. Verification**

Minn. Stat. § 204C.10.

Every voter must sign a polling-place roster intended to certify the voter's eligibility. The election judge may seek to verify the voter's qualifications at this point, and, if satisfied, give the voter a receipt that the voter then presents to the judge in charge of ballots or voting machines as proof of the right to vote.

## **7. Registration of absentee voters**

Minn. Stat. § 203B.06, subd. 4.

If an unregistered voter requests an absentee ballot, the county auditor should send a registration application for the voter to fill out and return with the ballots.

## **C. Absentee voting**

Minn. Stat. ch. 203B.

To make the opportunity to vote more readily available, Minnesota has expanded its system of absentee voting to allow people to vote even if they cannot physically go to the polling place. The law allows absentee voting in all elections.

Minn. Stat. § 203B.05.

The responsibility for administering the absentee-voter law may be shared between county and city officials. The county auditor may designate full-time city clerks to distribute and process applications and ballots in all elections. Similarly, city clerks can give the auditor notice of the clerk's intent to administer the law.

### **1. Qualifications**

Minn. Stat. § 203B.02, subd. 1.

State law generally restricts the use of absentee ballots to the following individuals:

- Those absent from the voting precinct on the day of the election.
- Those who by reason of physical disability or illness, including isolation or quarantine, are unable to go to the polling place in their precinct.
- Voters who because of religious discipline or the observance of a religious holiday are unable to go to the polling places on election day.
- Election judges who serve in precincts other than their own.

- Voters in a precinct in which the governor has made an emergency declaration that states that the emergency has made it difficult for the voters to go to the polling place on election day.
- Under certain circumstances, victims of domestic violence, sexual assault, or stalking may register with the secretary of state as an ongoing absentee voter and may register to use a designated address as a substitute mailing address.

Minn. Stat. §§ 5B.01-.08.

Minn. Stat. § 203B.02, subds. 1, 1a, 2, 3.

Voters may not receive an absentee ballot simply to avoid going to the polls on election day. Those who receive absentee ballots must be properly registered in order for their votes to count. The Legislature has authorized experimental procedures to broaden eligibility. Future action to further reduce limitations is likely.

## 2. Procedures

The following sections outline essential steps in distributing, collecting, and counting absentee ballots.

### a. Application

Minn. Stat. § 203B.04.

Any individual wishing to vote by absentee ballot must apply to the county auditor or to a designated city clerk at least one day before the election, except health-care patients in certain limited circumstances. Generally, a voter must make separate applications for each election, including the primary and general election. Under certain circumstances, however, an eligible voter may apply for status as an ongoing absentee voter.

Minn. Stat. §§ 203B.04, subd. 6; 203B.02, subd. 1; 5B.06.

Minn. Stat. § 203B.06, subd. 3.

If a voter applies for an absentee ballot before the absentee ballots are available, the auditor or clerk must keep the voter's name on file. As soon as the clerk or auditor receives the ballots, he or she must send materials to each applicant. The voter may receive only one set of ballots for each election.

Minn. Stat. § 203B.04, subds. 1(b), 5.

An eligible voter who expects to be permanently unable to go to the polling place on election day due to illness or disability may apply to the county auditor to automatically receive an absentee-ballot application before each election. The voter's registration record would indicate the status of permanent absentee voter.

Minn. Stat. § 203B.07, subd. 2.

A registered voter, or an individual authorized to administer oaths, is authorized to witness that the voter has met certain requirements.

## b. Distribution

Minn. Stat. § 203B.06, subd. 3.

See Minn. Stat. § 203B.11, subd. 4.

Unless the applicant appears in person, the auditor must mail the absentee ballot. However, the auditor may deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots to a voter who is a patient in a health-care facility, a participant in a residential program for adults or a resident of a shelter for battered women. If an applicant is not registered to vote, the auditor must include a voter-registration application with the absentee-ballot application being sent to the applicant.

Minn. Stat. § 203B.06, subd. 6.

If ballots are mailed to outside the United States, the auditor must send them by mail. The transmitting and return envelopes must be marked: "Official Election Balloting Material - Via Air Mail."

Minn. Stat. § 203B.06, subd. 5.

The auditor must date applications for absentee ballots when they are received. They must also initial the application before mailing or delivering the ballots to applicants. The auditor must keep such applications and organize them by precinct and by the first letter of the applicant's last name.

Minn. Stat. § 203B.10.  
See Minn. Stat. § 203B.06, subd. 5.

On the day before an election, the county auditor shall deliver to the city clerks within that county the received and endorsed applications for absentee ballots. The clerk must, in turn, deliver the applications to the election judges in each precinct.

See also Minn. Stat. § 203B.23.

## c. Materials

The auditor must send the following materials to each absentee voter:

Minn. Stat. § 204B.35, subd. 4.

- **Ballots.** The auditor must send one copy of each ballot. At least 30 days before the election, public officers responsible for preparing, printing, and distributing ballots must deliver a sufficient number of the printed ballots to the auditor and city clerk for absentee voters. When a city election is held in combination with a state or federal election, the clerk must give the county auditor a sufficient number of city ballots so the auditor can comply with this same requirement.

Minn. Stat. § 203B.07, subd. 2.

- **Return envelope.** The return envelope must be large enough to contain the ballot envelope and a folded registration application. The return envelope must be designed in one of the two 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. A “voter’s certificate” on the back of the envelope must contain a sworn statement that the voter must sign, indicating that the voter meets all legal requirements to vote by absentee ballot. The voter’s certificate must also contain a statement that must be signed by a witness, who may be an eligible voter of the county, or an individual with authority to administer oaths. The auditor must affix first-class postage to the return envelope.

Minn. Stat. § 203B.07, subd. 2.

- **Ballot envelope.** Vote ballots are placed in the ballot envelope, which is placed inside the return envelope.

Minn. R. 8210.0200-.0800.

Minn. Stat. § 203B.07, subd. 1.

- **Directions to voters.** Instructions accompanying the ballots describe procedures for casting an absentee ballot. The auditor is responsible for printing and furnishing these directions. The instructions must be in at least 14-point bold type. If a person requests directions in Braille or on cassette tape, the auditor must provide them in the requested form. The secretary of state has copies available auditors. The secretary of state establishes rules for the form and content of the return envelope, the ballot envelope, and the instructions for casting an absentee ballot.

Minn. Stat. §§ 203B.06, subd. 4; 203B.07, subd. 1.

- **Registration application.** If the voter isn’t registered, the auditor must also send the voter a registration application and the appropriate instructions.

#### d. Return of ballots

Minn. R. 8210.2100.

The auditor addresses the return envelopes, which are returned by mail, in person, or by agent delivery to the auditor or clerk of the precinct where the voter is eligible to vote.

Minn. Stat. § 203B.08, subd. 1.

A voter may leave the return envelope containing completed ballots with the auditor or clerk, or the voter may designate an agent to deliver the sealed envelope in person to the county auditor or city clerk.

Minn. Stat. § 203B.08, subd. 3.

Auditors must store the absentee-ballot-return envelopes they receive before election day in a secure place after recording receipt of each envelope, the name of the voter, address, precinct number, agent (if any), and date received. The auditor may promptly deliver return envelopes received in person to election judges in the appropriate precincts. If auditors retain ballots, they must deliver all ballots received before or with the last mail delivery by the U.S. Postal Service on election day to the correct polling places.

Minn. Stat. § 203B.12, subd. 1.

### **e. Counting absentee ballots**

Minn. Stat. § 203B.12.

There are several steps involved in receiving and counting absentee votes. These are set out in the election statutes. Absentee ballots have the same force and effect as the votes of other qualified voters voting in person.

Minn. Stat. § 203B.12, subds. 2, 3.

Two or more election judges must compare the signature of the voter on the outside of the return envelope with the signature on the absentee-ballot application. If a majority of the judges are satisfied the signatures are the same, if the signature of the voter has been properly witnessed, and if the voter is registered or has included a properly completed voter-registration form, two or more of the judges must write the word “accepted” and initial or sign the ballot envelope. If a person other than the voter applied for the absentee ballot, the signatures are not required to match.

If, however, the voter returning a completed absentee ballot is not registered, has already appeared at the precinct and cast a ballot, or has failed to comply with any of the other requirements for marking absentee ballots, all or a majority of the election judges examining return envelopes must mark the return envelope with the word “rejected.” The judges must return all rejected absentee ballots to the county auditor or city clerk.

Minn. Stat. § 203B.12, subd. 3.

If the judges mark the ballot envelope “accepted,” they must place the letters “A.B.” in the signature column next to the voter’s listing on the polling-place roster.

Minn. Stat. § 203B.12, subd. 4.

Election judges must keep ballot envelopes marked “accepted” in a separate container until after the last, regular-mail delivery on election day. If there have been no candidate withdrawals or vacancies, election judges must then open the absentee-ballot envelopes and deposit the ballots in the proper ballot box. When depositing the ballots, election judges must initial them in the same manner as on any ballots they deliver to voters in person. If there is more than one ballot of any kind enclosed in the ballot envelope, the judges must place all duplicates with the spoiled ballots and return them to the county auditor.

## **3. Penalties**

Minn. Stat. § 203B.03.

Any person who willfully attempts to cast an illegal ballot, helps another to cast such a ballot, exhibits a marked ballot to any other person, or otherwise acts against the terms of the absentee-voters’ law, is guilty of a felony under state law. The obligation is on the voter to comply with the law. Failure to follow the directions will likely cause the judges to reject the ballot.

#### 4. Special provisions for military and citizens residing outside the country

Minn. Stat. §§ 203B.16-.27.

Minnesota law has optional requirements for voters temporarily or permanently residing outside the United States and for the military. These requirements apply to:

- Members of the armed forces, whether serving inside or outside the boundaries of the United States.
- Individuals connected in any military or civilian capacity with the armed forces.
- All employees of the U.S. government serving outside the United States.
- All residents of Minnesota who are temporarily or permanently residing outside the territorial limits of the United States.
- All spouses and dependents of individuals in the above four categories, if they reside with them.

The major differences for administering this particular law are as follows:

Minn. Stat. § 203B.19.

- Individuals listed above do not need to comply with the voter-registration law in order to qualify as voters.

Minn. Stat. § 203B.22.

- An application for ballots for the primary is also valid for the next two regularly scheduled general elections held after the date on which the application was received.

Minn. Stat. § 203B.17, subd. 1.

- Either the voter or the voter's parent, spouse, brother, sister or child over the age of 18 may request ballots from the office of the county auditor.

Minn. Stat. § 203B.21, subd. 2.

- The voter must return the ballots by mail in the same manner as other absentee ballots.

Minn. Stat. § 203B.24, subd. 1.

- The election judges should handle these ballots in the same manner as ballots from other absent and disabled voters, except that voters under this law need not be registered. Election judges must keep a separate record of the number of ballots they receive from people voting under these provisions.

## II. Candidates for office

[Minn. Stat. ch. 205](#)

[Minn. Stat. ch. 205A](#)

League of Minnesota  
Cities, [Handbook for  
Minnesota Cities](#)

[Minn. Const. art. VII, § 6](#)

A.G. Op. 471-M (Dec.  
11, 1957).

The following section is generally applicable to all elections in the state. There are certain provisions unique to municipal and school district elections; for more information, see Minn. Stat. ch. 205 (Municipal Elections), Minn. Stat. ch. 205A (School District Elections), and the *Handbook for Minnesota Cities*.

Generally, a candidate for elective office must be a qualified voter in the state of Minnesota and must be at least 21 years of age on the date he or she would take office. A candidate may file for only one office in any given election.

Even so, an individual could be elected to more than one office by write-in votes. If this happens and if the offices are incompatible, the candidate must choose between them. Individuals already holding one elective office may, without resigning, file for a second office even if it is incompatible with the first. Election and qualification to the second position automatically result in a vacancy in the first position, unless the two jobs are compatible.

### D. Nomination

[Minn. Stat. § 204B.03](#)

Any person's name may appear on the official ballot as a candidate if the person files an affidavit of candidacy and pays the filing fee.

[Minn. Stat. § 204B.03](#)

Candidates of a major political party for any partisan office, and all candidates for nonpartisan office, must qualify in the primary election to obtain a place on the general-election ballot.

[Minn. Stat. § 204B.09  
subd. 1](#)

The law requires filing affidavits or applications of candidacy not more than 70 days nor less than 56 days before the municipal primary or general election. Affidavits and petitions for offices to be voted on in only one county shall be filed with the county auditor of that county. Affidavits and petitions for offices to be voted on in more than one county shall be filed with the secretary of state.

[Minn. Stat. § 204B.33](#)

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

*State v. Erickson*, 152  
Minn. 349, 188 N.W.  
736 (Minn. 1922);  
*Smith v. Kiffmeyer*, 721  
N.W.2d 912 (Minn.  
2006).

If a candidate files an affidavit of candidacy by mail, the affidavit must arrive by the last day of filing. Applications cannot just be postmarked by the last day of filing. In addition, in order for an affidavit of candidacy to be properly filed it must be both filed before the last day of filing and filed with the appropriate election official.

## 1. Affidavit of candidacy

Minn. Stat. § 204B.11.

Any person eligible to hold elective office may file an affidavit of candidacy and pay the required fee at any time during the two-week period set aside for this purpose. The filing fee differs based upon the office being filed for, and is set by statute. The affidavit must state the following information:

Minn. Stat. § 204B.06.

- Statement that the candidate is an eligible voter;
- Statement that the candidate has no other affidavit on file as a candidate for any other office at the same primary or next ensuing general election;
- Statement that the candidate is, or will be on assuming the office, 21 years of age or more, and will have maintained residence in the district from which the candidate seeks election for 30 days before the general election.
- Statement that the candidate's name as written on the affidavit for ballot designation is the candidate's true name or the name by which the candidate is commonly and generally known in the community.
- Name of the candidate's political party or political principle, stated in three words or less.

Minn. Stat. § 204B.35, subd. 2.

Words descriptive of the candidate's occupation, qualifications, principles, opinions or any other words or phrases such as "incumbent" may not be included on the ballot.

Minn. Stat. § 204B.10, subd. 5.

Minn. Stat. § 204B.11; *Reiter v. Kiffmeyer* 721, N.W.2d 908 (Minn. 2006).

A candidate may file a petition in place of a filing fee at the time of filing an affidavit of candidacy. The number of signatures depends on the office sought:

Minn. Stat. § 204B.11

- for a state office, president of the United States, or United States senator, 2,000;
- for a congressional office, 1,000;
- for a county or legislative office, or district judge, 500; and
- for any other office, the lesser of 500 signatures or five percent of the total number of votes cast in the election district at the preceding general election at which that office was on the ballot.

Sample petition forms must be made available on request.

The Minnesota Supreme Court has held that the signatures on a petition in place of the filing fee do not have to be placed on the petition during the filing period, but rather, may also be placed on the petition before the filing period opens.

## 2. Withdrawal of candidacy

Minn. Stat. § 204B.12, subd. 1

Candidates for elective office may withdraw by filing an affidavit of withdrawal no later than 5 p.m., two days after the last day for filing affidavits of candidacy.

Minn. Stat. § 204B.12, subd. 2a

A candidate for a constitutional office may withdraw from the general election ballot by filing an affidavit of withdrawal no later than 16 days before the general election.

## III. Election procedures

The statutes describe procedures for conducting elections in detail, including the manner in which election judges must take the blank ballots out of the ballot boxes as they prepare for the opening of the polling place on election day. Because a mistake at any point in the procedures may result in contested elections, it is imperative that all election officials adhere rigidly to the statutory procedures.

Minn. Stat. § 204C.03, subd. 1.

County boards and other local governing bodies cannot hold any meetings between 6 p.m. and 8 p.m. on the day of any election within their boundaries, nor can they hold meetings after 6 p.m. on the day of a state-precinct caucus.

Minn. Stat. § 202A.19, subd. 1.

Minn. Stat. § 202A.19, subd. 4.

County boards and other local governing bodies, such as school districts, must make their public facilities available for holding precinct caucuses and legislative district or county conventions. These facilities (including parking) must be available for city, county, state, and federal elections as well. A local government may charge no more than the lowest amount it charges any other group. There is a similar requirement for public bodies to make facilities available for polling places.

Minn. Stat. § 202A.192.

Minn. Stat. § 204B.16, subd. 6.

## E. Precincts

Minn. Stat. § 200.02, subd. 11.

A precinct is defined as a geographical area where the boundaries are established for election purposes in accordance with state statute. The county board must establish the boundaries of the election precincts in the unincorporated territory of the county. Within each municipality, the local governing board establishes the precinct boundaries. State statute sets the criteria and limitations regarding election precincts.

Minn. Stat. § 204B.14, subd. 1.

Minn. Stat. § 204B.14, subds. 1, 3.

Precincts are areas in which polling places are located and where voters can cast their ballots. They may vary in size and population and generally do not need to follow redistricting standards. The boundaries may be changed, but must meet certain requirements outlined in the statutes.

Minn. Stat. § 204B.14, subds. 1, 3.

Changes in precinct boundaries generally cannot be made during times when legislative redistricting is occurring except for a few limited exceptions. This restriction generally prohibits counties from changing their precinct boundaries from Jan. 1 in any year ending in zero until the time that the Legislature has been redistricted in a year ending in one or two. The required dates by when precinct-boundary changes must be made are discussed later in this section.

Precincts may have any number of individuals. Logically, however, no election precinct should contain so many voters that the task of managing the polling place and counting the ballots becomes too difficult. A precinct should not become so large that the polling place is a great distance away from a number of voters.

Minn. Stat. § 204B.14, subds. 4, 5

To change precinct boundaries, the county must follow these procedures:

Minn. Stat. § 204B.14, subd. 4

- The change must occur at least 90 days before the election or by June 1 if a change occurs during the year of a state election or state primary.

Minn. Stat. § 204B.14, subd. 4

- The auditor must post notice of the changes at least 60 days before they take effect.

Minn. Stat. § 204B.14, subd. 5

- At least 30 days after any change in a precinct becomes effective, the county auditor must file a map showing the correct boundaries of the precincts with the secretary of state and must keep a copy of the map on file for public inspection.

Minn. Stat. § 204B.14, subd. 5

- The auditor must furnish copies of the appropriate precinct map to election judges at each polling place.

## 1. Boundaries

Minn. Stat. § 204B.14, subds. 3, 4.

Precincts must be arranged so that no precinct lies in more than one legislative district. No boundary adjustments may occur from Jan. 1 in a year ending in zero to the time when the Legislature has been redistricted in a year ending in one or two, with the exception that new precincts may be established if they lie entirely within the outer boundaries of the old precinct. The names of the new precincts must include the name of the former precinct. Once the Legislature has been redistricted, precinct boundaries must be changed within 60 days, or at least 19 weeks before the state primary election in a year ending in the number two, whichever comes first.

Minn. Stat. § 204B.14, subd. 6.

All precinct boundaries should follow visible, clearly recognizable physical features. Where it is not possible to set the boundary between any two adjacent precincts along a physical feature, the boundary around the combined two precincts must follow physical features. The map of the precincts must clearly indicate which boundaries do not follow recognizable physical features.

Minn. Stat. § 204B.14, subd. 6.

“Clearly recognizable physical feature” means a street, road, boulevard, parkway, river, stream, shoreline, drainage ditch, railway right of way, or any other line clearly visible from the ground. A platted, but not graded, street or roadway is not a clearly recognizable physical feature.

## 2. Polling places

Minn. Stat. § 204B.16, subds. 1, 3.

The county board, by ordinance or resolution, designates polling places for each precinct. The board should do this at least 90 days before the election. Once designated, the polling places remain the same for all future elections until the board, by ordinance or resolution, changes them. No changes in polling places shall become effective less than 90 days prior to an election, and no polling-place changes may occur during the period between the state primary and the state general election, except that a new polling place may be designated to replace a polling place that has become unavailable for use. Each registered voter affected by the change must be notified by first class, nonforwardable mailing at least 25 days before the next election.

Minn. Stat. § 204B.16, subd. 1a.

Minn. Stat. § 204B.16, subd. 1.

The polling place for a precinct in unorganized territory may be located outside the precinct at a place which is convenient to the voters of the precinct.

Minn. Stat. § 204B.16, subd. 5.

Polling places must be accessible to elderly individuals and individuals with disabilities. The board is responsible for designating only those places that are accessible, unless no available space within the precinct is accessible or can be made accessible.

Minn. Stat. § 204B.14, subd. 2(2-3).

Minn. Stat. § 204B.17.

If any polling place does not comply with the legal requirements, the judges for the precinct involved may, on or before the opening of the polls, find a more suitable location that should be as near as possible to the designated place. The judges must get the county auditor’s approval for the new location. After obtaining this approval, the judges must:

- Meet at the original polling place and fill any vacancies in their number.
- Announce the change in location to any voters who are present.
- Post a notice of the change, printed in large type, in a conspicuous place in each location and also in a location visible by voters who vote from their cars. The judges must certify any expenses involved in the change and forward them to the board to pay as part of the election expenses.

### 3. Polling-place requirements

Minn. Stat. §§ 204B.16, subds. 5, 7; 204B.18, subd. 1; 204C.01, subd. 1.

Besides those relating to location, polling places must also meet the following requirements:

Minn. Stat. § 204B.18, subd. 1.

- They must not be located in any place that serves liquor or beer.

Minn. Stat. § 204B.18, subd. 1.

- The room where the voting takes place must be large enough to accommodate all election equipment including the judges' tables, ballot boxes, and all voting booths and machines.

Minn. Stat. § 204B.18, subd. 2.

- All ballot boxes, booths and judges must be in open view of everyone in the room.

Minn. Stat. § 204C.08, subd. 1.

- The national flag must be displayed at the entrance to the polling place during voting hours.

Minn. Stat. § 204C.08, subd. 1a.

- A poster displaying the "Voter's Bill of Rights" must be posted in a conspicuous location or locations in the polling place.

Minn. Stat. § 204B.16, subd. 5(f).

- At least one handicapped parking space must be available near the accessible entrance.

Minn. Stat. § 204B.18, subd. 1

See Section VII for more information about the Help America Vote Act.

- Each accessible polling place must have at least one accessible voting booth or accessible voting station and beginning with federal and state elections held after December 31, 2005, one voting system that conforms with the federal Help America Vote Act.

Minn. Stat. § 204B.16, subd. 4.

The restriction against buildings serving liquor or beer applies only when it is possible to go from the polling place to the room where the alcoholic beverages are served without leaving the building. If there are no doors between the rooms, and if it is necessary to go outside when going from one room to the other, there is no reason why a room may not be used as a polling place.

A.G. Op. 469-C-6 (Jan. 8, 1954) ; A.G. Op. 185-A-5 (Apr. 5, 1954).

In keeping with this interpretation of the law, the attorney general has ruled that, where a part of the city hall is used as a municipal liquor store and is completely partitioned off with a separate entrance, the remainder of the hall may be used for voting purposes. In another ruling, however, the attorney general advised that the basement of a restaurant was an improper polling place because the entrance to the basement was through a lobby that also contained an entrance to a room where liquor was sold.

## **F. Notice of state elections**

Minn. Stat. § 204B.34, subd. 1.

At least 15 days before any state general election or primary, the county auditor must post in the auditor's office a notice containing the following information:

- The offices for which candidates will be nominated or elected.
- The location of each polling place in the county's unorganized territory.
- The hours the polls will be open.

Minn. Stat. § 205.16, subd. 1.

The notice may also include a list of county officers to be nominated or elected. The board may publish as well as post this notice, but failure to do either would not invalidate the election.

## **G. Equipment and supplies**

Minn. Stat. §§ 204B.18; 204B.27-.29; 204C.26.

Minn. Stat. § 204B.32, subd. 1 (c).

The auditor should supply, at county expense, necessary election equipment and supplies. Each precinct should receive all necessary supplies. Two or more precincts may share some equipment, such as voting booths and a flag, when all voting takes place in a single polling place. Necessary equipment includes the following:

- Equipment for the polling place—flag, tables, chairs for the election officials, voting booths, voting machines if the precinct uses them, curtains for the voting booths, and cards with instructions to the voters.
- Equipment for the voting booths—instructions to voters, indelible pens or pencils, a shelf for writing purposes, proper lighting, and any other equipment necessary to facilitate the task of filling in ballots.
- Equipment for conducting the election—ballots, ballot boxes, polling-place rosters, summary-statement blanks, evidence tape for sealing, heavy envelopes for returning the counted ballots, and envelopes for the return of uncounted, defective, and unused ballots.

At least four days before state elections, the auditor must supply supplies and instructions provided to city clerks. If a clerk has not already received the booklet containing Minnesota election laws published by the secretary of state, the auditor must include it with the other supplies.

Minn. Stat. § 204B.29, subd. 1.

Before 9 p.m. on the day before any election, at least one election judge from each precinct must pick up the supplies for that precinct from the county auditor. If the judges fail to do so, the auditor must send the supplies by special messenger to the judges or the polling place. The messenger must obtain a receipt for the supplies. The auditor must file this receipt, plus the messenger's affidavit stating where, when, and to whom he or she delivered the materials. Any expense incurred is charged to the election judges.

## H. Ballots

The county auditor provides ballots for county and state elections. City clerks prepare ballots for city elections. As with all other local election expenses, the county pays the cost of printing ballots. There are two kinds of ballots: paper ballots and voting-machine ballots.

Minn. Stat. § 204B.39.

When official ballots are not available at the polling place, or when the supply is not sufficient, the official responsible for printing ballots may prepare substitute ballots. These substitutes must be as identical as possible to the official ballot and must have the word "Substitute" in brackets immediately over the words "Official Ballot."

### 1. Paper ballots

Minn. Stat. § 204B.29, subd. 1.

Minn. Stat. §§ 205.17; 204B.35-.44.

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

Minn. Stat. § 204B.38.

The ballot must spell candidates' names the same way on the affidavit of candidacy as for state elections. No other identifying information is permitted except where two or more candidates have easily confused names. In this situation, three identifying words relating to occupation or residence after the candidates' names may be inserted. Candidates with similar names must submit their written identifying statement to the filing officer before the last date for withdrawing candidacy. The ballot must not include the word "incumbent" except if it is required for judicial offices.

Minn. Stat. § 204B.36, subd. 5.

Minn. Stat. § 204B.35; *Schiff v. Griffin*, 639 N.W.2d 56 (Minn. Ct. App. 2002).

State law generally prohibits any ballot designation that is "descriptive of the candidate's occupation, qualifications, principles, or opinions." For example, the MN Court of Appeals ruled that the description "DFL-Endorsed" could not appear on a ballot.

The general-election ballot must include a blank space for write-in votes for each office. No blank lines for write-ins are allowed on primary ballots.

After the election, the auditor must keep all ballots and other election material for at least one year. Except for materials and ballots from elections still being contested, and the abstract of the canvassing board, which the auditor must keep indefinitely, the auditor may destroy all ballots and materials at the end of the one-year period, subject to the records-retention laws. If any federal offices are voted on, all materials must be kept for 22 months.

## 2. Optical-scan voting equipment

Minn. Stat. § 206.58, subds. 1, 3.

A county may use optical-scan voting in all federal, state and county elections. The governing bodies of municipalities shall give approval before an electronic voting system may be adopted or used in the municipality. Counties must disseminate information to the public about the use of a new voting system at least 60 days prior to the election, and provide instruction to voters by demonstrating new voting machines or devices in a public place for six weeks immediately prior to the first election at which voters will use the new voting system.

The Elections Center of the Secretary of State's Office can be reached at (651) 215-1440.

The equipment must be approved and certified by the secretary of state before manufacturers can sell voting equipment in Minnesota. Counties interested in purchasing equipment should contact the secretary of state for a list of approved equipment. Copies of the secretary of state's rules governing the use of electronic voting devices are also available in the secretary of state's *Minnesota Election Laws*.

## I. Election judges

### 1. Qualifications

Minn. Stat. §§ 204B.19, 204B.21.

An individual must be eligible to vote in the state where he or she serves as an election judge. To serve as an election judge, an individual must meet all of the following qualifications:

- Must not be the spouse, parent, child, or sibling of any other judge in the same precinct or of any candidate.
- Must not be a candidate for elective office in the same election.
- Must be able to read, write, and speak English understandably.

Minn. Stat. § 204B.19, subds. 5, 6.

No more than half the number of judges in any precinct (plus one if the number of judges is uneven) may be members of the same political party. The board may establish other qualifications and may examine applicants to determine whether they meet these provisions. High school students who are 16 and older are eligible to serve as trainee election judges if they meet certain conditions.

Minn. Stat. § 204B.21.

For partisan elections, each major political party supplies lists of eligible voters to the auditor. The board must use these lists to make election-judge appointments for unincorporated areas, while considering the other necessary qualifications. The auditor must also provide city clerks lists of eligible voters in their municipalities. The board must make election-judge appointments at least 25 days before the election in which they will serve.

## 2. Number of required election judges

Minn. Stat. § 204B.22, subds. 1, 3, 4.

Each precinct must have a minimum of three judges. The board, at its discretion, may appoint more. For elections in precincts using an optical-scan voting system in which more than 400 votes were cast at the last regular election, the minimum number of election judges is three, plus one judge to demonstrate the correct marking of the ballot and use of the voting machine or device. The presence or participation of election-judge trainees must not be counted toward satisfying any of the required numbers of election judges.

Minn. Stat. § 204B.22, subd. 2.

In precincts using paper ballots, the board must appoint one judge for each 150 votes cast in the precinct in the last similar election. In precincts where more than 300 people voted in the last state primary or general election, the board must also appoint additional judges to count the ballots and complete the returns, replacing the judges who served during the day.

## 3. Head election judge

Minn. Stat. § 204B.20.

When appointing election judges, the board designates one judge in each precinct to serve as the head election judge. This official is responsible for the work of the board and delegates work among the other judges.

## 4. Training

Minn. Stat. § 204B.25.

Minn. R. 8240.0100-.2900.

The county auditor provides training for all election judges, but may delegate the training for a particular municipality to that city's clerk. Detailed regulations about training are in the secretary of state's rules that are described in the *Minnesota Election Laws*.

Before each state primary, the auditor attends a conference conducted by the secretary of state on election administration and training where training materials, including the *Election Judges' Guide*, are provided.

A training program consists of a basic course, a review course, and an emergency course. Election judges must complete the basic-training course that qualifies them to serve at all future elections if they complete a review course before each election. Election judges are to repeat the basic course if they have not served in at least one election in four years. An emergency course is available for election judges appointed by the board to fill vacancies that occur after the completion of the basic-training course.

Minn. R. 8240.1300.

Each judge who successfully completes the basic-training course receives a certificate to present to the chief election judge of the precinct prior to being sworn in on election day.

## 5. Oath

Before beginning their duties, all election judges must take the following oath:

Minn. Stat. § 204B.24. “I, (*person’s name*), solemnly swear that I will perform the duties of election judge according to law and the best of my ability and will diligently endeavor to prevent fraud, deceit and abuse in conducting this election. I will perform my duties in a fair and impartial manner and not attempt to create an advantage for my party or for any candidate.”

Minn. Stat. § 204B.24. Each judge must sign this oath and return it with the election returns. Judges may administer the oath to each other.

Minn. Stat. § 204B.23. If any election judge fails to appear and assume the duties of the position within 30 minutes after the polls open or otherwise fails to perform those duties, the remaining judges in the precinct must select a qualified person from the precinct to fill the vacancy. The clerk may assign election judges to fill vacancies as they occur.

## 6. Time off from work

Minn. Stat. § 204B.195. Individuals selected to serve as election judges may, after giving their employers at least 20 days written notice, take time off from work to serve as an election judge. An employer may not penalize an employee for the absence other than to make a deduction in salary for the amount of the hourly wages paid for election-judge duties. The written request from the employee to take time off must include a certification from the appointing authority stating the hourly wage to be paid to the judge and the hours to be worked.

An employer may restrict the number of employees serving as election judges to no more than 20 percent of the total workforce per work site.

## 7. Compensation

Minn. Stat. § 204B.31(d). The county determines the wage paid to election judges in unincorporated areas, but must generally pay election judges at least the prevailing state minimum wage for each hour they spend carrying out their duties at the polling places and attending required training sessions. Judges who travel to pick up election supplies or deliver election returns to the county auditor must receive pay for each hour they spend traveling plus mileage. If high school students are used as trainee election judges, they must be paid not less than two-thirds of the minimum wage for a large employer. Any person appointed to serve as an election judge, however, may elect to serve without payment by submitting a written statement to the appropriate governing body no later than ten days before the election. Federal law requires deductions from election judges’ compensation for Social Security and Medicare if the amount received is \$1,300 or more in 2007. (This amount is annually adjusted.)

Minn. Stat. §§ 204B.19, subd. 6; 204B.31, subd. 2.  
26 U.S.C.A. § 3121(b)(7)(F)(iv); 42 U.S.C.A. § 410(a)(7)(F)(iv).

## J. Other election officials

### 1. Sergeant at arms

Minn. Stat. § 204C.06,  
subd. 5.

The election judges may appoint, when necessary, a sergeant at arms to keep the peace or otherwise assist them. An election judge may request a sergeant at arms or a peace officer to arrest or remove an individual for disorderly conduct.

Minn. Stat. §  
204B.31(e).

The compensation for a sergeant at arms must be at the same rate as the rate paid to election judges. Election judges generally must be paid at least minimum wage.

### 2. Challengers

Minn. Stat. §§ 204C.07;  
204C.12.

Challengers are not election officials, but they are a part of the election-day scene. Challengers are individuals who represent a political party, a candidate, or the public and who may challenge the qualifications of voters and observe the election proceedings. They may be in the polling place during the voting and the counting of ballots. But they may not handle election materials or talk with the voters at any time except to establish whether the voter is qualified to vote in the precinct and only with an election judge present. They may not attempt to influence voting. The law also prohibits challengers from preparing lists of individuals who have or have not voted. Challengers must be residents of Minnesota. An election judge may not be appointed as a challenger.

Minn. Stat. § 204C.07,  
subd. 1.

In partisan elections, each party may appoint a voter from each precinct to serve as a challenger. Each non-partisan candidate in any election is also entitled to this privilege. A written certificate is necessary for all appointments.

### 3. City clerks

Minn. Stat. § 204B.25,  
subd. 3.

Minn. Stat. § 204B.27,  
subd. 10.

At least once every two years, the county auditor is required to conduct training sessions for municipal clerks. These training sessions are to be conducted in the manner provided by the secretary of state, who will train the county auditors in election management and provide the auditors with materials to use in training local election officials. No local election official may administer an election without receiving training from the county auditor.

## K. Conduct in and near polling places

Minn. Stat. § 204C.06,  
subd. 2.

Only the following individuals may be in a polling place:

- Election judges.
- Sergeants at arms.
- Peace officers.

- Official challengers.
- Voters who are about to vote.
- Individuals registering to vote.
- Individuals assisting voters who are physically disabled or unable to speak English may be in the state-polling place while assisting such voters.
- Representatives of the secretary of state's office, the county auditor's office, and the city clerk's office may also be in the polling place to observe procedures.
- A news media representative may enter a polling place during voting hours only to observe the voting process. A media representative must present photo identification to the head election judge upon arrival, along with either a recognized media credential or a written statement from a local election official attesting to the media representative's credentials and must not: 1) approach within six feet of a voter; 2) talk with a voter while in the polling place; 3) make a list of persons voting or not voting; or 4) interfere with the voting process.

Minn. Stat. § 204C.06, subd. 8.

The following limitations also apply:

Minn. Stat. § 204C.06, subd. 1.

- No individual may linger within 100 feet of the entrance to the polling place.

Minn. Stat. § 211B.11, subd. 1.

- No campaigning is allowed within 100 feet of where voting takes place at the precinct-polling place. Except for those about to vote, no one may approach within six feet of a voting booth without specific permission from the judges.

Minn. Stat. § 204C.06, subd. 7.

- It is a misdemeanor to bring any malt or intoxicating liquors into any polling place on election day. This rule applies to election officials as well as to voters.

Minn. Stat. § 204C.06, subds. 5, 6.

- Sergeants at arms and peace officers may remain in a polling place only when the election judges order it and only for as long as the election judges determine necessary.

## **L. Day and time of state elections**

Minn. Stat. §§ 204D.03; 204C.05.

Regular state elections take place in each even-numbered year. The state primary is on the first Tuesday after the second Monday in September, and the general election is on the first Tuesday after the first Monday in November. All polling places in the state must remain open continuously from 7 a.m. to 8 p.m. on state primary and general election days.

## M. Conduct of voting

Minn. Stat. § 204C.08-.13. Conducting an election and settling voter challenges involves several steps.

### 1. Voting procedure

Before the polling place opens for voting:

- Minn. Stat. § 204C.08, subd. 3. • One election judge opens the ballot boxes, turns them upside down to empty all contents, then locks them and gives the keys to another judge.
- Minn. Stat. § 204C.08, subd. 1. • Election judges must conspicuously post a notice of the closing time outside the polling place, and place a United States flag at the entrance of the polling place.
- Minn. Stat. § 204C.08, subd. 1a. • A poster with the “Voter’s Bill of Rights” must be posted in a conspicuous location or locations in the polling place.
- Minn. Stat. § 204C.09, subd. 1. • Two election judges must place their initials on the back of each ballot in the blanks provided for them. No other marks may be made on the ballots.

When voting begins:

- Minn. Stat. § 204C.10. • Each voter must be registered on the polling-place roster or complete the election day registration routine.
- Minn. Stat. § 204C.10. • Once a voter is registered, the judges must hand the voter one ballot of each kind and instruct the voter on how to mark and deposit them.
- Minn. Stat. § 204C.13, subd. 2. • The voter enters the voting booth or compartment to mark the ballot alone. (The voter may take sample ballots into the booth, but should not leave them in the booth.)
- Minn. Stat. § 204C.13, subd. 5. • The voter must return the ballots to the judges, who place them in the ballot box or deposit them in vote-counting equipment.
- Minn. Stat. § 204C.13, subd. 7. • Voters leave the polling place immediately and do not return except with permission of the judges.
- Minn. Stat. § 203B.24. • Election judges must process absentee ballots.

- Minn. Stat. § 204C.09, subd. 2. No one may distribute any official ballot in the room where voting takes place except to voters who are about to vote. No ballot that is not officially endorsed in the handwriting of the election judges may be placed in the ballot box. The ballot box must be in public view at all times. Besides their authority to appoint sergeants at arms and peace officers, and to otherwise maintain order in the polling place, the judges may also make regulations governing the amount of time voters may take to complete and cast ballots.
- Minn. Stat. § 204C.13, subd. 3. If a voter spoils one of the ballots, the individual may return it to the judges and receive another unspoiled ballot of the same kind. Judges must keep spoiled ballots and return them to the county auditor.
- Minn. Stat. § 204C.15. If a voter states under oath that he or she cannot read English or is physically unable to mark the ballot or operate the voting equipment, two judges from different political parties may assist the voter or another voter from the same precinct may enter the voting booth with the disabled voter and mark the ballot. No voter may assist more than three individuals in any one election.
- If a voter does not speak English, the judges may select two individuals from different political parties to provide assistance in marking the ballot. Judges must take ballots and a registration card to the vehicle of a disabled person to enable him or her to vote and register, but they may not take them to any other place. Two judges may help a disabled voter enter the polling place.
- Minn. Stat. § 204B.27, subd. 11. The secretary of state may develop voting instructions in languages other than English, to be posted and made available in polling places during elections. The state demographer will determine the languages that are so common that there is a need for translated voting instructions.
- Minn. Stat. § 204C.06, subd. 7. Any person who is intoxicated may not vote.

## 2. Challenges

- Minn. Stat. § 204C.12. An election judge, challenger, or other voter may challenge an individual whom the person knows or reasonably believes is not an eligible voter.
- Procedures for challenges are as follows:
- Minn. Stat. § 204C.12, subd. 2. The challenger must make the challenge and complete and sign a form prepared by the secretary of state.
  - Minn. Stat. § 204C.12, subd. 2. A judge must administer an oath requiring the challenged voter to answer truthfully.
  - Minn. Stat. § 204C.12, subd. 2. The judge may ask questions to establish a voter's qualifications.
  - Minn. Stat. § 204C.12, subd. 3. If the challenger does not withdraw the challenge, the judge must orally administer a second oath to the challenged voter stating the voter's qualifications.
  - Minn. Stat. § 204C.12, subd. 3. If the voter takes the second oath, the judge must allow the individual to vote.

Minn. Stat. § 204C.12, subd. 4.

- If the voter refuses to take the second oath or if the answers show the voter is not qualified to vote, the judge cannot allow the person to vote.

### 3. Counting the ballots

Minn. Stat. § 204C.19.

The counting of votes must take place in public at the polling place immediately after the polls close. If the election judges lock the door or prevent people from entering the polling place at 8 p.m. in order to enforce the closing of the polls, they must re-open the doors or make access available when the counting begins. The counting must continue without interruption until completed. The election judges may take a temporary recess for meals or other necessary purposes.

Minn. Stat. § 204C.19, subds. 1, 2, 3.

No one other than the election judges may handle the ballots during the counting. Election judges open and count the ballot boxes in the following order: the white box, the pink box, the canary box, the light green box, the blue box, the buff box, the goldenrod box, the gray box, and then other kinds of ballots voted on at the election. Under certain circumstances, judges may count two or more boxes simultaneously. The election judges on each counting team must be evenly divided between the major political parties. Election judges may not prepare final returns until they have counted all the boxes. The procedure is as follows:

Minn. Stat. § 204C.20, subd. 1.

- Election judges determine the number of individuals who voted by adding the number of voter's certificates and absentee-ballot-return envelopes.

Minn. Stat. §§ 204C.20, subds. 1, 2; 204C.19, subd. 2.

- The judges open the ballot boxes in the proper order and remove the ballots.

Minn. Stat. § 204C.20, subd. 2.

- The judges count the ballots. If two or more are folded together so they appear to be a single ballot, the judges should set them aside and not count them until the rest of the count is complete.

Minn. Stat. § 204C.20, subd. 3.

- If any ballots are in the wrong boxes, the judges set them aside and count them with the ballots from the proper box only if the count reveals a shortage of ballots in that box.

Minn. Stat. § 204C.20, subd. 2.

- If any box contains a number of ballots greater than the number of people who voted, the judges must examine all ballots to determine whether all are properly marked with the signature or initials of judges and set aside any ballots not so marked. If, after completing the first process, there are still too many ballots, all ballots must be placed in the ballot box and one judge, without looking, must remove the excess number of ballots. The judges must preserve but not count these ballots.

- Minn. Stat. § 204C.20, subd. 3.

  - When the number of ballots matches the number of voters, the judges must seal together in an envelope all ballots not counted together with a certificate explaining why those ballots were not counted. The judges should return the uncounted ballots to the county auditor (or city clerk).
- Minn. Stat. § 204C.21, subd. 1.

  - The judges then take the ballots cast for each office or question and separate them into piles, depending on how or for whom they were cast. Blank or defective ballots must go into a separate pile.
- Minn. Stat. § 204C.21, subd. 1.

  - After checking the ballots in each pile to correct any mistakes in separating them, at least two judges are to count them. Judges must pile ballots crosswise in groups of 25 in the same pile to facilitate counting.
- Minn. Stat. § 204C.21, subd. 1.

  - When the judges agree on their count for each pile, they announce the results and enter the number in each pile on the summary statement.
- Minn. Stat. § 204C.21, subd. 1.

  - Judges must repeat the previous three steps for each office or question, and must perform all steps for each ballot box.
- Minn. Stat. § 204C.23.

  - Judges must mark and set aside defective ballots. They must include all defective ballots with an explanatory memorandum with the election returns. Judges may count ballots defective only in part for those parts that are not defective.
- Minn. Stat. § 204C.25.

  - Judges must place the counted ballots in heavy envelopes and seal and sign them in such a way that the envelopes cannot be opened without disrupting the continuity of the signatures. The judges must write the number and kind of ballots, the name of the town or city, and the precinct number on the outside of the envelope.
- Minn. Stat. § 204C.24.

  - The judges must complete the summary statements that the county auditor or the clerk provided.
- Minn. Stat. § 204C.27.

  - Within 24 hours after the closing of the polls, one or more judges must deliver to the county auditor or to the municipal or school district clerk two sets of summary statements; all unused, spoiled, and counted white, pink, canary and gray ballots; and the polling place roster. The municipal or school district clerk must return all polling place rosters and completed voter registration cards to the county auditor within 48 hours after the end of the hours for voting.
- Minn. Stat. § 204C.30

  - The county auditor must promptly deliver to the secretary of state one of the sets of summary statements received from each precinct.

#### 4. Defective ballots

Minn. Stat. §§ 204C.22-.23.

Even if a voter does not mark the ballot in accordance with authorized procedure, the election judges should count the vote if the voter's intentions are sufficiently clear. The judges should set aside the ballot as defective, however, if the intention of the voter is not clear; the voter cast more than the allowable number of votes for the same office; the voter wrote in a name on a primary ballot; or the voter marked the ballot with the intent of being able to identify the ballot.

Minn. Stat. § 204C.23

If the ballot is defective only for some offices but not for others, the judges should term it defective only for those offices for which it is incorrect. Judges must count votes for other offices or questions. Judges should make a note on each of these ballots stating the offices or questions for which it is defective.

#### N. Canvassing board

Minn. Stat. § 204C.31, subd. 1

The county canvassing board consists of the county auditor, the court administrator of the district court, the mayor or chair of the town board of the county's most populous municipality, and two members of the county board selected by the board from its members who are not candidates at the election. Any member of the canvassing board may appoint a designee to appear at the meeting of the board, but designees may not be candidates for public office.

Minn. Stat. § 204C.32;  
Minn. Stat. § 204C.33

The county canvassing board must meet at the auditor's office by the third day after a state primary, or the seventh day after a general election. The board must promptly and publicly canvass the election and declare the results of the election.

Minn. Stat. § 204C.32

After a primary election, the county auditor mails or delivers a notice of nomination to each nominee for county office. The auditor also transmits one of the certified copies of the canvassing board report for state and federal offices to the secretary of state. The secretary of state shall mail a notice of nomination to each nominee for state or federal office.

Minn. Stat. § 204C.33

After a general election, the auditor declares candidate for county office with the highest number of votes for their office duly elected. The auditor also transmits one of the certified copies of the canvassing board report for state and federal offices to the secretary of state. The state canvassing board will then declare the results.

## O. Recounts and contested elections

[Minn. Stat. § 204C.36;](#)  
[Minn. Stat. ch. 209.](#)

[Minn. Stat. § 205.185,](#)  
[subd. 4.](#)

During the time for contesting elections, a losing candidate in a county primary or general election may require a recount under two circumstances: (1) if the difference between the votes cast for that candidate and for a winning candidate for nomination or election is less than one-half of one percent of the total votes counted for that office; or, (2) if the difference between the votes cast for that candidate and for a winning candidate is ten votes or less and the total number of votes cast for the nomination or election of all candidates is no more than 400. (The law contains additional provisions where two or more seats are being filled from among all the candidates.) In both of the circumstances described above, the county must conduct and pay for the recount. A losing candidate who lost by a greater number of votes may request a recount, but the candidate must pay the expenses. In addition, any individual who was eligible to participate in the voting may contest the election or nomination of any individual by filing a petition in district court within seven days after the board has completed the canvass. Because the grounds and proceedings in election contests are highly technical, the assistance of an attorney experienced in election contests is useful.

## IV. Special elections

[Minn. Stat. § 205.10.](#)

Except as stated in the statutes outlined below, the Minnesota Election Law reviewed above applies to special elections.

Special elections may be held for several reasons:

[Minn. Stat. §§ 204D.17 -](#)  
[204D.27](#)

[Minn. Stat. § 204D.19](#)  
[subd. 2.](#)

[Minn. Stat. § 204D.19](#)  
[subd. 3.](#)

[Minn. Stat. § 204D.19](#)  
[subd. 1.](#)

[Minn. Stat. §§ 204D.20-](#)  
[21.](#)

[Minn. Stat. §§ 204D.20 -](#)  
[204D.27](#)

## P. Vacancy in Congress or state legislature

If a vacancy happens at such a time that the individual elected to that office could take office and exercise the duties of the office immediately, the election shall be called by the governor within 5 days of the vacancy, and take place a maximum of 28 days after it is called.

Otherwise, the election shall be scheduled so that the individual elected may take office at the opening of the next session, or at the reconvening of a session.

A special election is not held if there here will be no session of Congress or the state legislature before the next general election.

Unless only one candidate from a major political party files for election, nominations must be made at a special primary, held at least 14 days before the special election.

Additional provisions can be found in [Minn. Stat. §§ 204D.20 - 204D.27](#)

## Q. Elections on questions

Minn. Stat. § 375.20

On actions for which the board is required by law to obtain the approval of the voters, the question may be put to voters at either a general or special election. Once the resolution requiring voter approval is adopted, the election must take place within 60 days.

Minn. Stat. § 375.20

The form of the ballot must be:

“In favor of (substance of the resolution to be submitted),

Yes .....

No.....”

Minn. Stat. §§ 204D20 -  
204D.27

The special election must follow the procedures described in [Minn. Stat. §§ 204D.20 - 204D.27](#)

## R. Vacancies in board of commissioners

Minn. Stat. § 375.101  
subd. 4

The board of commissioners may fill a vacancy by either appointment or special election. The board may choose by resolution to appoint a replacement to fill the vacancy.

If there are less than two years left in the term, or if the vacancy occurs on or after the first day to file affidavits of candidacy for the county general election, the appointed replacement will serve until a successor is chosen by general election.

If there are more than two years left in the term, and the vacancy occurs before the first day to file affidavits of candidacy for the county general election, a special election must be held in conjunction with the general election to fill the remainder of the term.

Minn. Stat. § 375.101  
subd. 3

If a county commissioner is unable to serve for a period of 90 days or more, the board may declare a vacancy and fill the vacancy by appointment until the commissioner is able to serve again, or until the next general election, whichever is earlier.

Minn. Stat. § 375.101  
subd. 1

If a vacancy is not filled by appointment as described above, a special election to fill the vacancy must be held at least 30 days and not more than 90 days after the vacancy occurs. If a special primary is required, there must be at least 14 days between the special primary and the special election.

Minn. Stat. § 375.101  
subd. 2

If the vacancy occurs less than 60 days before the general election, the winner of the general election will take office immediately after receiving the certificate of election, serving the end of the vacated term plus the term to which s/he was elected.

Minn. Stat. § 382.02

[Vacancies of county officers are filled by appointment by the county board for the remainder of the term.]

## V. Fair Campaign Practices Act

### S. Activities of candidates

[Minn. Stat. ch. 211B.](#)

The law restricts activities of candidates and parties in order to ensure fair and open campaigns and government conduct.

To help keep elections free of fraudulent practices, the law requires the performance of certain acts and forbids the performance of others.

Election officials should acquaint themselves with fair campaign practices and the penalty provisions. Local election officials are in the center of all activity on election day, and have the best opportunity to observe and prevent violations, reducing the likelihood of contested elections.

[Minn. Stat. §§ 211A.02; 211B.04-.05.](#)

State law requires a statement of contributions and expenditures from candidates receiving or spending money in excess of \$750 in any year. Intentional violations of the Act are a misdemeanor. The law requires certain notices to accompany political advertisements.

[Minn. Stat. §§ 211B.05-.09.](#)

The law also restricts or prohibits acceptance of advertisements, false political and campaign material, soliciting contributions, and certain political activities of public employees.

### T. Activities of corporations

[Minn. Stat. § 211B.15, subds. 9, 10.](#)

Corporations may contribute to or conduct public media projects to encourage individuals to attend precinct caucuses, register, and vote as long as the projects or messages are not for the advantage of any candidate, political party or political committee. Corporations may also provide meeting facilities on a non-discriminatory and non-preferential basis.

[Minn. Stat. § 211B.15, subd. 4.](#)

Corporations may make contributions or expenditures to promote or defeat a ballot question, to qualify a question for placement on the ballot unless otherwise prohibited by law, or to express its views on issues of public concern. A corporation may not make a contribution to a candidate for nomination, election, or appointment to a political office or to a committee organized wholly or partly to promote or defeat a candidate.

[Minn. Stat. § 211B.15, subds. 9-12.](#)

Corporations must report the total amount of any expenditure or contribution for any one project exceeding \$200, together with the date, purpose, and names and addresses of those receiving the contribution or expenditure. The reports go to the secretary of state who provides the forms for these reports.

## VI. Help America Vote Act

42 U.S.C.A. §§ 15301-15545; Minn. Stat. §§ 5.30; 200.04.

The 2002 federal Help America Vote Act (HAVA) made federal funding available to help improve statewide election administration. As one condition of receiving this funding, the secretary of state established an administrative procedure for reviewing complaints regarding voting-system standards, computerized statewide-registration lists and equipment, voter-registration requirements, and other aspects of the state's implementation of HAVA. Some provisions of this new complaint system apply to county officials. Essentially, if a complaint is received regarding election activities involving county officials, the officials are given notice and an opportunity to reach an agreement with the complainant. If an agreement cannot be reached, a hearing is scheduled, and county officials are given notice and an opportunity to participate. The secretary of state then makes a final determination, which may be appealed to district court.

Minn. Stat. § 206.57

The 2004 Legislature made a number of changes to state elections law to conform with HAVA. After Dec. 31, 2005, polling places must have assisted voting systems that are accessible for individuals with disabilities. The systems must be certified by an independent testing authority and conform to current standards for voting equipment issued by the federal Elections Assistance Commission (EAC).

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