

# HOUSE RESEARCH

## Bill Summary

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**Authors:** Kielkucki and others

**Subject:** Secretary of State's Open Appointments and Elections Bill

**Analyst:** Deborah K. McKnight, Legislative Analyst (651-296-5056)

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### Overview

The bill amends provisions dealing with the secretary of state's role in the open appointments process, as well as state and local election laws, and the law on resignation from office. Issues include, handling absentee ballots in emergencies, provisions on election judges, ballots for a vacancy in nomination, media access to the polling place, automatic recounts and other election matters.

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- 1** **Legislative manual.** Amends the law on the legislative manual contents. Strikes postmasters from the list of included offices. Reduces from 15,000 to 10,000 the number of copies that will be produced. Reduces from 25 to 20 the number of copies to be provided each legislator. Provides for giving each county recorder and county attorney a copy.
- 2** **Surveys.** Allows the secretary to survey county auditors (auditors) and municipal clerks about elections issues.
- 3** **Collection of data.** Amends a provision of the statutes concerning appointments to multi-member agencies. Requires the agencies to give the secretary of state (secretary) agency information in electronic format and to provide e-mail addresses of members.
- 4** **Publication of agency data.** Requires the secretary to place on the web information about multi-member agencies specified in current law. The information now appears in the state register. Requires the information to be provided to the governor and legislature electronically.
- 5** **Notice of vacancies.** Amends the open appointment law to require covered agencies to give the secretary electronic notice of vacancies and requires the secretary to put the vacancies on the web.

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- 6**        **Nominations for vacancies.** Allows the secretary to require applications under the open appointment law to include the applicant's e-mail address. Allows the secretary to forward the applications electronically to the appointing authority.
- 7**        **Appointments.** Changes from "in writing" to "by electronic means" the method by which an agency must notify the secretary when it has decided who it will appoint.
- 8**        **Report.** Provides for electronic filing of the secretary's report to the governor and legislature under the open appointments law.
- 9**        **Registration; information required.** Requires a newly established agency to give the secretary its e-mail address and the e-mail addresses of its members.
- 10**       **Referendum revenue.** Amends the statute on the general education revenue referendum. States that the notice a school district is required to send voters before the election is not an official ballot.
- 11**       **Election day registration.** Adds to the list of items that can be used to prove residence when registering on election day: a student identification card with a valid address in the precinct, a current student fee statement with a valid address in the precinct, or a copy of a current student registration card with a valid address in the precinct.
- 12**       **Deficient registration.** Relocates current law that requires the secretary to prescribe a form for a county or municipality to use to get currently registered voters' birthdates. (See section 15)
- States that a registration card is not deficient for lack of a phone number.
- 13**       **Driver's license and identification card applications.** Requires driver license and identification card application forms to contain all the information that is on voter registration cards prescribed by the secretary.
- 14**       **Posting voting history.** Requires auditors to post voting histories within two weeks after every election. Strikes the current provision that a late absentee ballot counts for purposes of maintaining continued registration. Requires voters who have been classified "inactive" (because of not voting for four years) to register before voting again.
- 15**       **Procedures for polling place rosters.** Language stricken here was moved to section 12.
- Requires polling place rosters to be kept for 22 months after an election. Current law is one year.
- 16**       **Investigations; prosecutions.** Requires county attorneys to report investigations of election law violations to the secretary of state after each state general election.
- 17**       **Notice.** Requires the parties to notify the city clerk of the date, time, and places of precinct caucuses. Requires the county auditor to make this information available on request at least ten days before the caucuses.
- 18**       **County auditor and municipal clerk's offices to remain open.** Requires a municipal clerk's office that is administering absentee balloting to be open the same hours as the county auditor's office. Specifies that the clerk and auditor's office must be open until 5:00 PM the day before a primary or election, unless that day is a Saturday or Sunday.
- 19**       **Generally.** Amends law on absentee voting by individuals in health care facilities. Provides that proof of residency is satisfied if the chief administrator of the facility certifies a list of residents of the facilities for the municipal clerk or auditor by the day before ballots are delivered.
- 20**       **Secretary of state to make rules.** Authorizes the secretary to designate alternate methods to handle absentee ballots during state or national emergencies. Exempts this from the

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administrative procedures act.

- 21 Form of affidavit.** Amends the affidavit of candidacy statute. Clarifies that the law does not apply to presidential and vice-presidential candidates, who are not required to file an affidavit.
- 22 Petitions for presidential electors.** Re-arranges language.
- 23 Candidates in state and county general elections.** Clarifying cross-reference.
- 24 Write-in candidates.** Amends the law that requires a write-in candidate to file a written request to have votes for him or her counted. Requires filing the request by the fifth day before the election. Current law allows filing the day before the election.
- 25 Vacancy after deadline.** Amends the catastrophic candidate withdrawal statute. Provides for striking the withdrawn candidate's name from the ballot if withdrawal occurs by seven days, rather than the current four days, before the general election.
- 26 Separate precincts; combined polling place.** Creates a new circumstance in which a combined polling place can be used for two contiguous precincts: when one of the precincts has fewer than 100 registered voters.
- 27 Designation effective until changed.** Clarifies that polling places for school district elections and referenda must be designated on the same time frames as polling places in other elections: 90 days before the election.
- 28 Booths.** Amends the statute on voting booths. Strikes the provision that a booth must have a door or curtains.
- 29 Individuals qualified to be election judges.** Allows an individual to serve as an election judge if he or she is eligible to vote in this state. Current law requires judges to live in the precinct where they serve; or if not enough judges are available, then in the municipality or school district; and if still not enough, then in the county.
- 30 High school students.** Amends the statute allowing high school students to act as trainee election judges. Adds home-schooled students.

Strikes the current requirement that a student must have finished or be taking a government class in order to serve as a trainee judge.

- 31 Appointment lists; duties of political parties and county auditor.** Requires political parties to give the auditor their list of individuals eligible to be election judges by May 1; current law sets a July 1 deadline. Requires the auditor to get the lists to the appointing authorities by May 15, instead of the current July 15.
- 32 Election judge trainees not counted.** Provides that trainee judges cannot be counted toward satisfying the minimum required number of election judges.
- 33 Judicial elections.** Requires the notice of election for supreme court and court of appeals judgeships to state the seat number rather than the name of the incumbent.
- 34 Judicial candidates.** Requires the judicial ballot to include as a header over each candidate group: "supreme court," "court of appeals," and "district court".
- 35 Vacancy in nomination; changing ballots.** Amends the law on vacancy in nomination due to death or catastrophic illness. Requires new absentee ballots to be provided to voters who request them. Requires the appropriate ballots (the regular ballot with the changed office stricken, plus a supplemental ballot showing the new candidates) to be delivered to health care facilities in the manner required by the health care facility absentee voting law.
- 36 Access for news media.** Lets a municipal or school clerk or county auditor give news media written authorization to enter polling places for up to 15 minutes during voting hours to observe the process. Puts restrictions on reporters as follows: cannot approach within six feet

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- of an election judge or voter, talk to or interview a voter in the polling place, make a list of persons voting or not voting, or photograph a voter without a signed release from the voter.
- 37 Permanent registration; verification.** Requires the polling place roster that voters sign to state that the individual understands that giving false information is a felony punishable by the stated penalties.
- Requires a registered voter to (1) provide photo identification or (2) sign an affidavit that the voter does not have such identification.
- 38 Refusal to answer questions.** Provides that a challenged individual who is found ineligible to vote or who refuses to answer questions or sign a polling place roster is reclassified in voter registration files as "inactive" within 14 days.
- 39 Excess ballots.** Provides that if the number of ballots does not exceed the number to be counted, the absence of one or both sets of election judges' initials does not by itself disqualify the vote and is not the basis for a challenge in a recount.
- 40 County auditor.** Requires auditors to report election results by entering or transmitting them to the secretary's election night reporting system.
- 41 County canvass.** Amends the statute on the county canvassing board reports. Requires that they include the votes received by state or federal write-in candidates who have requested that votes for them be counted.
- 42 Automatic recounts.** Amends the state primary and general election automatic recount provisions to state that the scope of the recount is limited to recounting the votes validly cast.
- 43 Automatic recounts.** Amends the local election automatic recount law. Reorganizes language and makes the following substantive changes.
- Eliminates the provision that the candidate requests an automatic recount. Instead, the recount is performed when the vote difference formula applies, unless a losing candidate waives it by filing a written waiver with the canvassing board.
- States that the scope of the recount is limited to recounting the votes counted on election day.
- Prohibits a recount from delaying any other part of the canvass. Requires certifying recount results as soon as possible.
- Provides for the time for a contest notice to start running upon certification of recount results by the canvassing board.
- 44 Ballot question recounts.** Requires the cost to be paid by the political subdivision that put the question on the ballot.
- 45 Scope of recount.** Amends the local recount statute to provide that it is limited to determining the number of votes validly cast for the office being recounted. Allows considering only the ballots cast in the election and the summary statements certified by the election judges.
- 46 Rules for recounts.** Over-rides a recount rule by stating that the requirement that ballots be segregated by precinct is satisfied if ballots for different precincts are recounted in physically separate locations within one room.
- 47 Example supplemental ballot.** Amends the law on the supplemental ballot when there is a vacancy in nomination. Requires the secretary of state to give the auditors a sample supplemental ballot at least three days before the election, if there will be a supplemental

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ballot. Requires the auditors to give local election officials a copy of the example. Allows anyone to report to the county attorney if the official ballot does not match the example ballot.

- 48 Certificate of legislative election.** Provides for legislative certificates of election in special elections to be issued by the secretary of state rather than the county auditor. Conforms to general election practice.
- 49 Minnesota election law.** Amends the municipal election chapter of the election code. Provides for the election law to apply to municipal elections unless "expressly provided by law," which would allow a statute outside the election code to over-ride the election code. Current law provides that only the election code can exempt cities from its provisions.
- 50 More than one seat to be filled at any election.** Amends a provision on candidates for town supervisor to require that when more than one seat is being filled at an election, a candidate must designate which seat he or she seeks.
- 51 Notice to auditor.** Changes from 49 to 53 days before the election: the deadline for the municipal clerk to notify the auditor of municipal offices, ballot questions, and the date of the election.
- 52 Notice to secretary.** At least 46 days before a municipal election; when the auditor gets an election notice from the municipal clerk, the notice must be passed on to the secretary.
- 53 Election, conduct.** Requires a municipal election to be held in the manner provided by state law "except as expressly provided by law." Current law is "so far as practicable."
- 54 Canvass of returns.** Amends the municipal canvass law to provide that the governing body canvasses special municipal elections and acts as the canvassing board.
- 55 Election law applicable.** Amends the school election law. Requires a school election to be held in the manner provided by state law "except as expressly provided by law." Current law is "so far as practicable."
- 56 Notice to auditor.** Changes from 49 to 53 days before the election: the deadline for the school clerk to notify the auditor of school offices, ballot questions, and the date of the election.
- 57 Notice to secretary.** At least 46 days before a school election, when the auditor gets notice from the school clerk, the notice must be passed on to the secretary.
- 58 Municipalities.** Prohibits municipalities from using an electronic voting system that is not approved by the secretary for statewide use.
- 59 Electronic voting systems; experimental use.** Authorizes the secretary to request experimental use of direct recording electronic voting systems at any election held at the same time as the state primary or general election or at any municipal election. Requires such systems to be consistent with the federal Help America Vote Act.
- 60 Ballots.** Requires the front of optical scan ballots to include "Official Ballot," the election date, and lines for election judges' initials.
- 61 Electronic reporting.** Amends the local campaign reporting requirements in chapter 211A. Allows reports to be filed electronically with the approval of the filing officer.
- 62 Withdrawal or resignation.** Amends the statute on resignation from public office. Provides that a resignation submitted under that law may only be withdrawn before it is accepted by (1) resolution of the body or board or (2) written acceptance of the officer authorized to receive the resignation.
- 63 Officers; other business.** Specifies that ballot questions may be considered at the annual town meeting.
- 64 Deputy clerk.** Specifies that if a town clerk has not appointed a deputy, the town treasurer

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performs clerk duties regarding candidate filings when the clerk is absent.

**65** **Initiating the proceeding.** Clarifies a signature requirement for initiating a municipal proceeding. A petition must be signed by a "number of residents eligible to vote equivalent to" five percent of the resident voters of a municipality.

**66** **Election notices.** Requires the hospital district clerk to provide a notice of the date and the offices and questions to be voted on in the hospital district 53 days before the hospital district election to the auditor of every county in which the hospital district is located.

**67** **Candidates; ballots; certifying election.** Same filing period for hospital district candidates as the bill would apply to municipal and school district candidates.

**68** **Emergency procedures.** Requires the secretary to report to the legislature by January 15, 2004, on procedures for handling absentee ballots during national or state emergencies.

**69** **Effective date.** Delays until August 1, 2004, the effective date of S.F. 112 provisions on voting by persons under guardianship, if that bill is enacted.