

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill includes a variety of technical and procedural changes related to election administration. New substantive provisions related to filling a vacancy in the U.S. House of Representatives, authority for local jurisdictions to postpone certain elections due to inclement weather, and the right of an employee to take time off from work to cast a ballot during any part of the day on election day are also contained in this bill. This bill also addresses issues related to exit polling, and includes provisions related to the use of certain court, corrections, and public safety data in updating the statewide voter registration system.

### Section

- 1** **Violations; penalty.** Requires the county auditor to provide two types of notices to voters who have voted in a precinct other than the precinct where the voter maintains residence:
  - (1) A notice would be required if a voter provided his or her current residential address, but was allowed to cast a ballot in an incorrect precinct, so long as the voter has not voted in an incorrect precinct previously.
  - (2) A notice of violation would be required if a voter has voted in an incorrect precinct on more than one occasion, or the voter provided an address other than his or her current residential address.
- 2** **Voter registration applications.** Specifies that an individual or agency collecting voter registration applications must submit them to the county auditor or secretary of state within ten calendar days of the date the voter signs the application.
- 3** **Precinct boundaries; modified addresses.** Requires the county auditor to update the statewide voter registration system to reflect the change of a street name or numbered residential address in a municipality. The clerk in the affected municipality must notify the auditor of the change. Changes to a residential address designation may not be made effective

during the 45 days prior to an election.

- 4 Address updates.** Requires a county auditor who receives an election mailing that is returned as undeliverable, but with a forwarding address in Minnesota, to transmit a copy of the mailing to the appropriate county auditor. If an election is to occur within 47 days, the appropriate county auditor must update voter's record in the statewide database promptly. If an election will not occur within 47 days, the auditor may wait until the secretary of state transmits an official list of address changes from the U.S. postal service.

Current law requires the county auditor to mail a notice to the voter indicating the voter's new precinct and polling place. This section adds an exception to the notice requirement if a voter's record is challenged due to a name change or indication that the voter may not be eligible to vote.

This section is effective June 1, 2011.

- 5 Postelection sampling.** Requires a report to the legislature, by March 1 of each odd-numbered year, on the number of registration notices returned during the postelection sampling process where the county auditor is unable to obtain satisfactory proof of the voter's eligibility to vote.
- 6 Deceased voters; voter records.** Requires use of the Social Security Death Index to determine if any registered voters are included on that list and to forward that information to each county auditor.

This section also eliminates an existing requirement that a written statement containing a death notice may only be submitted by a registered voter in the same county.

This section also contains address update provisions parallel to those contained in section 4. Current law requires that the secretary of state utilize the U.S. postal service change of address notification system. This section prohibits use of that system during the 47 days prior to a state primary or general election.

If necessary, and the proper new precinct within Minnesota can be determined, the county auditor is required to update the voter's address in the statewide database. If the voter has moved out of state, the voter's status must be changed to "inactive." The voter must be notified of the update, unless the voter's record is challenged due to a name change or lack of eligibility to vote.

The requirement that the Social Security Death Index be used is effective immediately. The modifications to the change of address system procedures are effective June 1, 2011.

- 7 Report of changes of names.** Shifts responsibility for notifying the secretary of state regarding name changes due to marriages, divorces, or any court-ordered decree from the district court administrator to the state court administrator.

This section also requires the appropriate county auditor to make the change necessary to update a voter's record and to mail the voter a notice of registration for the new name.

- 8 Guardianships.** Requires the state court administrator to include an individual's driver's license number or state identification card number, if available, on the existing guardianship and incompetency reports transmitted to the secretary of state, and modifies the timing of those reports.

- 9 Guardianship termination.** Requires the state court administrator to include an individual’s driver’s license number or state identification card number, if available, on the existing reports related to guardianship termination and restoration of voting rights transmitted to the secretary of state, and modifies the timing of those reports.
- 10 Felony convictions.** Requires the state court administrator to include an individual’s driver’s license number or state identification card number, if available, on the existing felony conviction reports transmitted to the secretary of state, and modifies the timing of those reports.
- 11 Department of Corrections data.** Requires the commissioner of corrections to provide to the secretary of state data on individuals who are over the age of 18 who are currently serving felony sentences. At least once a month, the secretary of state must use the data to determine whether any of the individuals are listed as active in the statewide voter registration system, and whether they are listed as “challenged.” The secretary of state must also determine whether it appears that any individual registered or voted while their civil rights were revoked, and whether any individual with a voter record listed as “challenged” has been discharged from their sentence.  
The secretary of state must provide information on these findings to the appropriate county auditors, who are required to update the entries, as necessary, in the statewide voter registration system.  
A transitional applicability provision is included.
- 12 Department of public safety data.** Requires the department of public safety to make electronic data related to citizenship available to the secretary of state. The secretary of state must use the data at least monthly to determine whether any voters listed as active in the statewide registration database are not citizens. The secretary must notify the appropriate county auditor of any individuals who are not citizens; the county auditor must modify the status of these voters to “challenged” and notify the county attorney.  
A transitional applicability section is included.
- 13 Posting of voting history.** Provides that, although a voter whose absentee ballot was late or rejected is still considered an “active” voter in the statewide registration system, that voter’s attempt to vote is not considered voting history for purposes of the public information lists made available for inspection by each county auditor.
- 14 Indefinite residence abroad.** Modifies terminology to conform to language included in federal law.
- 15 Application procedures.** Eliminates an obsolete reference to rules related to absentee ballot applications.
- 16 Printing and delivery of forms.** Modifies certain requirements related to the printing and delivery of absentee ballot application forms to reflect changes made elsewhere in the bill related to filling a vacant county office.
- 17 Preservation of records.** Requires absentee ballot applications to be preserved by the county auditor or municipal clerk for 22 months, and eliminates a mandate on how the applications must be organized.
- 18 Locations for absentee voting.** Provides a 45-day absentee voting period for special elections held to fill a vacant county office rather than the 30-day absentee voting period that would apply under current law.  
This section also requires a 46-day absentee voting period for any election held in conjunction

with an election that requires a 46-day absentee period (for example, a 46-day period would be required for a township election held in conjunction with a federal election, even though a 30-day absentee period is provided for townships holding a stand-alone election under current law).

- 19 **Indefinite residence outside United States.** Modifies terminology to conform to language included in federal law.
- 20 **Recording applications.** Eliminates redundant language.
- 21 **Write-in absentee ballot.** Codifies existing administrative rules related to the processing and acceptance of a federal write-in absentee ballot when the voter did not also submit a federal post card application.
- 22 **Candidates seeking nomination by primary.** Eliminates a cross-reference to a section of statute declared unconstitutional and is being repealed in this bill.
- 23 **Special elections; limitations.** Removes an exception provided in law for holding a special election during the 19 weeks before the state primary election, if the special election is held on the date of the school district general election. The school district general election is now required to be held in November.
- 24 **Boundary changes; effective date.** Prohibits election precinct boundaries that are affected by a municipal boundary adjustment from taking effect within 21 days of a scheduled election.
- 25 **Accessible voting equipment.** Requires local officials to share Automark voting equipment purchased with HAVA funds with other jurisdictions, if the equipment is needed for another election. The local official may charge for certain costs of using of the equipment. Funds received must be placed in the jurisdiction's Help America Vote Act account, as directed in the bill.  
This section is effective immediately.
- 26 **Minimum number of judges.** Increases the minimum number of election judges required to be appointed for each precinct from three to four, except for precincts where an electronic voting system is not used.
- 27 **Exception; minimum number of judges.** Provides the exception to the rule established in the prior section. Only three judges are required in a precinct not using an electronic voting system, but an additional judge must be appointed for each 150 votes cast in that precinct at the last similar election.
- 28 **Election judges; oath.** Permits an election judge to affirm, rather than swear, the required election judge oath.
- 29 **Publication of election laws.** Requires the secretary of state to publish a hard-copy version of the state's election laws for county auditors and municipal clerks by August 1 of each odd-numbered year, and an electronic version by July 1 of each even-numbered year.
- 30 **Instruction posters.** Eliminates obsolete language referring to paper ballots in the requirement for the secretary of state to prepare and furnish voter instruction posters to precincts.  
This section also permits the instruction posters to be provided electronically, upon mutual agreement.
- 31 **Certification of number.** Requires the county auditor or municipal clerk to certify the exact

number of ballots provided to each precinct to the election judges in that precinct.

**32 Identical names on ballot.** Limits the allowance for additional descriptive words to be placed on a ballot next to a candidate's name to situations where both the first and last names of two candidates are similar enough to cause confusion.

**33 Signature of voter; power of attorney.** Requires voters who are unable to sign their name to sign documents using the procedures permitted by law for persons with disabilities (making a mark, using a rubber stamp of the voter's signature, or directing another person to sign on behalf of the voter).

Provides that a power of attorney may not sign election-related documents for a person, except in the manner described above.

**34 Right to be absent.** Permits an employee to be absent from work at any time during the day for the time necessary to appear at a polling place, cast a ballot, and return to work.

Current law only permits an employee to be absent on the morning of an election.

**35 Exit polling.** Exempts individuals who are conducting exit polling from the prohibition on standing within 100 feet of a building that contains a polling place.

A definition of "exit polling" is provided.

**36 Opening of the polling place.** Requires election judges to meet at the polling place at least one hour prior to the opening of the polls, and to verify that the materials provided to the polling place are correct. Two sample ballots are required to be available for inspection by voters.

This section also amends the Voter's Bill of Rights to clarify that a voter may be absent from work without loss of pay, personal leave, or vacation time in order to vote, and clarifies that any voter who is in line before 8:00 p.m. on election day has the right to vote, regardless of how early they arrived to meet that deadline.

New language also permits two election judges from different major political parties to open a ballot box during election day in order to straighten the ballots and prevent the box from overflowing. Current law prohibits a locked ballot box from being opened during voting hours.

Any ballots that are removed from the ballot box must be sealed. A notation must be made on the polling place's incident log. Election judges are not permitted to count or inspect any ballots during this process.

**37 Counting and initialing.** Requires at least two election judges to certify the exact number of ballots delivered to the precinct, including counting each ballot when a new package of ballots is opened.

**38 Statement of grounds; oath.** Permits a voter required to take an oath because the voter's eligibility has been challenged to affirm, rather than swear the oath.

**39 Voting booths.** Clarifies that a voter is not required to stand at a voting booth to complete a ballot, but may use another writing surface instead.

- 40 Information requirements; precinct summary.** Requires the precinct summary statement to include a reconciliation of the number of ballots delivered to the precinct with the number of ballots used in the precinct.
- 41 County auditor.** Requires the county auditor to reconcile the number of ballots delivered to a precinct and the number of ballots reported returned by the election judges. A discrepancy must be noted, but does not invalidate the votes from that precinct or invalidate the election.
- 42 Municipal clerks.** Requires the municipal clerk of a first class city to reconcile the number of ballots delivered to a precinct and the number of ballots reported returned by the election judges. A discrepancy must be noted, but does not invalidate the votes from that precinct or invalidate the election.
- 43 County canvass report.** Eliminates the requirement that the county canvass report contain the names and vote totals for write-in candidates who requested their votes be counted. Instead, the vote totals for these candidates must be included in a separate report.
- 44 Discretionary candidate recount.** Eliminates a reference to computer operation and ballot counting equipment costs in a candidate recount. Current law requires all recounts to be conducted by hand.
- 45 Scope of recount.** Provides that review of an original ballot that has been duplicated is not within the scope of a recount. The original ballot may only be examined in a formal election contest.
- 46 Discretionary ballot question recounts.** Provides specific responsibility by jurisdiction for the conduct of an automatic recount on a ballot question.
- 47 Expenses; ballot question recount.** Eliminates a reference to computer operation and ballot counting equipment costs in a candidate recount. Current law requires all recounts to be conducted by hand.
- 48 County canvass report.** Reduces the number of paper canvass reports required to be delivered to the secretary of state.
- 49 Printer's bond.** Specifies that a ballot printer is only required to furnish a bond for printing if one is requested by the appropriate election official.
- 50 Sample ballots.** Changes the order of candidate names on the sample ballot made available for public inspection. Names would appear in the base random rotation, instead of alphabetically.
- 51 Partisan offices; nominees.** Eliminates a reference to a provision of law held unconstitutional. That provision is also repealed in this bill.
- 52 Vacancy in Congress; special elections.** Strikes provisions related to special elections held to fill a vacancy in a Congressional office, to reflect changes made later in the bill.
- 53 Vacancy in Congress; special elections.** Strikes provisions related to special elections held to fill a vacancy in a Congressional office, to reflect changes made later in the bill.
- 54 Date of special election; prohibitions.** Prohibits a special election from being conducted by

any jurisdiction between the date of the state primary and the date of the state general election.

**55 Special primary.** Eliminates a reference to a provision of law held unconstitutional. That provision is also repealed in this bill.

**56 Vacancy; Representative in Congress.** Adopts a procedure for holding an election to fill the unexpired term of a vacant U.S. Congressional seat. If a vacancy occurs 27 weeks or more prior to the state primary, the seat must be filled by a special election.

If a vacancy occurs more than 22 weeks, but less than 27 weeks before the state primary, the special election must be held on the date of the state primary. A special primary must also be held, if necessary.

If a vacancy occurs within 22 weeks of a state primary, but before the general election, no special election would be held. Instead, the winner of the regularly-scheduled general election would serve the remainder of the term upon issuance of a certificate of election.

If a vacancy occurs on or after the date of the general election, the winner of the general election must be seated upon issuance of a certificate of election, or if the incumbent was the winner of the general election, a special election must be scheduled as provided above.

These changes would bring Minnesota law into conformity with a new federal requirement that military and overseas voters be provided an absentee voting period of at least 45 days for an election for federal office.

**57 Date of primary election; municipalities.** Provides a cross reference to a new provision enacted later in the bill related to a weather-related election postponement.

**58 Date of election; municipalities.** Provides a cross reference to a new provision enacted later in the bill related to a weather-related election postponement.

**59 City council members; expiration of term.** Specifies that the term of office of a city council member in a charter city expires on the first Monday in January of the year the term expires.

**60 Postponement of city election; inclement weather.** Provides a procedure for postponing a city election due to inclement weather.

An election may only be postponed if it is not held in conjunction with a state or federal election. The municipal clerk would be authorized to postpone an election if law enforcement or the national weather service has issued a storm warning or travel advisory indicating that travel could be difficult or hazardous for voters and election judges. A postponement must apply to all precincts in the jurisdiction. If more than one jurisdiction is conducting an election at the same time, the official responsible for the largest geographic area has the postponement authority.

An election must be postponed no later than 6:00 p.m. on the night before the scheduled election day. Notice of the postponement must be provided to media, and on the clerk's website if practicable.

A postponed election must be rescheduled for the next following Tuesday. Voters must be permitted to submit absentee ballots as permitted by law based on the rescheduled election date.

- 61 Affidavit of candidacy.** Requires that candidates who seek to fill a vacancy for a city office to fill the unexpired portion of the term must file an affidavit of candidacy listing the specific office sought to be filled.
- 62 Notice of filing dates.** Requires the municipal clerk to separately list in the required notice any offices for which affidavits of candidacy are to be accepted in a special election to fill a vacant office.
- 63 Sample ballot; publishing.** Requires the municipal clerk to publish a sample ballot at least two weeks before the election, rather than one week before the election.
- 64 Sample ballot; posting.** Requires the municipal clerk to post a sample ballot at least two weeks before the election, rather than four days before the election.
- 65 Notice to county auditor; municipal elections.** Provides a conforming change to reflect the expanded absentee voting period that will apply to most elections beginning in 2010. Those substantive changes have already been enacted and signed into law.
- 66 Notice to secretary of state; municipal elections.** Provides a conforming change to reflect the expanded absentee voting period that will apply to most elections beginning in 2010. Those substantive changes have already been enacted and signed into law.
- 67 Date of primary election; school districts.** Provides a cross reference to a new provision enacted later in the bill related to a weather-related election postponement.
- 68 School district general election.** Provides a cross reference to a new provision enacted later in the bill related to a weather-related election postponement.
- 69 School board members; expiration of term.** Specifies that the term of office of a school board member expires on the first Monday in January of the year the term expires.
- 70 Questions; school district special elections.** Requires that a petition calling for a special election on a school district question must be filed with the school board.
- 71 Postponement of school district election; inclement weather.** Provides a procedure for postponing a school district election due to inclement weather.
- An election may only be postponed if it is not held in conjunction with a state or federal election. The school district clerk would be authorized to postpone an election if law enforcement or the national weather service has issued a storm warning or travel advisory indicating that travel could be difficult or hazardous for voters and election judges. A postponement must apply to all precincts in the jurisdiction. If more than one jurisdiction is conducting an election at the same time, the official responsible for the largest geographic area has the postponement authority.
- An election must be postponed no later than 6:00 p.m. on the night before the scheduled election day. Notice of the postponement must be provided to media, and on the clerk's website if practicable.
- A postponed election must be rescheduled for the next following Tuesday. Voters must be permitted to submit absentee ballots as permitted by law based on the rescheduled election date.
- 72 Notice to county auditor; school district elections.** Provides a conforming change to reflect

the expanded absentee voting period that will apply to most elections beginning in 2010. Those substantive changes have already been enacted and signed into law.

- 73 Notice to commissioner of education; school district elections.** Provides a conforming change to reflect the expanded absentee voting period that will apply to most elections beginning in 2010. Those substantive changes have already been enacted and signed into law.
- 74 Notice to secretary of state; school district elections.** Provides a conforming change to reflect the expanded absentee voting period that will apply to most elections beginning in 2010. Those substantive changes have already been enacted and signed into law.
- 75 Polling place designation; school district elections.** Applies the standard schedule for designating polling places provided in current law to school district elections.
- 76 Required certification; electronic voting systems.** Modifies language related to certification of an electronic voting system.
- 77 Nomination of presidential electors.** Requires the chairs of the major political parties to certify to the secretary of state that the party's candidates for president and vice president do not have an affidavit on file as a candidate for another office in the state at the next general election. Candidates for president and vice president do not file a formal affidavit of candidacy in the same manner as other candidates for office.

Some states permit presidential and vice presidential candidates to run concurrently for another office at the same election.

- 78 Town elections; postponement.** Modifies existing language related to postponement of a town election and town meeting to more closely reflect the new provisions for postponement of an election enacted elsewhere in the bill.
- 79 Postponement of county election; inclement weather.** Provides a procedure for postponing a county election due to inclement weather.

An election may only be postponed if it is not held in conjunction with a state or federal election. The school district clerk would be authorized to postpone an election if law enforcement or the national weather service has issued a storm warning or travel advisory indicating that travel could be difficult or hazardous for voters and election judges. A postponement must apply to all precincts in the jurisdiction. If more than one jurisdiction is conducting an election at the same time, the official responsible for the largest geographic area has the postponement authority.

An election must be postponed no later than 6:00 p.m. on the night before the scheduled election day. Notice of the postponement must be provided to media, and on the clerk's website if practicable.

A postponed election must be rescheduled for the next following Tuesday. Voters must be permitted to submit absentee ballots as permitted by law based on the rescheduled election date.

- 80 Vacancies in office; county commissioner.** Modifies procedures related to filling a vacancy in the office of county commissioner by special election. The county board would be permitted to fill a vacancy by special election. A special election would be required if there is one year or more remaining in the term, as provided in existing law.

- 81**     **Vacancy in county office; special election.** Modifies a provision related to filling the unexpired term of a vacant county office to conform with changes made elsewhere in the bill.
- 82**     **Repealers.** Repeals the following sections of law:
- 3.22:** Requirement for payment of expenses related to publication of a constitutional amendment; the underlying requirement that a proposed constitutional amendment be published was removed in 1992.
- 204B.22, subd. 3:** Obsolete language related to the number of election judges in a polling place.
- 204D.10:** Ten percent threshold for major political party nomination requirement; held unconstitutional.
- 206.57, subd. 7:** Obsolete language related to the creation of the federal election assistance commission in 2006.
- 206.805, subd. 2:** Provisions related to source code and electronic voting systems. Much of this language is recodified elsewhere in statute.
- 206.91:** Obsolete language related to the voting machines options working group. The group submitted its report to the legislature in 2007.