

HOUSE RESEARCH

Bill Summary

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Overview

This bill makes a number of changes to the laws related to election administration, including requiring photo identification in the polling place, eliminating the use of vouching as a mechanism for voter registration in most cases, instituting a system of provisional balloting, specifying reconciliation procedures, permitting use of electronic polling place rosters, and codifying certain recount procedures in statute.

Article 1: Voter Registration, Photo Identification, and Provisional Balloting

This article requires voters appearing in a polling place to present proof of identity and residence prior to casting a ballot, and provides a mechanism for voter's without a photo identification document to be issued free of charge. This article also eliminates vouching as a mechanism for voter registration, establishes a system of provisional balloting, requires a state contract for a public education campaign and provides appropriations for various state costs associated with the bill.

Section

- 1 Data classifications.** Provides that data on applicants for a Minnesota voter identification card is classified as private data.
- 2 Voter identification card.** Establishes a definition of "voter identification card" in the driver's license/state identification card chapter of statute.
- 3 Format of application.** Provides that an application for a voter identification card must be in a format approved by the department of public safety.
- 4 Fees.** Prohibits the commissioner of public safety from collecting a fee or surcharge for a voter identification card.
- 5 Content of license application.** Clarifies that the current law requiring certain information on a license application applies to driver's licenses and state identification cards, but not the voter identification card established in this bill.

- 6 Application for voter identification card.** Specifies the content required on a voter identification card application, including identification of the applicant, proof of citizenship, and information on length of residence at the applicant's current address. A photo-identity document would be required to accompany the application.
- 7 Definitions; "applicant" and "application."** Defines the terms "applicant" and "application" for purposes of the driver's license agent statute to include a voter identification cards.
- 8 Application.** Authorizes driver's license agents to receive and process applications for voter identification cards.
- 9 Fee; equipment.** Provides that driver's license agents may not collect a filing fee for an application for a voter identification card. The department of public safety is required to pay the agents \$5 for each voter identification card application processed.
- 10 Filing photograph; data classification.** Classifies voter identification card photographs or images as private data.
- 11 Voter identification cards.** Requires the Department of Public Safety to provide a free voter identification card to eligible voters who do not possess a Minnesota driver's license or state identification card.
- A voter identification card would be valid only for purposes related to voting in Minnesota. The format and content requirements for the card are provided in this section.
- 12 Expiration.** Provides that a voter identification card expires on the birthday of the applicant in the fourth year following issuance of the card. A voter identification card issued to an individual who is 65-years-old or older does not have an expiration date.
- 13 Improved security.** Requires voter identification cards to have the same security features as driver's license and state identification cards.
- 14 Use of Social Security number.** Provides that an applicant's Social Security number may not be displayed or encoded on a voter identification card, and may not be used as a voter identification number.
- 15 Photographs; religious objection and head coverings.** Permits the commissioner of public safety to adopt rules allowing nonphotographic identification on a voter identification card for an applicant who has a religious objection to the use of a photograph or image. Head covers may also be permitted if a person has hair loss due to certain illnesses or injuries.
- 16 Duplicate voter identification card.** Requires a person to apply for a duplicate voter identification card with current information if the person's name or residence is changed after issuance of the card.
- 17 Cancellation.** Authorizes the commissioner of public safety to cancel a voter identification card that is obtained with inadequate or fraudulent information. Notice of the cancellation is required.
- 18 Documentation of identity and residence.** Establishes a list of identification documents that may be presented by a voter to prove identity and residence. Consistent with modifications made later in the bill, a voter would be required to present proof of identity and residence using this list of approved documents when registering to vote in a polling place on election day, or when seeking to have a provisional ballot counted in the certified results of the election.

Documents that would be accepted include a current Minnesota driver's license or identification card, certain tribal identification cards, or a receipt for a Minnesota driver's license or identification card along with one of several listed photo identification documents. To prove residence and identity, a

student would also be permitted to present a driver's license or identification card of their home state, along with a student fee statement listing their valid address of residence in Minnesota.

This section would also permit a resident of a shelter for battered women to be vouched for by an employee of the shelter as a means to prove identity and residence, within certain standards.

- 19 State-subsidized voter identification card account.** Establishes a state-subsidized voter identification card account in the special revenue fund. Funds in the account would be used to issue voter identification cards.

The commissioner of public safety is required to make a report to the legislature at least monthly on expenditures from the account.

- 20 Election day registration.** Eliminates vouching as a mechanism for election day registrants to prove residency in the precinct.

This section also eliminates the existing list of identification documents that may be used for election day registration, and instead references the new proof of residency and identity section established earlier in the bill (many of the documents that appear to be eliminated here were moved to the new section). The secretary of state would no longer be permitted to approve additional documents as identification beyond those contained in statute.

An existing authorization for local units of government to require election judges to initial voter registration applications is made mandatory, and a signature is required instead of the election judge's initials.

- 21 Procedures for polling place rosters.** Provides that a polling place roster must include a voter's address of residence, unless the voter is a judge, law enforcement, or corrections officer who has requested that an alternate mailing address be printed on the roster.

- 22 Verification of registration; Photo ID requirement.** Requires voters to present photo identification to the election judge prior to signing the polling place roster. Confirmation of the voter's name, address, and date of birth is also required.

Acceptable photo identification would include: (1) a valid Minnesota driver's license or identification card with the voter's current address; (2) an original receipt for a Minnesota driver's license or identification card along with a license or identification card that is expired, invalidated, or does not contain the voter's current address; or (3) an identification card issued by a recognized tribal government that contains the same items of data as are included on a Minnesota identification card. Alternatively, a resident of a shelter for battered women would be permitted to be vouched for by an employee of the shelter.

If a voter is unable to produce an acceptable form of photo identification, the voter is permitted to cast a provisional ballot, following procedures established later in the bill.

- 23 Challenged voters; determination of residence.** Permits a voter whose eligibility to vote is challenged in the polling place to cast a provisional ballot, if the challenge is not withdrawn after the voter is questioned by an election judge regarding the voter's eligibility and residence. A challenged voter is not permitted to cast a ballot other than a provisional ballot, following new procedures established later in the bill.

This section also eliminates an obsolete reference to "unopened" ballots.

- 24 Provisional ballots.** Establishes a new system of provisional balloting, to be used for pre-registered voters who are unable to provide sufficient photo identification in the polling place, and voters whose eligibility to vote or residency is challenged either in the statewide voter registration system, or by

another person in the polling place.

Casting of provisional ballots. Voters casting a provisional ballot are required to complete a color-coded provisional ballot envelope, containing basic identifying information and an oath that the voter is eligible, has not voted previously in the same election, and meets the criteria for voting in the precinct. Provisional ballots are the same as "live" ballots cast in the polling place on election day, except that they must be sealed in the provisional ballot envelope and segregated in a separate ballot box.

Counting of provisional ballots. A provisional ballot must be counted if the voter who cast the ballot appears before the appropriate county auditor or municipal clerk within seven calendar days of the election and presents sufficient proof of residence and identity, as permitted by the new list of documentation established earlier in the bill, and the voter's record in the statewide registration system is not listed as challenged (if challenged, the voter must also present proof of eligibility to vote). If the provisional voter does not appear within this timeline, or does not satisfy the documentation requirements, the provisional ballot must not be counted. The county auditor or municipal clerk is required to send written notice to provisional voters whose ballots were not counted because of their failure to comply with these requirements.

Reconciliation. This section also requires the county auditor to reconcile the number of signatures contained on the provisional ballot roster with the number of provisional ballots cast in the precinct prior to counting any provisional ballots from that precinct, including the random removal of excess ballots, if necessary.

- 25 **Unlawful voting; penalty.** Adds intentional misrepresentation of an individual's identity in requesting a provisional ballot or requesting that a provisional ballot be counted to the existing statutory list of felony unlawful voting offenses.
- 26 **Canvassing dates; state primary.** Modifies the meeting dates of the state and county canvassing boards to conform to the new provisional ballot verification period established earlier in the bill.
- 27 **Canvassing dates; county canvass of general election.** Modifies the meeting date of each county canvassing board after a state general election to conform to the new provisional ballot verification period established earlier in the bill.
- 28 **County canvassing; reports.** Modifies certain timelines for providing canvassing reports to the secretary of state, to conform to the new provisional ballot verification period established earlier in the bill.
- 29 **Canvassing dates; municipal primary.** Modifies the meeting date of the municipal canvassing board after a municipal primary election, to conform to the new provisional ballot verification period established earlier in the bill.
- 30 **Canvassing dates; municipal general election.** Modifies the meeting date of the municipal canvassing board after a municipal general election, to conform to the new provisional ballot verification period established earlier in the bill.
- 31 **Canvassing dates; school district primary.** Modifies the meeting date of the school district canvassing board after a school district primary election, to conform to the new provisional ballot verification period established earlier in the bill.
- 32 **Canvassing dates; school district general election.** Modifies the meeting date of the school district canvassing board after a school district general election, to conform to the new provisional ballot verification period established earlier in the bill.

- 33 Public education campaign.** Requires the commissioner of administration to enter into a state contract for production of a public educational campaign related to voter identification requirements.
- The secretary of state, the secretary's staff, and any other documents or materials promoting the Office of the Secretary of State are prohibited from appearing in the campaign.
- An appropriation is provided for this purpose: \$100,000 in FY 2012 and \$2,700,000 in FY 2013.
- 34 Appropriation.** Appropriates funds for FY 2013 to be used for providing state-subsidized identification cards to qualifying eligible voters (\$709,000), and appropriates funds for FY 2012 and 2013 to the secretary of state for implementing all new requirements provided in the bill (a total of \$990,000).
- 35 Effective Date.** Provides that this article is effective June 1, 2012, and applies to elections held on or after that date.

Article 2: Election Administration and Integrity

This article provides a number of miscellaneous changes related to election administration, including extending the period for retention of election records, requiring daily meetings of absentee ballot boards, clarifying procedures related to ballot reconciliation, and requiring the secretary of state to submit a report to the legislature in 2012.

- 1 Student residential housing lists.** Requires postsecondary institutions that submit residential housing lists for election day registration purposes to submit the list in an electronic format, approved by the secretary of state.
- 2 Statewide voter registration system (SVRS).** Requires the voter identification number assigned to each voter in the statewide registration system to be permanently assigned to that voter.
- 3 Establishment; SVRS.** Adds a conforming reference to the statutory requirement that voter identification numbers be permanently assigned to each voter, as provided earlier in the bill.
- 4 Election day registration.** When registering an individual to vote on election day, requires the election judge to review a list of individuals believed to be ineligible to vote, consistent with a new list established in section 13 of this article.
- 5 Record of attempted registrations.** Requires election judges to keep a record of the number of individuals who attempt to register in the polling place on election day, but fail to do so because of an inability to provide proof of residence. Current law requires election judges to "attempt to" keep this record.
- 6 Deficient registrations.** Provides that a voter registration application may be deemed deficient if the voter fails to check the box indicating the voter certifies the contents of the application to be true.
- This section also requires the county or municipality to request a date of birth from voters who were registered prior to August 1, 1983 (prior to this date, birth dates were not required as part of the voter registration process). A registration may be deemed deficient if the voter does not provide a date of birth upon request.
- A conforming change related to voter identification cards, as enacted in article 1 of this bill, is also included.
- 7 Registration files; retention of records.** Expands the length of time election officials are required to keep paper voter registration applications from 22 months to 36 months after the date the

information is entered into the computerized statewide voter registration system.

- 8 Entry of voter registration information into SVRS.** Requires voter registration applications completed by voters on election day to be entered into the SVRS within 42 days of the election, without exception.
- Current law allows the county auditor to notify the secretary of state if the deadline will not be met.
- 9 Postelection sampling; postcard verification.** Establishes a deadline of January 1 of the year following the election for county auditors to conduct existing post-election registration verification procedures.
- 10 Voting history; late or rejected ballots.** Provides that a late or rejected absentee or mail ballot does not count as voting history. Current law provides that a late or rejected absentee or mail ballot is voting history, except for purposes of inclusion on public information lists.
- 11 Challenged eligibility list.** Requires the secretary of state to maintain a database of individuals who are not registered and believed to be ineligible to vote. The secretary is required to populate the list based on data received from various government entities already.
- An individual seeking to register to vote whose name appears on the list may submit an application, but the individual's registration status must be listed as "challenged."
- 12 Polling place rosters; retention of records.** Expands the length of time election officials are required to keep polling place rosters from 22 months to 36 months following the election.
- 13 Absentee ballot applications; identification number verification.** Requires an application for an absentee ballot to contain the applicant's driver's license or state identification card number and the last four digits of the applicant's social security number (or a statement that the applicant does not have a social security number).
- Prior to approving the application, the county auditor or municipal clerk would be required to verify the validity of the driver's license or identification card number submitted, including verification that it is a number assigned to the person making the application for absentee ballots. Verification that the applicant is not included on a list of known ineligible voters is also required.
- 14 Absentee voting; health care patients.** Prohibits a voter in a health care facility from applying for an absentee ballot from the election judges delivering ballots to that facility on election day.
- 15 Absentee ballot applications; retention of records.** Expands the length of time election officials are required to keep absentee ballot applications from 22 months to 36 months following the election.
- 16 Ballot board; meeting requirements.** Establishes meeting and notice-of-meeting requirements for absentee ballot boards.
- An absentee ballot board would be required publicly post a schedule of meetings at least 14 days prior to the first meeting of the board for any given election. Meetings must be conducted every business day, and any day the county or municipal offices are open for election business prior to election day. The ballot board may not meet except for regularly-scheduled meetings posted consistent with the requirements of this section.
- 17 Election materials; retention of records; inspection.** Expands the length of time election officials are required to keep election materials from 22 months to 36 months following the election or election contest, whichever is later.

This section also eliminates a prohibition on inspecting polling place rosters or voter registration

applications until the data has been posted or entered into the statewide voter registration system.

- 18 Determination of proper number of ballots; reconciliation.** Eliminates obsolete language related to "election registers" and requires election judges to determine the proper number of ballots to be counted in a precinct by counting the number of original signatures contained on the polling place roster. Voter's receipts may not be counted in place of signatures, unless an electronic roster that meets specified requirements is used in the precinct.
- 19 Excess ballots; Election judge initials on ballot.** Permits the absence of initials on a ballot from two election judges to be used as the basis of a ballot challenge during a recount. Current law prohibits this discrepancy from being the basis of a ballot challenge.
- 20 Excess ballots.** Requires ballots determined to be excess ballots, following procedures existing in current law, to be clearly marked "excess" and returned in an envelope sealed with election judge signatures.
- This section also requires that while excess ballots are removed from a ballot box by election judges in the precinct, tabulation of updated precinct vote totals must be completed by the appropriate canvassing board.
- 21 Excess ballots; applicability.** Specifies that procedures related to removal of excess ballots apply to all precincts, regardless of the voting system used in the precinct.
- 22 Spoiled, defective, and duplicated ballots.** Provides additional labeling requirements for ballots that are spoiled or defective, and provides a cross-reference to existing procedures related to handling of damaged and defective ballots.
- 23 Precinct summary statements; information requirements.** Requires the summary statement from each precinct to include: the number of ballots cast; the number of signatures contained on the polling place roster (or voter's receipts, if an electronic roster is used); and the number of excess ballots removed from the ballot box by the election judges.
- 24 Determination of proper number of ballots; reconciliation.** In a section related to the use of optical-scan voting systems, eliminates obsolete language related to "ballot cards," "election registers" and "registration files" and requires election judges to determine the proper number of ballots to be counted in a precinct by counting the number of original signatures contained on the polling place roster. Voter's receipts may not be counted in place of signatures, unless an electronic roster that meets specified requirements is used in the precinct.
- 25 Excess ballots; transportation.** Adds a reference to excess ballots to existing law related to transportation of ballots, if a counting center is used and eliminates an obsolete reference to "ballot cards."
- 26 Election contests; time for filing.** Extends the period for filing an election contest, if data or documents necessary to determine grounds for a contest are not available to a candidate or the public due to nonfeasance, malfeasance, or failure to perform duties by an election official.
- 27 Election contests; inspection of records.** Permits a party to an election contest to inspect all materials related to the election in preparation for trial. Current law only permits inspection of ballots in preparation for trial.
- 28 Soliciting near polling places.** Specifies that political badges, buttons, or insignia are only prohibited in the polling place if the badge, button, or insignia is designed to influence voting for or against a specific candidate, question, or political party on the ballot at the election.

This section also includes a conforming reference to voter's receipts, consistent with the electronic roster provisions contained in article 3 of the bill.

- 29 Proposed legislation.** Requires the secretary of state to report to the legislature by January 15, 2012. The secretary is required to prepare legislation that would amend matters currently contained in administrative rule as needed to comply with the requirements of this bill. This process is intended to replace the administrative rulemaking process that otherwise would be undertaken by the secretary upon enactment of the bill.
- 30 Repealer.** Repeals a requirement that absentee ballot applications be delivered by election judges to individuals upon request, when the election judges are delivering previously-requested absentee ballots to individuals in a health care facility.

Article 3: Electronic Rosters

This article permits the use of computers and identification card scanners in a polling place, to replace the paper polling place roster.

- 1 Polling place rosters.** Establishes a general definition for the term "polling place roster" to include the lists of pre-registered voters and voters registering on election day.
- This section also defines "polling place roster" to include either a document in printed or electronic format.
- 2 Procedures for polling place rosters.** Requires electronic polling place rosters to provide for a printed voter's receipt that meets standards established later in the bill.
- 3 Electronic rosters; standards.**
- Subd. 1. Certification of system.** Permits precincts to have two or more computers connected within the precinct to serve as the polling place roster.
- An electronic roster may only be used if the secretary of state certifies that the connection to the statewide voter registration system is sufficient to prevent a voter from voting more than once and to prevent access to the system by unauthorized individuals.
- Subd. 2. Standards.** Minimum standards for the functionality of an electronic roster are specified.
- 4 Separate precincts.** Provides an exception to a current requirement that the secretary of state provide separate rosters in a combined polling place, if that precinct is using an electronic roster.
- 5 Permanent registration; verification.** Updates language to reflect the use of electronic polling place rosters; requires voters to sign a voter's receipt printed from the roster, rather than the roster itself, unless the precinct uses a paper roster.
- This section also expands the time voter's receipts must be maintained, from the time for filing an election contest to 36 months following the date of the election.
- 6 Refusal to answer questions or sign roster.** Updates language to reflect the use of electronic polling place rosters.
- 7 Voter registration.** Updates language to reflect the use of electronic polling place rosters; eliminates language referring to the printing of rosters and replaces it with a requirement that the secretary of state secure the rosters.
- 8 Technology standards; applicability.** Establishes a new chapter of law related to electronic roster technology.

- 9** **Definitions.** Defines certain terms to be used in the new chapter of statute related to electronic roster technology.
- 10** **Minimum contingency and security procedures.** Requires the designated election official to establish written procedures related to the electronic transfer of voting information to and from precincts using electronic rosters. Minimum standards for inclusion in the written procedures are provided in the bill, including contingency procedures to address a power or system failure
- 11** **Minimum standards for data encryption.** Requires each county to submit evidence to the secretary of state that the county's connection to the statewide voter registration system is sufficiently secure and encrypted. Minimum standards for encryption are provided in the bill.
- 12** **Minimum standards for electronic roster transactions.** Requires an electronic roster system connection to contain sufficient bandwidth to process voting transactions quickly. Maximum time standards for transactions are provided.
- 13** **Electronic roster testing; pre-election.** Requires new electronic roster technology to be tested prior to being used in a live election. Minimum documentation requirements and standards for the testing are provided.
- 14** **Minimum number of computers required in a precinct.** Specifies the number of computers required for a precinct using electronic rosters. A minimum of two computers must be allocated, regardless of the size of the precinct.
- 15** **Written procedures and reports.** Sets deadlines for submission of written procedures and reports required by this article to the secretary of state.
- 16** **Legislative Task Force on Electronic Roster Implementation.** Establishes a new task force to facilitate implementation of the electronic roster provisions of this article.
- Duties of the task force are specified, including studying technology and recommending to the legislature any additional changes to the law that may be necessary to implement electronic rosters.
- The task force consists of 16 members, including four legislators, four head election judges, and election administrator representatives of large, average, and small sized counties and townships as well as a city elections administrator. The secretary of state, or a designee, and certain staff of the secretary of state are also members, as well as the state's chief information officer, or a designee. The appointment process and certain additional qualifications are included.
- A task force report is required to be submitted to the legislature by December 1, 2011.
- The task force is subject to the requirements of the open meetings law, with some exceptions. The director of the legislative coordinating commission is required to convene the first meeting of the task force and provide staff support, as necessary.
- 17** **Effective date.** Provides that this article is effective August 14, 2012 (the date of the state primary), and applies to elections held on or after that date, except where otherwise provided.

Article 4: Recounts

This article codifies current administrative rules related to recounts into statute, with certain exceptions and modifications.

- 1** **Correction of errors.** Updates cross-references to reflect the recodification of recount law into a new chapter of statute, chapter 204E.

- 2** **Applicability.** Establishes a new chapter of statute to govern automatic and discretionary recounts provided for in law.
- This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0200.
- 3** **Recount officials.** Designates certain individuals as "recount officials" and defines "legal adviser" for purposes of a recount.
- This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0200.
- 4** **Scope of recounts.** Specifies the scope of a recount and ballots that may be considered.
- This section is a recodification of existing statute related to recounts, section 204C.35, subd. 3.
- 5** **Federal, state, and judicial races.** Specifies the thresholds for a recount in federal, state, and judicial elections.
- This section is a recodification of existing statute related to recounts, section 204C.35, subds. 1-2, except that language prohibiting a recount from delaying a canvass is eliminated and an updated cross-reference related to filing of election contests is added.
- 6** **County, school district, and municipal elections.** Specifies the thresholds for a recount in local elections.
- This section is a recodification of existing statute related to recounts, section 204C.36, subds. 1-5, except that an updated cross-reference related to filing of election contests is added.
- 7** **Notice.** Specifies procedures for notifying a candidate of a recount.
- This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0300.
- 8** **Securing ballots and materials.** Specifies procedures for securing ballots and election materials in a recount, and permits a candidate for an office to be recounted to inspect the ballots and materials prior to certification of the recount results.
- This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0400, with the exception of the new allowance for a candidate to inspect ballots and election materials prior to certification of the results.
- 9** **Facilities and equipment.** Specifies procedures for use of facilities and public accessibility in a recount.
- This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0600.
- 10** **General procedures.** Provides general procedures to be used in conducting a recount, including an allowance for candidate representatives, handling of materials, and access by members of the public.
- This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0700.
- 11** **Counting and challenging ballots.** Provides procedures for ballot handling and sorting during a recount, including ballot challenges by a candidate.

This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0800, except that a definition of "frivolous challenge" is eliminated and a new requirement specifying that only the canvassing board may deem a ballot challenge to be "frivolous" is added.

- 12 Results of recount.** Specifies procedures for certifying the result of a recount by the appropriate canvassing board, and includes a provision related to tie votes.

This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.1100, and a recodification of statute related to tie votes, section 204C34.

- 13 Security deposit.** Specifies requirements for payment of a security deposit for recount expenses, where required by law.

This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.1200.

- 14 Revisor's instruction.** Instructs the revisor to update cross-references associated with the codification of rules and recodification of the recount statutes contained in this article.

- 15 Repealer.** Repeals existing statutes related to recount process (all of which are recodified in this article as new chapter 204E, except that an authorization for the secretary of state to adopt administrative rules related to recounts is eliminated).

- 16 Effective date.** Provides that this article is effective June 1, 2011, and applies to elections held on or after that date.