

A bill for an act
relating to elections; modifying certain procedures for processing absentee
ballots; requiring review of rejected absentee ballots by the county canvassing
board; amending Minnesota Statutes 2008, sections 203B.04, by adding a
subdivision; 203B.07, by adding a subdivision; 204C.32, subdivision 1; 204C.33,
subdivision 1; proposing coding for new law in Minnesota Statutes, chapter
203B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 203B.04, is amended by adding a
subdivision to read:

Subd. 7. **Power of attorney.** An absentee ballot application may be completed,
signed, and submitted on behalf of a voter by an individual who is expressly authorized to
do so in the voter's power of attorney document. A person acting as a power of attorney
who submits an application on behalf of a voter must certify on the application, under
penalty of perjury, that the voter has voluntarily requested an absentee ballot and that the
person completing the application is authorized to make the request on behalf of the voter
in the voter's power of attorney document.

Sec. 2. Minnesota Statutes 2008, section 203B.07, is amended by adding a subdivision
to read:

Subd. 4. **Incapacitated individuals.** (a) The return envelope must contain a space
for an individual who has completed the certificate and signed the envelope on behalf of a
voter who is incapacitated or unable to write to indicate that the writing, markings, and
signature on the envelope were made by a person other than the voter, but were made in
the voter's presence and at the voluntary direction of the voter.

(b) A return envelope indicating that the writing, markings, and signature on the envelope were made by someone other than the voter due to a voter's inability to write independently must not be rejected for failure to contain a matching voter signature.

Sec. 3. [203B.28] REJECTED ABSENTEE BALLOT; NOTICE; AFFIDAVIT OF VOTER.

(a) As provided in sections 204C.32 and 204C.33, each county canvassing board must review all absentee ballots rejected under sections 203B.12 and 203B.24 prior to the final canvass of the results of an election. The county canvassing board must provide a notice to an absentee voter whose ballot was rejected for a reason permitted by law. The notice must be provided within 48 hours of completion of the canvass. The notice must include the reason for the rejection, and provide information to the voter on the process for submitting an affidavit as permitted by paragraph (b).

(b) A voter whose absentee ballot was rejected may file an affidavit affirming the voter's intent to cast a valid ballot. The affidavit may be in a form prescribed by the secretary of state, and must include a statement by the voter, made under penalty of perjury, that the voter's rejected absentee ballot is the true ballot cast by the voter, that the voter was properly registered and eligible to vote at the election, and that the absentee voter did not cast any other ballot at the election. The affidavit must be provided in person to the county auditor within seven days of the canvass of the election. The voter must be permitted to inspect the rejected absentee ballot return envelope prior to signing an affidavit under this section. A voter's inspection of a return envelope must occur in the presence of the county auditor or the county auditor's designee. A ballot may not be removed from its secrecy envelope during the inspection.

(c) An absentee ballot that was rejected on or before election day must be counted if the voter who submitted the ballot signs and submits an affidavit as provided in paragraph (b). The county canvassing board may reconvene, if necessary, to amend a canvass report to include ballots that must be counted as required by this paragraph.

(d) The following absentee voters may not submit an affidavit under this section:

(1) a voter who appeared in the polling place on election day and cast a ballot;

(2) a voter who was not eligible to vote at the election; and

(3) a voter who was not properly registered to vote at the election due to a failure to provide proof of the voter's residence, unless the voter submits with the affidavit documentation sufficient to establish the voter's residence on election day, as provided in section 201.061.

Sec. 4. Minnesota Statutes 2008, section 204C.32, subdivision 1, is amended to read:

Subdivision 1. **County canvass.** (a) The county canvassing board shall meet at the county auditor's office on or before the third day following the state primary. After taking the oath of office, the canvassing board shall publicly canvass the election returns delivered to the county auditor. The canvass must include a review of all absentee ballots rejected under sections 203B.12 and 203B.24. A rejected absentee ballot must be opened and counted if, upon review, the canvassing board determines that the ballot was rejected because of an administrative error by an election judge or election administrator. If the wrong ballot was sent to a voter, only the races for which the voter was eligible to vote may be counted. A properly rejected absentee ballot must be opened and counted in the final result of the election if the voter signs and submits an affidavit to the appropriate county auditor within the time required in section 203B.28.

(b) The board shall complete the canvass no later than the third day following the state primary and shall promptly prepare and file with the county auditor a report that states:

~~(a)~~ (1) the number of individuals voting at the election in the county, and in each precinct;

~~(b)~~ (2) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;

~~(c)~~ (3) for each major political party, the names of the candidates running for each partisan office and the number of votes received by each candidate in the county and in each precinct;

~~(d)~~ (4) the names of the candidates of each major political party who are nominated;
~~and~~

~~(e)~~ (5) the number of votes received by each of the candidates for nonpartisan office in each precinct in the county and the names of the candidates nominated for nonpartisan office; and

(6) the number of absentee ballots received, including the number of absentee ballots that were rejected and the reason for rejection, and the number of voters submitting an affidavit under section 203B.28.

(c) Upon completion of the canvass, the county auditor shall mail or deliver a notice of nomination to each nominee for county office voted for only in that county. The county auditor shall transmit one of the certified copies of the county canvassing board report for state and federal offices to the secretary of state by express mail or similar service immediately upon conclusion of the county canvass. The secretary of state shall mail a notice of nomination to each nominee for state or federal office.

Sec. 5. Minnesota Statutes 2008, section 204C.33, subdivision 1, is amended to read:

Subdivision 1. **County canvass.** (a) The county canvassing board shall meet at the county auditor's office on or before the seventh day following the state general election. After taking the oath of office, the board shall promptly and publicly canvass the general election returns delivered to the county auditor. The canvass must include a review of all absentee ballots rejected under sections 203B.12 and 203B.24. A rejected absentee ballot must be opened and counted if, upon review, the canvassing board determines that the ballot was rejected because of an administrative error by an election judge or election administrator. If the wrong ballot was sent to a voter, only the races for which the voter was eligible to vote may be counted. A properly rejected absentee ballot must be opened and counted in the final result of the election if the voter signs and submits an affidavit to the canvassing board or appropriate county auditor within the time required in section 203B.28.

(b) Upon completion of the canvass, the board shall promptly prepare and file with the county auditor a report which states:

~~(a)~~ (1) the number of individuals voting at the election in the county and in each precinct;

~~(b)~~ (2) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;

~~(c)~~ (3) the names of the candidates for each office and the number of votes received by each candidate in the county and in each precinct, including write-in candidates for state and federal office who have requested under section 204B.09 that votes for those candidates be tallied;

~~(d)~~ (4) the number of votes counted for and against a proposed change of county lines or county seat; ~~and~~

~~(e)~~ (5) the number of votes counted for and against a constitutional amendment or other question in the county and in each precinct; and

(6) the number of absentee ballots received, including the number of absentee ballots that were rejected and the reason for rejection, and the number of voters submitting an affidavit under section 203B.28.

(c) The result of write-in votes cast on the general election ballots must be compiled by the county auditor before the county canvass, except that write-in votes for a candidate for state or federal office must not be counted unless the candidate has timely filed a request under section 204B.09, subdivision 3. The county auditor shall arrange for each municipality to provide an adequate number of election judges to perform this duty or the county auditor may appoint additional election judges for this purpose. The county

5.1 auditor may open the envelopes or containers in which the voted ballots have been
5.2 sealed in order to count and record the write-in votes and must reseal the voted ballots
5.3 at the conclusion of this process.

5.4 (d) Upon completion of the canvass, the county canvassing board shall declare the
5.5 candidate duly elected who received the highest number of votes for each county and state
5.6 office voted for only within the county. The county auditor shall transmit one of the
5.7 certified copies of the county canvassing board report for state and federal offices to the
5.8 secretary of state by express mail or similar service immediately upon conclusion of
5.9 the county canvass.