

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1603

02/25/2021

Authored by Berg

The bill was read for the first time and referred to the Committee on State Government Finance and Elections

- 1.1 A bill for an act
- 1.2 relating to elections; providing for early voting; appropriating money; amending
- 1.3 Minnesota Statutes 2020, sections 201.022, subdivision 1; 203B.001; 203B.01,
- 1.4 by adding a subdivision; 203B.03, subdivision 1; 203B.05, subdivision 1; 203B.081,
- 1.5 subdivision 2; 203B.085; 203B.121, subdivisions 1, 3, 4, 5, by adding a subdivision;
- 1.6 204B.28, subdivision 2; 206.82, subdivision 1; 206.83; proposing coding for new
- 1.7 law in Minnesota Statutes, chapter 203B; repealing Minnesota Statutes 2020,
- 1.8 section 203B.081, subdivision 3.
- 1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.10 Section 1. Minnesota Statutes 2020, section 201.022, subdivision 1, is amended to read:
- 1.11 Subdivision 1. **Establishment.** The secretary of state shall maintain a statewide voter
- 1.12 registration system to facilitate voter registration and to provide a central database containing
- 1.13 voter registration information from around the state. The system must be accessible to the
- 1.14 county auditor of each county in the state. The system must also:
- 1.15 (1) provide for voters to submit their voter registration applications to any county auditor,
- 1.16 the secretary of state, or the Department of Public Safety;
- 1.17 (2) provide for the definition, establishment, and maintenance of a central database for
- 1.18 all voter registration information;
- 1.19 (3) provide for entering data into the statewide registration system;
- 1.20 (4) provide for electronic transfer of completed voter registration applications from the
- 1.21 Department of Public Safety to the secretary of state or the county auditor;
- 1.22 (5) assign a unique identifier to each legally registered voter in the state;

(6) provide for the acceptance of the Minnesota driver's license number, Minnesota state identification number, and last four digits of the Social Security number for each voter record;

(7) coordinate with other agency databases within the state;

(8) allow county auditors and the secretary of state to add or modify information in the system to provide for accurate and up-to-date records;

(9) allow county auditors, municipal and school district clerks, and the secretary of state to have electronic access to the statewide registration system for review and search capabilities;

(10) provide security and protection of all information in the statewide registration system and ensure that unauthorized access is not allowed;

(11) provide access to municipal clerks to use the system;

(12) provide a system for each county to identify the precinct to which a voter should be assigned for voting purposes;

(13) provide daily reports accessible by county auditors on the driver's license numbers, state identification numbers, or last four digits of the Social Security numbers submitted on voter registration applications that have been verified as accurate by the secretary of state; ~~and~~

(14) provide reports on the number of absentee ballots transmitted to and returned and cast by voters under section 203B.16; and

(15) provide reports necessary for early voting.

The appropriate state or local official shall provide security measures to prevent unauthorized access to the computerized list established under section 201.021.

Sec. 2. Minnesota Statutes 2020, section 203B.001, is amended to read:

203B.001 ELECTION LAW APPLICABILITY.

The Minnesota Election Law is applicable to voting by absentee ballot and early voting unless otherwise provided in this chapter.

3.1 Sec. 3. Minnesota Statutes 2020, section 203B.01, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 5. **Early voting.** "Early voting" means voting in person before election day at the
3.4 office of the county auditor or designated municipal clerk within the time period provided
3.5 in section 203B.31.

3.6 Sec. 4. Minnesota Statutes 2020, section 203B.03, subdivision 1, is amended to read:

3.7 Subdivision 1. **Violation.** (a) No individual shall intentionally:

3.8 (1) make or sign any false certificate required by this chapter;

3.9 (2) make any false or untrue statement in any application for absentee ballots;

3.10 (3) apply for absentee ballots more than once in any election with the intent to cast an
3.11 illegal ballot;

3.12 (4) exhibit a ballot marked by that individual to any other individual;

3.13 (5) do any act in violation of the provisions of this chapter for the purpose of casting an
3.14 illegal vote in any precinct or for the purpose of aiding another to cast an illegal vote;

3.15 (6) use information from absentee ballot or early voting materials or records for purposes
3.16 unrelated to elections, political activities, or law enforcement;

3.17 (7) provide assistance to an absentee or early voter except in the manner provided by
3.18 section 204C.15, subdivision 1;

3.19 (8) solicit the vote of an absentee or early voter while in the immediate presence of the
3.20 voter during the time the individual knows the absentee or early voter is voting; or

3.21 (9) alter an absentee ballot application after it has been signed by the voter, except by
3.22 an election official for administrative purposes.

3.23 (b) Before inspecting information from absentee ballot or early voting materials or
3.24 records, an individual shall provide identification to the public official having custody of
3.25 the material or information.

3.26 Sec. 5. Minnesota Statutes 2020, section 203B.05, subdivision 1, is amended to read:

3.27 Subdivision 1. **Generally.** The full-time clerk of any city or town shall administer the
3.28 provisions of sections 203B.04 to 203B.15 if:

3.29 (1) the county auditor of that county has designated the clerk to administer them; or

(2) the clerk has given the county auditor of that county notice of intention to administer them.

The designation or notice must specify whether the clerk will be responsible for the administration of a ballot board as provided in section 203B.121.

A clerk of a city that is located in more than one county may only administer the provisions of sections 203B.04 to 203B.15 and 203B.30 to 203B.35 if the clerk has been designated by each of the county auditors or has provided notice to each of the county auditors that the city will administer absentee voting. A clerk may only administer the provisions of sections 203B.04 to 203B.15 if the clerk has technical capacity to access the statewide voter registration system in the secure manner prescribed by the secretary of state. The secretary of state must identify hardware, software, security, or other technical prerequisites necessary to ensure the security, access controls, and performance of the statewide voter registration system. A clerk must receive training approved by the secretary of state on the use of the statewide voter registration system before administering this section. A clerk may not use the statewide voter registration system until the clerk has received the required training. The county auditor must notify the secretary of state of any municipal clerk who will be administering the provisions of this section and the duties that the clerk will administer.

Sec. 6. Minnesota Statutes 2020, section 203B.081, subdivision 2, is amended to read:

Subd. 2. **Town elections.** Voters casting absentee ballots in person for a town election held in March may do so during the 30 days before the election, except that an eligible voter may not vote by absentee ballot in person during the period designated for early voting, as provided in section 203B.31. The county auditor shall make such designations at least 14 weeks before the election. At least one voting booth in each polling place must be made available by the county auditor for this purpose. The county auditor must also make available at least one electronic ballot marker in each polling place that has implemented a voting system that is accessible for individuals with disabilities pursuant to section 206.57, subdivision 5.

Sec. 7. Minnesota Statutes 2020, section 203B.085, is amended to read:

203B.085 COUNTY AUDITOR'S AND MUNICIPAL CLERK'S OFFICES TO REMAIN OPEN DURING CERTAIN HOURS PRECEDING ELECTION.

The county auditor's office in each county and the clerk's office in each city or town authorized under section 203B.05 to administer absentee balloting must be open for

acceptance of absentee ballot applications and casting of absentee ballots from 8:00 a.m. to 12:00 noon on the day immediately preceding an election subject to early voting under section 203B.30 unless that day falls on a Sunday. When performing the duties of the county auditor in an election not subject to early voting under section 203B.30, the clerk's office must be open from 10:00 a.m. to 3:00 p.m. on Saturday and until 5:00 p.m. on the day immediately preceding a primary, special, or general election unless that day falls on a Saturday or Sunday. Town clerks' offices must be open for absentee voting from 10:00 a.m. to 12:00 noon on the Saturday before a town general election held in March. The school district clerk, when performing the county auditor's election duties, need not comply with this section.

Sec. 8. Minnesota Statutes 2020, section 203B.121, subdivision 1, is amended to read:

Subdivision 1. **Establishment; applicable laws.** (a) The governing body of each county, municipality, and school district with responsibility to accept and reject absentee ballots or to administer early voting must, by ordinance or resolution, establish a ballot board. The board must consist of a sufficient number of election judges trained in the handling of absentee ballots and appointed as provided in sections 204B.19 to 204B.22. The board may include deputy county auditors or deputy city clerks who have received training in the processing and counting of absentee ballots.

(b) Each jurisdiction must pay a reasonable compensation to each member of that jurisdiction's ballot board for services rendered during an election.

(c) Except as otherwise provided by this section, all provisions of the Minnesota Election Law apply to a ballot board.

Sec. 9. Minnesota Statutes 2020, section 203B.121, is amended by adding a subdivision to read:

Subd. 2a. **Duties of ballot board; early voting.** The members of the ballot board shall administer the process of early voting as prescribed in section 203B.35, and shall make a record of voters who cast ballots early and count those ballots as provided in subdivisions 4 and 5.

Sec. 10. Minnesota Statutes 2020, section 203B.121, subdivision 3, is amended to read:

Subd. 3. **Record of voting.** (a) When applicable, the county auditor or municipal clerk must immediately record that a voter's absentee ballot has been accepted or that the voter has cast a ballot pursuant to the early voting procedures provided in this chapter. A voter

6.1 whose record indicates that the voter has cast an early ballot must not be permitted to cast
6.2 another ballot in that election. After the close of business on the ~~seventh day before the~~
6.3 ~~election~~ day prior to the beginning of the early voting period as provided in section 203B.31,
6.4 a voter whose record indicates that an absentee ballot has been accepted must not be permitted
6.5 to cast another ballot at that election. In a state primary, general, or state special election
6.6 for federal ~~or~~ state, or county office, the auditor or clerk must also record this information
6.7 in the statewide voter registration system.

6.8 (b) The roster must be marked, and a supplemental report of absentee and early voters
6.9 who submitted a voter registration application with their ballot must be created, no later
6.10 than the start of voting on election day to indicate the voters that have already cast a ballot
6.11 at the election. The roster may be marked either:

6.12 (1) by the county auditor or municipal clerk before election day;

6.13 (2) by the ballot board before election day; or

6.14 (3) by the election judges at the polling place on election day.

6.15 The record of a voter whose absentee ballot was received after the close of business on
6.16 the seventh day before the election is not required to be marked on the roster or contained
6.17 in a supplemental report as required by this paragraph.

6.18 Sec. 11. Minnesota Statutes 2020, section 203B.121, subdivision 4, is amended to read:

6.19 Subd. 4. **Opening of envelopes.** After the close of business on the ~~seventh day before~~
6.20 ~~the election~~ day prior to the beginning of the early voting period as provided in section
6.21 203B.31, the ballots from return envelopes marked "Accepted" may be opened, duplicated
6.22 as needed in the manner provided in section 206.86, subdivision 5, initialed by the members
6.23 of the ballot board, and deposited in the appropriate ballot box. If more than one voted ballot
6.24 is enclosed in the ballot envelope, the ballots must be returned in the manner provided by
6.25 section 204C.25 for return of spoiled ballots, and may not be counted.

6.26 Sec. 12. Minnesota Statutes 2020, section 203B.121, subdivision 5, is amended to read:

6.27 Subd. 5. **Storage and counting of absentee and early voting ballots.** (a) On a day on
6.28 which absentee or early voting ballots are inserted into a ballot box, two members of the
6.29 ballot board must:

6.30 (1) remove the ballots from the ballot box at the end of the day;

(2) without inspecting the ballots, ensure that the number of ballots removed from the ballot box is equal to the number of voters who cast early votes and whose absentee ballots were accepted that day; and

(3) seal and secure all voted and unvoted ballots present in that location at the end of the day.

(b) After the polls have closed on election day, two members of the ballot board must count the ballots, tabulating the vote in a manner that indicates each vote of the voter and the total votes cast for each candidate or question. In state primary and state general elections, the results must indicate the total votes cast for each candidate or question in each precinct and report the vote totals tabulated for each precinct. The count must be recorded on a summary statement in substantially the same format as provided in section 204C.26. The ballot board shall submit at least one completed summary statement to the county auditor or municipal clerk. The county auditor or municipal clerk may require the ballot board to submit a sufficient number of completed summary statements to comply with the provisions of section 204C.27, or the county auditor or municipal clerk may certify reports containing the details of the ballot board summary statement to the recipients of the summary statements designated in section 204C.27.

In state primary and state general elections, these vote totals shall be added to the vote totals on the summary statements of the returns for the appropriate precinct. In other elections, these vote totals may be added to the vote totals on the summary statement of returns for the appropriate precinct or may be reported as a separate total.

The count shall be public. No vote totals from ballots may be made public before the close of voting on election day.

(c) In addition to the requirements of paragraphs (a) and (b), if the task has not been completed previously, the members of the ballot board must verify as soon as possible, but no later than 24 hours after the end of the hours for voting, that voters whose absentee ballots arrived after the rosters were marked or supplemental reports were generated and whose ballots were accepted did not vote in person on election day. An absentee ballot submitted by a voter who has voted in person on election day must be rejected. All other accepted absentee ballots must be opened, duplicated if necessary, and counted by members of the ballot board. The vote totals from these ballots must be incorporated into the totals with the other absentee ballots and handled according to paragraph (b).

8.1 Sec. 13. **[203B.30] EARLY VOTING; APPLICABILITY.**

8.2 (a) Any eligible voter may vote in person in a federal, state, or county election prior to
8.3 the date of the election, in the manner provided in sections 203B.31 to 203B.35.

8.4 (b)(1) Subject to clause (2), for city elections not held in conjunction with a federal,
8.5 state, or county election, the city may authorize eligible voters to vote in the manner provided
8.6 in sections 203B.31 to 203B.35 upon resolution of the governing body of the city, adopted
8.7 prior to the first day for filing affidavits of candidacy for the election. In the case of a home
8.8 rule charter city, authorization may alternatively be made by amendment to the city's charter
8.9 for this purpose.

8.10 (2) A city may only authorize voting under sections 203B.31 to 203B.35 if the municipal
8.11 clerk has the technical capacity to access the statewide voter registration system in the secure
8.12 manner prescribed by the secretary of state. The secretary of state must identify hardware,
8.13 software, security, or other technical prerequisites necessary to ensure the security, access
8.14 controls, and performance of the statewide voter registration system. The clerk must receive
8.15 training approved by the secretary of state on the use of the statewide voter registration
8.16 system before administering voting authorized under this paragraph. The clerk may not use
8.17 the statewide voter registration system until the clerk has received the required training.

8.18 Sec. 14. **[203B.31] TIME PERIOD FOR EARLY VOTING.**

8.19 Early voting must be available to any eligible voter as provided in section 203B.32 for
8.20 every primary, general, and special election subject to early voting under section 203B.30
8.21 from 30 days before the election through 5:00 p.m. on the third day before the election. All
8.22 voters in line at 5:00 p.m. on the third day before the election must be allowed to vote in
8.23 the same manner as provided in section 204C.05, subdivision 2.

8.24 Sec. 15. **[203B.32] HOURS FOR EARLY VOTING.**

8.25 Early voting must be available between the hours of 8:00 a.m. and 4:30 p.m. on each
8.26 weekday during the time period provided in section 203B.31, from 8:00 a.m. to 8:00 p.m.
8.27 on at least one weekday, and from 10:00 a.m. to 5:00 p.m. on the two Saturdays before the
8.28 election.

8.29 Sec. 16. **[203B.33] LOCATIONS FOR EARLY VOTING.**

8.30 (a) Early voting must be made available at polling places designated in the county
8.31 auditor's offices in county-owned or operated buildings, at the municipal clerk's office in
8.32 every municipality that has been delegated the responsibility to administer absentee voting

as provided in section 203B.05 or which is conducting an election that includes early voting, as authorized in section 203B.30, and at any other county or city-owned or operated buildings designated by the county auditor or municipal clerk. At least one voting station and one ballot marking device for disabled voters must be made available in each polling place.

(b) The county auditor or municipal clerk must make an electronic ballot counter available in each polling place.

Sec. 17. **[203B.34] NOTICE TO VOTERS.**

The county auditor or municipal clerk must prepare a notice to the voters of the days, times, and locations for early voting. This notice must be posted on the county's website, if applicable, and the website for each municipality in the county where an early voting location is designated for the election at least 14 days before the first day for early voting. If a county or municipality does not have a website, the county auditor or municipal clerk must publish the notice at least once in the jurisdiction's official newspaper at least seven days and not more than 14 days before the first day for early voting.

Sec. 18. **[203B.35] PROCEDURES FOR EARLY VOTING.**

Subdivision 1. **Voting procedure.** Each voter shall sign the certification provided in section 204C.10. An individual who is not registered to vote must register in the manner provided in section 201.061, subdivision 3.

After the voter has signed the certification, a member of the ballot board must provide a ballot to the voter. Ballots must be prepared and distributed by members of the ballot board in the manner provided in section 204C.09. The voter must mark the ballot and deposit it in either a precinct voting system or a sealed ballot box. A voter may not leave the polling place with the ballot.

Subd. 2. **Processing of ballots.** Ballots cast pursuant to sections 203B.30 to 203B.35 must be processed and counted by a ballot board.

Sec. 19. Minnesota Statutes 2020, section 204B.28, subdivision 2, is amended to read:

Subd. 2. **Election supplies; duties of county auditors and clerks.** (a) Except as otherwise provided for absentee ballots in this section and in section 204B.35, subdivision 4, the county auditor shall complete the preparation of the election materials for which the auditor is responsible at least four days before every state primary and state general election. At any time after all election materials are available from the county auditor but not later than four days before the election each municipal clerk shall secure from the county auditor:

- 10.1 ~~(a)~~ (1) the forms that are required for the conduct of the election;
- 10.2 ~~(b)~~ (2) any printed voter instruction materials furnished by the secretary of state;
- 10.3 ~~(c)~~ (3) any other instructions for election officers; and
- 10.4 ~~(d)~~ (4) a sufficient quantity of the official ballots, registration files, envelopes for ballot
- 10.5 returns, and other supplies and materials required for each precinct in order to comply with
- 10.6 the provisions of the Minnesota Election Law. The county auditor may furnish the election
- 10.7 supplies to the municipal clerks in the same manner as the supplies are furnished to precincts
- 10.8 in unorganized territory pursuant to section 204B.29, subdivision 1.

10.9 (b) The county auditor must prepare and make available election materials for early

10.10 voting to city clerks designated to administer early voting under section 203B.05 at least

10.11 one day prior to the beginning of the early voting period as provided in section 203B.31.

10.12 Sec. 20. Minnesota Statutes 2020, section 206.82, subdivision 1, is amended to read:

10.13 Subdivision 1. **Program.** A program or programs for use in an election conducted by

10.14 means of an electronic voting system or using an electronic ballot marker shall be prepared

10.15 at the direction of the county auditor or municipal clerk who is responsible for the conduct

10.16 of the election and shall be independently verified by a competent person designated by

10.17 that official. The term "competent person" as used in this section means a person who can

10.18 demonstrate knowledge as a computer programmer and who is other than and wholly

10.19 independent of any person operating or employed by the counting center or the corporation

10.20 or other preparer of the program. A test deck prepared by a competent person shall be used

10.21 for independent verification of the program; it shall test the maximum digits used in totaling

10.22 the returns and shall be usable by insertion during the tabulation process as well as prior to

10.23 tabulation. A test deck must also be prepared using the electronic ballot marker program

10.24 and must also be used to verify that all valid votes counted by the vote tabulator may be

10.25 selected using the electronic ballot marker. The computer program for any election and an

10.26 exact duplicate of the program for use as backup must be completed and delivered to the

10.27 election jurisdiction or the county auditor in charge of a common central counting center

10.28 at least 40 days prior to the election. The secretary of state shall adopt rules further specifying

10.29 test procedures.

11.1 Sec. 21. Minnesota Statutes 2020, section 206.83, is amended to read:

11.2 **206.83 TESTING OF VOTING SYSTEMS.**

11.3 Within ~~14~~ 37 days before election day, the official in charge of elections shall have the
11.4 voting system tested to ascertain that the system will correctly mark ballots using all methods
11.5 supported by the system, including through assistive technology, and count the votes cast
11.6 for all candidates and on all questions. Public notice of the time and place of the test must
11.7 be given at least two days in advance by publication once in official newspapers. The test
11.8 must be observed by at least two election judges, who are not of the same major political
11.9 party, and must be open to representatives of the political parties, candidates, the press, and
11.10 the public. The test must be conducted by (1) processing a preaudited group of ballots
11.11 punched or marked to record a predetermined number of valid votes for each candidate and
11.12 on each question, and must include for each office one or more ballot cards which have
11.13 votes in excess of the number allowed by law in order to test the ability of the voting system
11.14 tabulator and electronic ballot marker to reject those votes; and (2) processing an additional
11.15 test deck of ballots marked using the electronic ballot marker for the precinct, including
11.16 ballots marked using the electronic ballot display, audio ballot reader, and any assistive
11.17 voting technology used with the electronic ballot marker. If any error is detected, the cause
11.18 must be ascertained and corrected and an errorless count must be made before the voting
11.19 system may be used in the election. After the completion of the test, the programs used and
11.20 ballot cards must be sealed, retained, and disposed of as provided for paper ballots.

11.21 Sec. 22. **APPROPRIATION.**

11.22 \$..... in fiscal year 2022 is appropriated from the general fund to the secretary of state
11.23 to implement this act.

11.24 Sec. 23. **REPEALER.**

11.25 Minnesota Statutes 2020, section 203B.081, subdivision 3, is repealed.

11.26 Sec. 24. **EFFECTIVE DATE; APPLICABILITY.**

11.27 The provisions of this act related to early voting are effective when the secretary of state
11.28 has certified that:

11.29 (1) the statewide voter registration system has been tested and shown to properly allow
11.30 for the tracking of the information required to conduct early voting, and can handle the
11.31 expected volume of use; and

12.1 (2) precinct voting equipment that can tabulate at least 30 different ballot styles has been
12.2 certified for use in this state. Upon certification pursuant to this section, the provisions of
12.3 this act related to early voting apply to all federal, state, and county elections held on August
12.4 1, 2021, and thereafter. A jurisdiction may implement the requirements of this act prior to
12.5 the date provided in this section, if the secretary of state has made the required certifications
12.6 at least 90 days prior to the date of the election at which early voting will be used.

203B.081 LOCATIONS AND METHODS FOR ABSENTEE VOTING IN PERSON.

Subd. 3. **Alternative procedure.** (a) The county auditor may make available a ballot counter and ballot box for use by the voters during the seven days before the election. If a ballot counter and ballot box is provided, a voter must be given the option either (1) to vote using the process provided in section 203B.08, subdivision 1, or (2) to vote in the manner provided in this subdivision.

(b) If a voter chooses to vote in the manner provided in this subdivision, the voter must state the voter's name, address, and date of birth to the county auditor or municipal clerk. The voter shall sign a voter's certificate, which must include the voter's name, identification number, and the certification required by section 201.071, subdivision 1. The signature of an individual on the voter's certificate and the issuance of a ballot to the individual is evidence of the intent of the individual to vote at that election.

(c) After signing the voter's certificate, the voter shall be issued a ballot and immediately retire to a voting station or other designated location in the polling place to mark the ballot. The ballot must not be taken from the polling place. If the voter spoils the ballot, the voter may return it to the election official in exchange for a new ballot. After completing the ballot, the voter shall deposit the ballot into the ballot box.

(d) The election official must immediately record that the voter has voted in the manner provided in section 203B.121, subdivision 3.

(e) The election duties required by this subdivision must be performed by the county auditor, municipal clerk, or a deputy of the auditor or clerk.