

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 564

(SENATE AUTHORS: SIEBEN)

DATE	D-PG	OFFICIAL STATUS
02/18/2013	281	Introduction and first reading Referred to Rules and Administration See SF677, Art. 3

A bill for an act

1.1 relating to elections; modifying eligibility requirements for voting by absentee
 1.2 ballot; modifying certain procedures related to applying for, obtaining, or casting
 1.3 an absentee ballot; requiring county auditors to explain absentee ballot changes to
 1.4 certain voters; amending Minnesota Statutes 2012, sections 203B.02, subdivision
 1.5 1; 203B.03, subdivision 1; 203B.04, subdivisions 1, 5; 203B.06, subdivisions 1,
 1.6 3; 203B.065; 203B.12, subdivision 7; 203B.121, subdivisions 2, 3, 5; proposing
 1.7 coding for new law in Minnesota Statutes, chapter 203B; repealing Minnesota
 1.8 Statutes 2012, section 203B.04, subdivision 6.
 1.9

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

1.11 Section 1. Minnesota Statutes 2012, section 203B.02, subdivision 1, is amended to read:

1.12 Subdivision 1. ~~Unable to go to polling place~~ **Absentee voting; eligibility.** (a) Any
 1.13 eligible voter who reasonably expects to be unable to go to the polling place on election
 1.14 day in the precinct where the individual maintains residence because of absence from the
 1.15 precinct; illness, including isolation or quarantine under sections 144.419 to 144.4196
 1.16 or United States Code, title 42, sections 264 to 272; disability; religious discipline;
 1.17 observance of a religious holiday; or service as an election judge in another precinct may
 1.18 vote by absentee ballot as provided in sections 203B.04 to 203B.15.

1.19 (b) ~~If the governor has declared an emergency and filed the declaration with the~~
 1.20 ~~secretary of state under section 12.31, and the declaration states that the emergency has~~
 1.21 ~~made it difficult for voters to go to the polling place on election day, any voter in a~~
 1.22 ~~precinct covered by the declaration may vote by absentee ballot as provided in sections~~
 1.23 ~~203B.04 to 203B.15.~~

1.24 Sec. 2. Minnesota Statutes 2012, section 203B.03, subdivision 1, is amended to read:

1.25 Subdivision 1. **Violation.** No individual shall intentionally:

- 2.1 (a) make or sign any false certificate or oath required by this chapter;
- 2.2 (b) make any false or untrue statement in any application or request for absentee
- 2.3 ballots;
- 2.4 (c) apply for absentee ballots more than once in any election with the intent to
- 2.5 cast an illegal ballot;
- 2.6 (d) exhibit a ballot marked by that individual to any other individual;
- 2.7 (e) do any act in violation of the provisions of this chapter for the purpose of casting
- 2.8 an illegal vote in any precinct or for the purpose of aiding another to cast an illegal vote;
- 2.9 (f) use information from absentee ballot materials or records for purposes unrelated
- 2.10 to elections, political activities, or law enforcement;
- 2.11 (g) provide assistance to an absentee voter except in the manner provided by section
- 2.12 204C.15, subdivision 1;
- 2.13 (h) solicit the vote of an absentee voter while in the immediate presence of the voter
- 2.14 during the time the individual knows the absentee voter is voting; or
- 2.15 (i) alter an absentee ballot application after it has been signed by the voter, except by
- 2.16 an election official for administrative purposes.

2.17 Before inspecting information from absentee ballot materials or records, an

2.18 individual shall provide identification to the public official having custody of the material

2.19 or information.

2.20 Sec. 3. Minnesota Statutes 2012, section 203B.04, subdivision 1, is amended to read:

2.21 Subdivision 1. **Application procedures.** (a) Except as otherwise allowed by

2.22 subdivision 2 or by section 203B.11, subdivision 4, an application for absentee ballots for

2.23 any election may be submitted at any time not less than one day before the day of that

2.24 election. The county auditor shall prepare absentee ballot application forms in the format

2.25 provided by the secretary of state and shall furnish them to any person on request. By

2.26 January 1 of each even-numbered year, the secretary of state shall make the forms to be

2.27 used available to auditors through electronic means. An application submitted pursuant to

2.28 this subdivision shall be in writing and shall be submitted to:

- 2.29 (1) the county auditor of the county where the applicant maintains residence; or
- 2.30 (2) the municipal clerk of the municipality, or school district if applicable, where
- 2.31 the applicant maintains residence.

2.32 (b) An application shall be approved if it is timely received, signed and dated by

2.33 the applicant, contains the applicant's name and residence and mailing addresses, date

2.34 of birth, and at least one of the following:

- 2.35 (1) the applicant's Minnesota driver's license number;

- 3.1 (2) Minnesota state identification card number;
- 3.2 (3) the last four digits of the applicant's Social Security number; or
- 3.3 (4) a statement that the applicant does not have any of these numbers.

3.4 (c) To be approved, the application must ~~state that the applicant is eligible to vote by~~
 3.5 ~~absentee ballot for one of the reasons specified in section 203B.02,~~ and must contain an oath
 3.6 that the information contained on the form is accurate, that the applicant is applying on the
 3.7 applicant's own behalf, and that the applicant is signing the form under penalty of perjury.

3.8 (d) An applicant's full date of birth, Minnesota driver's license or state identification
 3.9 number, and the last four digits of the applicant's Social Security number must not be
 3.10 made available for public inspection. An application may be submitted to the county
 3.11 auditor or municipal clerk by an electronic facsimile device. An application mailed or
 3.12 returned in person to the county auditor or municipal clerk on behalf of a voter by a
 3.13 person other than the voter must be deposited in the mail or returned in person to the
 3.14 county auditor or municipal clerk within ten days after it has been dated by the voter and
 3.15 no later than six days before the election. The absentee ballot applications or a list of
 3.16 persons applying for an absentee ballot may not be made available for public inspection
 3.17 until the close of voting on election day.

3.18 (e) An application under this subdivision may contain an application under
 3.19 subdivision 5 to automatically receive an absentee ballot application.

3.20 Sec. 4. Minnesota Statutes 2012, section 203B.04, subdivision 5, is amended to read:

3.21 Subd. 5. ~~Permanent illness or disability~~ absentee voter status. (a) An eligible
 3.22 voter ~~who reasonably expects to be permanently unable to go to the polling place on~~
 3.23 ~~election day because of illness or disability~~ may apply to a county auditor or municipal
 3.24 clerk under this section to automatically receive an absentee ballot ~~application~~ before each
 3.25 election, other than an election by mail conducted under section 204B.45, and to have the
 3.26 status as a permanent absentee voter indicated on the voter's registration record.

3.27 (b) A voter who applies under paragraph (a), must automatically be provided an
 3.28 absentee ballot for each eligible election. Ballots sent in accordance with this section must
 3.29 be sent by nonforwardable mail. A voter's permanent absentee status ends and automatic
 3.30 ballot delivery must be terminated on:

- 3.31 (1) the voter's written request;
- 3.32 (2) the voter's death;
- 3.33 (3) return of a permanent absentee ballot as undeliverable; or
- 3.34 (4) a change in the voter's status to "challenged" or "inactive" in the statewide voter
 3.35 registration system.

4.1 (c) The secretary of state shall adopt rules governing procedures under this
 4.2 subdivision.

4.3 Sec. 5. Minnesota Statutes 2012, section 203B.06, subdivision 1, is amended to read:

4.4 Subdivision 1. **Printing and delivery of forms.** Each county auditor and municipal
 4.5 clerk shall prepare and print a sufficient number of blank application forms for absentee
 4.6 ballots. The county auditor or municipal clerk shall deliver a blank application form to
 4.7 any voter who requests one pursuant to section 203B.04. ~~Blank application forms must be~~
 4.8 ~~mailed to eligible voters who have requested an application pursuant to section 203B.04,~~
 4.9 ~~subdivision 5 or 6, at least 60 days before:~~

4.10 ~~(1) each regularly scheduled primary for federal, state, county, city, or school board~~
 4.11 ~~office;~~

4.12 ~~(2) each regularly scheduled general election for city or school board office for~~
 4.13 ~~which a primary is not held; and~~

4.14 ~~(3) a special primary to fill a federal or county office vacancy or special election to~~
 4.15 ~~fill a federal or county office vacancy, if a primary is not required to be held pursuant to~~
 4.16 ~~section 204D.03, subdivision 3, or 204D.07, subdivision 3; and~~

4.17 ~~(4) any election held in conjunction with an election described in clauses (1) to (3);~~
 4.18 ~~or at least 45 days before any other primary or other election for which a primary is not held.~~

4.19 Sec. 6. Minnesota Statutes 2012, section 203B.06, subdivision 3, is amended to read:

4.20 Subd. 3. **Delivery of ballots.** (a) If an application for absentee ballots is accepted
 4.21 at a time when absentee ballots are not yet available for distribution, the county auditor,
 4.22 or municipal clerk accepting the application shall file it and as soon as absentee ballots
 4.23 are available for distribution shall mail them to the address specified in the application.

4.24 If an application for absentee ballots is accepted when absentee ballots are available for
 4.25 distribution, the county auditor or municipal clerk accepting the application shall promptly:

4.26 (1) mail the ballots to the voter whose signature appears on the application if the
 4.27 application is submitted by mail and does not request commercial shipping under clause (2);

4.28 (2) ship the ballots to the voter using a commercial shipper requested by the voter at
 4.29 the voter's expense;

4.30 (3) deliver the absentee ballots directly to the voter if the application is submitted in
 4.31 person; or

4.32 (4) deliver the absentee ballots in a sealed transmittal envelope to an agent who has
 4.33 been designated to bring the ballots, as provided in section 203B.11, subdivision 4, to a
 4.34 voter who would have difficulty getting to the polls because of incapacitating health

5.1 reasons, or who is disabled, or who is a patient in a health care facility, a resident of
5.2 a facility providing assisted living services governed by chapter 144G, a participant in
5.3 a residential program for adults licensed under section 245A.02, subdivision 14, or a
5.4 resident of a shelter for battered women as defined in section 611A.37, subdivision 4; or
5.5 (5) deliver the absentee ballot directly to the voter under section 203B.083.

5.6 (b) If an application does not indicate the election for which absentee ballots are
5.7 sought, the county auditor or municipal clerk shall mail or deliver only the ballots for
5.8 the next election occurring after receipt of the application. Only one set of ballots may
5.9 be mailed, shipped, or delivered to an applicant for any election, except as provided in
5.10 section 203B.121, subdivision 2, or when a replacement ballot has been requested by the
5.11 voter for a ballot that has been spoiled or lost in transit.

5.12 Sec. 7. Minnesota Statutes 2012, section 203B.065, is amended to read:

5.13 **203B.065 USING THE REGISTRATION SYSTEM.**

5.14 (a) Upon accepting an application for a state primary or state general election, the
5.15 county auditor or municipal clerk shall record in the statewide voter registration system the
5.16 voter's name, date of birth, address of residence in Minnesota, mailing address, Minnesota
5.17 driver's license or state identification number, or the last four digits of the voter's Social
5.18 Security number, if provided by the voter. Upon acceptance of an absentee ballot
5.19 application of a voter who is registered to vote at an address different from the residential
5.20 address certified on the absentee ballot application, the voter registration record with the
5.21 previous address shall be challenged. Once the absentee ballot has been transmitted to the
5.22 voter, the method of transmission and the date of transmission must be recorded.

5.23 (b) Upon receipt of a returned absentee ballot for a state primary or state general
5.24 election, the county auditor or municipal clerk shall record in the statewide voter
5.25 registration system that the voter has returned the ballot.

5.26 (c) Upon receipt of notice that the ballot board has accepted or rejected the absentee
5.27 ballot for a state primary or state general election, the county auditor or municipal clerk
5.28 shall record in the statewide voter registration system whether the ballot was accepted or
5.29 rejected, and if rejected, the reason for rejection. If a replacement ballot is transmitted to
5.30 the voter, the county auditor or municipal clerk shall record this in the statewide voter
5.31 registration system.

5.32 (d) Upon a voter casting a ballot pursuant to section 203B.083, the county auditor or
5.33 municipal clerk shall record in the statewide voter registration system that the voter has
5.34 cast an absentee ballot.

6.1 (e) The labels provided for envelopes used for transmitting an absentee ballot to
6.2 and from an applicant for an absentee ballot for a state primary or state general election
6.3 must contain bar codes generated by the statewide voter registration system to facilitate
6.4 the recording required under this section. A county auditor or municipal clerk entering
6.5 information into the statewide voter registration system under this section must include the
6.6 information provided on the bar code label whenever information is entered into the system.

6.7 Sec. 8. **[203B.083] IN-PERSON ABSENTEE VOTING THREE DAYS PRIOR**
6.8 **TO ELECTION.**

6.9 Subdivision 1. **Applicability.** An eligible voter must be allowed to cast an
6.10 in-person absentee ballot pursuant to this section at a federal, state, or county election.
6.11 A municipality or school district may accept in-person absentee ballots pursuant to this
6.12 section for stand-alone municipal or school district elections if the local election officials
6.13 have the necessary access to the statewide voter registration system and upon approval
6.14 by the governing body.

6.15 Subd. 2. **Authorization.** Beginning at the start of business on the third day prior to
6.16 the election, and continuing through the close of business on the day prior to the election,
6.17 any eligible voter may appear at the office of the county auditor or designated office of a
6.18 municipal clerk or school district clerk to cast an absentee ballot pursuant to this section.
6.19 Ballots cast under this section shall be handled and counted in the same manner as other
6.20 absentee ballots unless otherwise provided.

6.21 Subd. 3. **Registration check.** To request an absentee ballot, the applicant must
6.22 provide the applicant's name and address. The county auditor, municipal clerk, or
6.23 election judge may also confirm the voter's date of birth. Upon request for an absentee
6.24 ballot, the county auditor, municipal clerk, or election judge shall determine whether the
6.25 individual is a registered voter. If the individual is not registered to vote, the individual
6.26 may register to vote prior to receiving an absentee ballot. The individual shall present
6.27 proof of residence as required by section 201.061, subdivision 3, to the county auditor,
6.28 municipal clerk, or election judge.

6.29 Subd. 4. **Oath.** An individual seeking to vote under this section shall sign an oath
6.30 that conforms to the requirements of section 204C.10, paragraph (a).

6.31 Subd. 5. **Completing and casting ballots.** After a voter signs the oath, the voter
6.32 shall be given a ballot. A voter that receives an absentee ballot must not remove the ballot
6.33 from the office of the county auditor or designated office of a municipal clerk or school
6.34 district clerk. After the voter completes the ballot, the voter shall deposit the ballot into a

7.1 ballot box designated for ballots cast under this section. The ballot box used shall comply
7.2 with the requirements in section 206.80.

7.3 Sec. 9. Minnesota Statutes 2012, section 203B.12, subdivision 7, is amended to read:

7.4 Subd. 7. **Names of persons submitting absentee ballots.** The names of voters who
7.5 have submitted an absentee ballot return envelope to the county auditor or municipal clerk
7.6 or who have cast a vote pursuant to section 203B.083, may not be made available for
7.7 public inspection until the close of voting on election day.

7.8 Sec. 10. Minnesota Statutes 2012, section 203B.121, subdivision 2, is amended to read:

7.9 Subd. 2. **Duties of ballot board; absentee ballots.** (a) The members of the ballot
7.10 board shall take possession of all return envelopes delivered to them in accordance with
7.11 section 203B.08. The members of the ballot board shall also take possession of all ballots
7.12 cast pursuant to section 203B.083. Upon receipt from the county auditor, municipal clerk,
7.13 or school district clerk, two or more members of the ballot board shall examine each return
7.14 envelope and shall mark it accepted or rejected in the manner provided in this subdivision.
7.15 Election judges performing the duties in this section must be of different major political
7.16 parties, unless they are exempt from that requirement under section 205.075, subdivision
7.17 4, or section 205A.10, subdivision 2.

7.18 (b) The members of the ballot board shall mark the return envelope "Accepted" and
7.19 initial or sign the return envelope below the word "Accepted" if a majority of the members
7.20 of the ballot board examining the envelope are satisfied that:

7.21 (1) the voter's name and address on the return envelope are the same as the
7.22 information provided on the absentee ballot application;

7.23 (2) the voter signed the certification on the envelope;

7.24 (3) the voter's Minnesota driver's license, state identification number, or the last four
7.25 digits of the voter's Social Security number are the same as the number provided on the
7.26 voter's application for ballots. If the number does not match the number as submitted on
7.27 the application, or if a number was not submitted on the application, the election judges
7.28 must compare the signature provided by the applicant to determine whether the ballots
7.29 were returned by the same person to whom they were transmitted;

7.30 (4) the voter is registered and eligible to vote in the precinct or has included a
7.31 properly completed voter registration application in the return envelope;

7.32 (5) the certificate has been completed as prescribed in the directions for casting an
7.33 absentee ballot; and

8.1 (6) the voter has not already voted at that election, either in person or, if it is after the
8.2 close of business on the fourth day before the election, by absentee ballot.

8.3 The return envelope from accepted ballots must be preserved and returned to the
8.4 county auditor.

8.5 (c)(1) If a majority of the members of the ballot board examining a return envelope
8.6 find that an absentee voter has failed to meet one of the requirements provided in
8.7 paragraph (b), they shall mark the return envelope "Rejected," initial or sign it below the
8.8 word "Rejected," list the reason for the rejection on the envelope, and return it to the
8.9 county auditor. There is no other reason for rejecting an absentee ballot beyond those
8.10 permitted by this section. Failure to place the ballot within the security envelope before
8.11 placing it in the outer white envelope is not a reason to reject an absentee ballot.

8.12 (2) If an envelope has been rejected at least five days before the election, the
8.13 envelope must remain sealed and the official in charge of the ballot board shall provide the
8.14 voter with a replacement absentee ballot and return envelope in place of the rejected ballot.

8.15 (3) If an envelope is rejected within five days of the election, the envelope must
8.16 remain sealed and the official in charge of the ballot board must attempt to contact the
8.17 voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected.
8.18 The official must document the attempts made to contact the voter.

8.19 (d) The official in charge of the absentee ballot board must mail the voter a written
8.20 notice of absentee ballot rejection between six and ten weeks following the election. If the
8.21 official determines that the voter has otherwise cast a ballot in the election, no notice is
8.22 required. If an absentee ballot arrives after the deadline for submission provided by this
8.23 chapter, the notice must be provided between six to ten weeks after receipt of the ballot. A
8.24 notice of absentee ballot rejection must contain the following information:

8.25 (1) the date on which the absentee ballot was rejected or, if the ballot was received
8.26 after the required deadline for submission, the date on which the ballot was received;

8.27 (2) the reason for rejection; and

8.28 (3) the name of the appropriate election official to whom the voter may direct further
8.29 questions, along with appropriate contact information.

8.30 (e) An absentee ballot return envelope marked "Rejected" may not be opened or
8.31 subject to further review except in an election contest filed pursuant to chapter 209.

8.32 Sec. 11. Minnesota Statutes 2012, section 203B.121, subdivision 3, is amended to read:

8.33 Subd. 3. **Record of voting.** (a) When applicable, the county auditor or municipal
8.34 clerk must immediately record that a voter's absentee ballot has been accepted or has been
8.35 cast pursuant to section 203B.083. After the close of business on the fourth day before the

9.1 election, a voter whose record indicates that an absentee ballot has been accepted or cast
9.2 must not be permitted to cast another ballot at that election. In a state primary, general,
9.3 or state special election for federal or state office, the auditor or clerk must also record
9.4 this information in the statewide voter registration system.

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

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

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

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

9.12 The record of a voter whose absentee ballot was received after the close of business
9.13 on the fourth day before the election is not required to be marked on the roster or contained
9.14 in a supplemental report as required by this paragraph, except that the record of a voter
9.15 who cast an absentee ballot pursuant to section 203B.083 must be marked on the roster or
9.16 contained in a supplemental report as required by this paragraph.

9.17 Sec. 12. Minnesota Statutes 2012, section 203B.121, subdivision 5, is amended to read:

9.18 Subd. 5. **Storage and counting of absentee ballots.** (a) On a day on which absentee
9.19 ballots are inserted into a ballot box, two members of the ballot board must:

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

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

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

9.26 (b) After the polls have closed on election day, two members of the ballot board
9.27 must count the ballots, tabulating the vote in a manner that indicates each vote of the voter
9.28 and the total votes cast for each candidate or question. In state primary and state general
9.29 elections, the results must indicate the total votes cast for each candidate or question in each
9.30 precinct and report the vote totals tabulated for each precinct. The count shall be public.
9.31 No vote totals from ballots may be made public before the close of voting on election day.

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

10.1 (c) In addition to the requirements of paragraphs (a) and (b), if the task has not been
10.2 completed previously, the members of the ballot board must verify as soon as possible, but
10.3 no later than 24 hours after the end of the hours for voting, that voters whose absentee
10.4 ballots were not cast pursuant to section 203B.083 and that arrived after the rosters were
10.5 marked or supplemental reports were generated and whose ballots were accepted did not
10.6 vote in person on election day. An absentee ballot submitted by a voter who has voted
10.7 in person on election day must be rejected. All other accepted absentee ballots must be
10.8 opened, duplicated if necessary, and counted by members of the ballot board. The vote
10.9 totals from these ballots must be incorporated into the totals with the other absentee ballots
10.10 and handled according to paragraph (b).

10.11 Sec. 13. **EXPLANATION OF ABSENTEE BALLOT CHANGES; COUNTY**
10.12 **AUDITOR DUTIES.**

10.13 No later than 60 days prior to the date of the state primary in 2014, each county
10.14 auditor shall mail an explanation of the changes to the permanent absentee balloting
10.15 process and an updated ongoing absentee voter application to every voter with permanent
10.16 absentee ballot status in the county auditor's county. Each county auditor shall also mail
10.17 this explanation to every voter in the county auditor's county with ongoing absentee ballot
10.18 status on the voter's voter record as of the effective date of this act. A voter must return the
10.19 application to maintain the voter's status as a permanent absentee voter.

10.20 Upon receipt of a completed application, the county auditor shall scan and retain an
10.21 image of the application until the permanent absentee voter's status ends.

10.22 Sec. 14. **REPEALER.**

10.23 Minnesota Statutes 2012, section 203B.04, subdivision 6, is repealed.

10.24 Sec. 15. **EFFECTIVE DATE.**

10.25 This act is effective January 1, 2014, and applies to voting at elections conducted on
10.26 the date of the state primary in 2014 and thereafter.

203B.04 APPLICATION FOR BALLOTS.

Subd. 6. **Ongoing absentee status; termination.** (a) An eligible voter may apply to a county auditor or municipal clerk for status as an ongoing absentee voter who reasonably expects to meet the requirements of section 203B.02, subdivision 1. Each applicant must automatically be provided with an absentee ballot application for each ensuing election other than an election by mail conducted under section 204B.45, and must have the status of ongoing absentee voter indicated on the voter's registration record.

(b) Ongoing absentee voter status ends on:

- (1) the voter's written request;
- (2) the voter's death;
- (3) return of an ongoing absentee ballot as undeliverable;
- (4) a change in the voter's status so that the voter is not eligible to vote under section 201.15 or 201.155; or
- (5) placement of the voter's registration on inactive status under section 201.171.