

CHAPTER 618—S. F. No. 2044

[Not Coded]

An act relating to the salary of the Olmsted county attorney; amending Laws 1961, Chapter 102, Section 1.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Laws 1961, Chapter 102, Section 1, is amended to read:

Section 1. **Olmsted county attorney; salary.** The board of county commissioners of Olmsted county shall, by a majority vote, set the salary for the county attorney of said county. Said salary shall be for a minimum amount of \$8,000 \$14,000 per year and shall be payable monthly commencing January 1, 1961 1967. *The county attorney of said county shall devote his full time to the office of county attorney.*

Sec. 2. *This act takes effect when approved by the county board of Olmsted county, and upon compliance with Minnesota Statutes, Section 645.021.*

Approved May 22, 1965.

CHAPTER 619—H. F. No. 1728

[Coded in Part]

An act relating to elections; authorizing the use of electronic voting systems by cities, villages, and towns in elections; amending Minnesota Statutes 1961, Sections 206.01, Subdivisions 2, 3, 4, 5, 6, 7, and 8, and by adding new subdivisions thereto; 206.09, as amended; 206.17; 206.18, as amended; and 206.195.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1961, Section 206.01, Subdivision 2, is amended to read:

Subd. 2. **Elections; electronic voting systems.** The word "ballot" or term "ballot labels," means, as used in this chapter, shall be defined as that portion of the cardboard, paper or other material, within the ballot frames, the cards, papers, booklet, pages, or other material containing the names of the candidate, the official title, party designation, or a statement of a proposed constitutional

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amendment or other question or proposition, with the word "Yes" for voting for any question or the word "No" for voting against any question.

Sec. 2. Minnesota Statutes 1961, Section 206.01, Subdivision 3, is amended to read:

Subd. 3. The term "question" means a statement of any constitutional amendment, proposition or other question appearing on the machine and to be submitted to the voters at any election. *The term "ballot" may include ballot labels, ballot cards, and paper ballots.*

Sec. 3. Minnesota Statutes 1961, Section 206.01, Subdivision 4, is amended to read:

Subd. 4. The term "protective counter" means the separate counter built into the voting machine which cannot be reset, and which records the total number of movements of the operating mechanism. *The term "ballot card" means a ballot which is voted by the process of punching.*

Sec. 4. Minnesota Statutes 1961, Section 206.01, Subdivision 5, is amended to read:

Subd. 5. The term "public counter" means the counter which shows during any period of voting the total number of voters who have operated the machine during the period of voting. *The term "question" means a statement of any constitutional amendment, proposition, or other question appearing on the machine and to be submitted to the voters at any election.*

Sec. 5. Minnesota Statutes 1961, Section 206.01, Subdivision 6, is amended to read:

Subd. 6. The term "primary lever" means the lever which the voter must operate in a political party primary to unlock the voting levers assigned to the candidates of the political party in the primary of which the voter wishes to vote. *The term "protective counter" means the separate counter built into the voting machine which cannot be reset, and which records the total number of movements of the operating mechanism.*

Sec. 6. Minnesota Statutes 1961, Section 206.01, Subdivision 7, is amended to read:

Subd. 7. The term "voting lever" means the lever which the voter must turn down over the name of the candidate and leave there in order to cast a vote for the candidate. *The term "public counter" means the counter which shows during any period of voting*

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the total number of voters who have operated the machine during the period of voting.

Sec. 7. Minnesota Statutes 1961, Section 206.01, Subdivision 8, is amended to read:

Subd. 8. The term "operating lever" means the lever which the voter must move to the right to close the curtains of the machine and to unlock the machine to permit voting thereon, and which the voter must move to the left to open the curtains of the machine and to record his vote. The term "primary lever" means the lever which the voter must operate in a political party primary to unlock the voting levers assigned to the candidates of the political party in the primary of which the voter wishes to vote.

Sec. 8. Minnesota Statutes 1961, Section 206.01, is amended by adding a new subdivision thereto to read:

Subd. 9. The term "voting lever" means the lever which the voter must turn down over the name of the candidate and leave there in order to cast a vote for the candidate.

Sec. 9. Minnesota Statutes 1961, Section 206.01, is amended by adding a new subdivision thereto to read:

Subd. 10. The term "operating lever" means the lever which the voter must move to the right to close the curtains of the machine and to unlock the machine to permit voting thereon, and which the voter must move to the left to open the curtains of the machine and to record his vote.

Sec. 10. Minnesota Statutes 1961, Section 206.01, is amended by adding a new subdivision thereto to read:

Subd. 11. The term "electronic voting system" means a system in which the voter records his votes by means of marking or punching a ballot or one or more ballot cards, which are so designed that votes may be counted by automatic tabulating equipment at a counting location.

Sec. 11. Minnesota Statutes 1961, Section 206.01, is amended by adding a new subdivision thereto to read:

Subd. 12. The term "automatic tabulating equipment" includes apparatus necessary to automatically examine and count votes as designated on ballots, and data processing machines which can be used for counting ballots and tabulating results.

Sec. 12. Minnesota Statutes 1961, Section 206.01, is amended by adding a new subdivision thereto to read:

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Subd. 13. The term "counting location" means a location selected by the governing body of a municipality where an electronic voting system is used for the automatic processing and counting of ballots.

Sec. 13. Minnesota Statutes 1961, Section 206.01, is amended by adding a new subdivision thereto to read:

Subd. 14. The term "marking device" means either an apparatus in which ballots or ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter or any approved device for marking a paper ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment. The mark made by such marking device may be in the form of a round dot, or square, or any other shape that will clearly indicate the intent of the voter.

Sec. 14. Minnesota Statutes 1961, Section 206.07, is amended by adding a new subdivision thereto to read:

Subd. 5. Electronic voting systems. No electronic voting system may be employed unless it fulfills the following requirements:

- (1) *Permits every elector to vote in secret;*
- (2) *Permits every elector to vote at any election for all candidates and propositions for whom or upon which he is legally entitled to vote;*
- (3) *Provides for write-in voting when authorized;*
- (4) *Rejects, by means of the automatic tabulating equipment, all votes for any office or measure when the number of votes cast therefor exceeds the number which the voter is entitled to cast;*
- (5) *Permits the voter at a primary election to select secretly the party for which he wishes to vote; and*
- (6) *Rejects, by means of the automatic tabulating equipment, all votes cast in a primary election by a voter when he votes for candidates of more than one party.*

Sec. 15. Minnesota Statutes 1961, Section 206.09, is amended to read:

206.09 Ballot labels; diagrams for voting machines. The same authorities as are charged with providing paper ballots when such are used shall be required to provide all *ballots, ballot labels and ballot cards, diagrams, sample ballots, return sheets and all other necessary supplies needed for the voting machines or electronic voting systems.*

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In state and county general elections the county auditor of each county in which voting machines *or electronic voting systems* are used shall provide all *ballots*, ballot labels, *ballot cards*, and other necessary printed forms and supplies needed for the voting machines, including all such forms needed for placing on such voting machines, all offices, candidates and constitutional amendments and other questions and propositions, the ballots for which are required by the election laws to be provided by the state when paper ballots are used. The total cost of printing and providing all such forms shall be prorated by each county auditor so that the state and county will pay each its proportionate share based on the total number of candidates and questions under the jurisdiction of each. The state shall pay to the county its proportionate share of such cost as herein provided, all provisions of the statutes of this state notwithstanding.

Except as herein provided all ballots (or ballot labels) shall be printed in black ink on clear white material of such size as will fit the ballot frame of the voting machine *or as will conform to the requirements of electronic voting systems where used*, and in as plain clear type as the space will reasonably permit. Candidates' names may be set in as large type as the length of the majority of such names of all candidates on the ballot permits and the remaining candidates' names may be set in such smaller sizes or styles of type as the length of each such name requires based upon the available space in the frame of the voting machine *or upon the space available on any card, paper, booklet, or pages*. *Constitutional amendment ballots (or ballot labels) Ballots (or ballot labels) for constitutional amendments or that portion of the ballot containing constitutional amendments* shall be printed on material tinted pink. In a prominent place on such ballots, there shall be conspicuously printed a notice stating in substance that if a voter fails to vote on a constitutional amendment he votes, in effect, in the negative. Ballots (or ballot labels) for other questions shall be printed on material so tinted as to conform with the laws relating to paper ballots.

The authorities charged with the duty of providing ballots for any polling place where voting machines are used shall provide therefor at least two sample ballots which shall be arranged in the form of a diagram showing such part of the face of the voting machine as shall be in use at that election for voting for all candidates whose names are entitled to be placed on the ballot at such election and shall also show such part of the face of the voting machine as shall be in use for voting for all referendum questions, constitutional amendments, or other propositions; *the proper authorities shall provide at least two sample ballots, ballot cards, or ballot labels which shall be arranged in the form of a diagram showing*

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the ballot label containing the names of all candidates and propositions to be voted upon at that election in each polling place. Candidates' names shall not be rotated on such sample ballots but shall be arranged in alphabetical order for all offices where rotation of names on the official ballots on the voting machines is required by law. Such sample ballots shall be either in full or reduced size and shall contain suitable illustrated directions for voting on the voting machine, *or for operating a marking device, or such illustrated instructions shall be provided on a separate poster, to be posted adjacent to each sample ballot.* Not less than two such sample ballots shall be posted in a prominent place in the polling place and shall remain open to inspection by the voters throughout the election day.

Sec. 16. Minnesota Statutes 1961, Section 206.17, is amended to read:

206.17 Officials to prepare machines for use. It shall be the duty of the proper authority having direct charge of elections in each municipal corporation where voting machines *or electronic voting systems which do not use paper ballots* are to be used to cause the proper ballot labels to be placed on the voting machines *or marking devices* and to place the machines in proper order for voting. These ballot labels shall have printed on the face thereof the words "Official Ballot," the date of the election, a facsimile of the signature of the officer under whose direction the ballot is printed. The authorities shall examine all voting machines before they are sent out to the different polling places, to see that all the registering counters are set at zero (000), to lock all voting machines so that the counting mechanism cannot be operated, and to seal each voting machine with a numbered seal and to make a written record thereof.

Before preparing the voting machines for any election written notices shall be mailed to the chairman of the county committee of each political party, who have theretofore presented the name of the chairman to the county auditor, stating the times when and the place or places where the voting machines will be prepared, at which times and places one representative of each such political party designated by the respective chairman of such county committee of such party shall be entitled to be present and see that the machines are properly prepared and placed in proper condition and order for use at the election. In non-partisan primaries and elections each candidate may designate one representative who shall have the same powers as the political party representatives.

When the machines have been prepared for the election it shall be the duty of the custodians and political party or candidate rep-

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representatives to make a certificate in writing which shall be filed in the office of the proper authority having charge of the conduct of elections in such municipality, stating the serial number of each machine, whether or not all registering counters have been set at zero (000), the number registered on the protective counter and the number on the metal seal with which the machine is sealed.

Where electronic voting systems are used, within five days prior to the election day, the election officer in charge shall have the automatic tabulating equipment tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least two days prior thereto by publication once in official newspapers. The test shall be observed by at least two judges, who shall not be of the same political party, and shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a pre-audited group of ballots so punched or marked as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated immediately before the start of the official count of the ballots, in the same manner as set forth above. After the completion of the count, the programs used and ballots shall be sealed, retained, and disposed of as provided for paper ballots.

Sec. 17. Minnesota Statutes 1961, Section 206.18, is amended to read:

206.18 Canvassing board to inspect machines. It shall be the duty of the canvassing board in any municipality of this state wherein voting machines shall be used in any election, at the time it convenes to canvass the election returns of any election wherein voting machines shall have been used within such municipality, or as soon thereafter as it conveniently can do so, and before it proceeds to canvass such returns, to inspect the registering counter, or other mechanical recording device on any such voting machine showing the number of votes cast for any candidate or proposition voted on at any such election and any irregular ballots recorded thereon or therein and to compare the number of votes so shown by such voting machines to have been cast for each candidate voted for on and by such voting machines and each proposition submitted to the voters voting thereon or thereby with the returns

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made by the election officers of the several precincts in which the voting machines were used at such election and in case there is a discrepancy between the returns so made by such election officers and the number of votes shown by such voting machines on such inspection then and in such case it shall be the duty of such canvassing board to correct such returns as to all candidates and propositions, the returns with reference to which are to be canvassed by it, so made by such precinct election officers, so as to make such election returns conform to the vote so shown by such machines on such inspection as aforesaid and such corrected returns shall thereupon and thereafter be regarded and deemed by such canvassing board as the true and correct return of the number of votes cast for each candidate voted for and each proposition voted on, in the precinct the returns from which shall have been so corrected by such canvassing board. After correcting such returns the canvassing board shall proceed to the performance of its duties as now provided by law.

In case of any election contest the returns of the election officers, as corrected by the canvassing board as aforesaid, shall be *prima facie* evidence of the vote cast for each candidate and on each proposition voted on at any election, to the same extent and in the same manner and not otherwise, as is the return of the election officers in precincts where voting machines are not used. For the purpose of inspecting such voting machines such canvassing board may adjourn its sessions from time to time as occasion may require and may hold its sessions at any place within the county where the voting machines are usually kept and stored.

Where electronic voting systems are used, the canvassing board shall follow the procedure prescribed for paper ballots in Minnesota Statutes, Sections 204.29 and 204.30.

Sec. 18. [206.195] **Instructions to judges and voters; electronic voting systems.** *The authorities in charge of elections shall determine procedures for the instruction of judges and voters in the use of marking devices used in an electronic voting system.*

Sec. 19. [206.025] **Electronic voting systems; authorization, purchase, experimentation, and payment.** *Electronic voting systems may be authorized, purchased, experimented with, and paid for in the same manner provided for voting machines in Minnesota Statutes, Sections 206.02, 206.03, 206.06, 206.08, 206.10, and 206.12. The provisions in Minnesota Statutes, Sections 206.05, 206.095, 206.11, 206.13, 206.14, 206.15, and 206.23 shall also apply.*

Sec. 20. [206.026] **Methods of using electronic voting systems.** *Subdivision 1. In precincts where an electronic voting*

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system is used, a sufficient number of voting booths shall be provided for the use of such a system, and the booths shall be arranged in the same manner as provided for use with paper ballots.

Subd. 2. The ballot information, whether placed on the ballot or on the marking device, shall, as far as practicable, be in the order of arrangement provided for paper ballots except that such information may be in vertical or horizontal rows, or in a number of separate pages. Ballots for all questions must be provided in the same manner and where ballots are placed in a marking device, they shall be arranged on or in the marking device in the places provided for such purpose. Ballots may contain special printed marks and holes as required for proper positioning and reading of the ballots by electronic vote counting equipment. Any voter who spoils his ballot or ballot cards or makes an error may return it to the election board and secure another.

Subd. 3. Where write-in space is not provided on the ballot, a separate write-in ballot, which may be in the form of a paper ballot, card, or envelope in which the elector places his ballot card after voting, shall be provided where write-in voting is authorized to permit electors to write in the names of persons whose names are not on the ballot.

Subd. 4. The proper authority having responsibility for elections in each municipal corporation where an electronic voting system is used shall cause the marking devices to be put in order, set, adjusted and made ready for voting when delivered to the election precincts. Before the opening of the polls the judges shall compare the ballots or ballot labels used with the sample ballots furnished, and see that the names, numbers, and letters thereon agree and shall certify thereto on forms provided for this purpose. The certification shall be filed with the election returns.

Subd. 5. Except as otherwise provided by this act, the election judges shall conduct the election in the manner prescribed for precincts using paper ballots in Minnesota Statutes, Chapter 204.

Sec. 21. [206.185] Canvass of electronic voting system results.

Subdivision 1. In precincts where an electronic voting system is used, as soon as the polls are closed, the judges shall secure the marking devices against further voting. They shall thereafter open the ballot box and count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots does not exceed the number of voters shown on the election register or registration file. If there is an excess, the judges shall

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process the ballots in the same manner as paper ballots are processed in Minnesota Statutes, Section 204.20. The total number of voters shall be entered on the tally sheets. The judges shall thereupon count the write-in votes and prepare a return of such votes on forms provided for this purpose. If ballot cards are used, all ballot envelopes on which write-in votes have been recorded shall be serially numbered, starting with the number one, and the same number shall be placed on the ballot card of the voter. The judges shall compare the write-in votes with the votes cast on the ballot card and if the total number of votes for any office exceeds the number allowed by law, a notation to that effect shall be entered on the back of the ballot card and it shall be returned to the counting location in an envelope marked "defective ballots" and valid votes on such ballots containing invalid votes shall be counted as provided in subdivision 4 of this section. If paper ballots are used, the judges shall, before counting the write-in votes, compare the write-in votes with the votes cast elsewhere on the ballot, and if the total number of votes for any office involving a write-in vote exceeds the number allowed by law, a notation to that effect shall be entered on the back of the ballot. Valid votes on the rest of such a ballot shall be tallied by the judges at the precinct, on a form provided for the purpose, and shall then be placed in an envelope marked "defective ballots". Such ballots shall be returned to the counting location, and the totals for all such ballots shall be added to the totals for the respective precincts. So far as applicable, provisions relating to defective paper ballots shall apply.

Subd. 2. The judges shall place all ballots that have been cast in the container provided for the purpose, which shall be sealed and delivered forthwith by two judges, who shall not be of the same political party, to the counting location, together with the unused, void, and defective ballots and returns.

Subd. 3. All proceedings at the counting location shall be under the direction of the proper authority having direct charge of elections in each municipal corporation where an electronic voting system is used, under the observation of at least two judges who shall not be of the same political party and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container, or return.

Subd. 4. If any ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot card in the presence of two judges not of the same political party and substituted for the damaged ballot card. Likewise, a duplicate ballot card shall be made of a defective ballot card which shall not include

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the invalid votes. All duplicate ballot cards shall be clearly labeled "duplicate," shall bear a serial number which shall be recorded on the damaged or defective ballot card and shall be counted in lieu of the damaged or defective ballot card. If any paper ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, such ballot shall be tallied by the two judges not of the same political party at the counting location and the totals for all such ballots shall be added to the totals for the respective precincts.

Subd. 5. The return printed by the automatic tabulating equipment, to which has been added the return of write-in and absentee votes, shall constitute the official return of each precinct. Upon completion of the count the returns shall be open to the public.

Sec. 22. [206.212] Use of electronic voting systems; time. Notwithstanding any other provisions of this act, the Voting Machine Commission shall not, until after the state general election in 1966, approve for general use any machine, device or system which does not meet the requirements of Minnesota Statutes 1961, Chapter 206 as it read before the passage of this act. The Commission may license for experimental use at any election prior to and including the state general election in 1966, or thereafter if approval for general use has not been granted, any machine, device or system which meets the requirements of this act. Such experimental use shall be limited to municipalities or polling places which in the aggregate cast less than two percent of the votes cast statewide for presidential electors at the 1964 general election. Such experimental use shall be observed by the Voting Machine Commission or any person designated by them, and the results so observed shall be considered at any proceeding for approval thereafter.

Approved May 22, 1965.

CHAPTER 620—H. F. No. 1878

[Coded]

An act relating to the sale of certain animals; providing penalties for violations.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [346.30] Animals; artificially colored chicks, etc.; sale. No chick, duckling, gosling, or rabbit that has been dyed or

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