

Sec. 2. This act takes effect when approved by a majority of the members of the school board of the district and upon compliance with Minnesota Statutes, Section 645.021.

Approved March 11, 1965.

CHAPTER 81—S. F. No. 37

[Coded in Part]

An act relating to elections; providing remedies for errors and omissions including election contests; amending Minnesota Statutes 1961, Sections 203.38; 204.30, Subdivisions 1 and 5; 209.02, Subdivisions 2 and 3, and by adding a new subdivision; and 209.03.

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

Section 1. Minnesota Statutes 1961, Section 203.38, is amended to read:

203.38 Elections; errors and omissions, remedy. *Subdivision 1.* When it shall appear by affidavit to any judge of the supreme court in the case of a state election, or of the district court of the proper county in the case of a county election:

(a) That an error or omission in the placing or printing of the name or description of any candidate on official primary or general election ballots has occurred or is about to occur; or

(b) That any other error in preparing or printing the ballots has occurred or is about to occur; or

(c) That any officer of a political party or political party committee has failed to properly make or file a certificate of nomination; or

(d) That any wrongful act ~~or~~, neglect, *or error* by any election judge, county auditor, canvassing board or member thereof, secretary of state, or other person charged with any duty concerning an election, has been or is about to be done,

then the judge immediately shall order the officer, person, or board charged with the error, wrong, neglect, or failure to correct the same or perform the duty forthwith or show why he should not do so. Failure to obey the order is contempt of court.

Changes or additions indicated by italics, deletions by ~~strikeout~~.

Subd. 2. If in conducting the canvass of votes at any election as provided by law the majority of the county canvassing board believes that an obvious error in the counting and recording of the vote for any particular office has been made by the judges in any precinct, then the county canvassing board shall forthwith notify the candidates for such particular office of their belief. Such candidates may without unreasonable delay apply to the district court of the county within which the precinct is located for an order determining whether or not an obvious error has been made. Such application shall set forth the facts and such evidence may be submitted as the court may direct. If the court finds that an obvious error appears to exist it shall specify the error and direct the board to make an inspection of the ballots and the returns of the precinct for the purpose of correcting the obvious error and to further proceed in accordance with section 204.30 as amended by sections 2 and 3 or as it may otherwise direct.

If any candidate believes that an obvious error in the counting and recording of the vote for any particular office has been made by the judges in any precinct, then such candidate may without unreasonable delay apply to the district court of the county within which the precinct is located for an order determining whether or not an obvious error has been made. If such application is made by a candidate the procedures otherwise provided for in this subdivision shall be applicable.

Whenever a proceeding is commenced in the district court pursuant to the provisions of this subdivision the county canvassing board and all candidates for the office affected shall be given notice thereof as the court may direct.

Subd. 3. (1) When all the candidates for a particular office concur in writing that an obvious error in the counting or recording of the vote for such office has been made by the judges in any precinct then the county canvassing board shall correct the obvious error as concurred in by the candidates.

(2) When all of the candidates for a particular office concur in writing that an obvious error in the counting and recording of the vote for such office has been made by the county canvassing board they shall jointly notify the county auditor thereof who shall reconvene the county canvassing board. The county canvassing board shall forthwith correct such obvious error as concurred in by the candidates and file an amended report in connection therewith with the county auditor. The county auditor shall forthwith certify the amended result to the secretary of state. When an obvious error is corrected in conformity with this paragraph the county

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canvassing board and the county auditor shall also perform such other duties in connection therewith in order to conform with the requirements of Minnesota Statutes, Section 204.29.

(3) *When all of the candidates for a particular office concur in writing that an obvious error in the counting and recording of the vote for such office has been made by the state canvassing board, they shall jointly notify the secretary of state, and if a certificate of election has not been issued, he shall reconvene the state canvassing board. The state canvassing board shall forthwith correct such obvious error as concurred in by the candidates and file an amended statement and certification in connection therewith. When an obvious error is corrected in conformity with this paragraph the state canvassing board and the secretary of state shall also perform such other duties in connection therewith to conform with the requirements of Minnesota Statutes, Section 204.31.*

Sec. 2. Minnesota Statutes 1961, Section 204.30, Subdivision 1, is amended to read:

204.30 Errors in counting, correction. Subdivision 1. **Manner of correction.** *If in conducting the canvass of votes at any election as provided by law, any county canvassing board determines by a four fifths' vote it appears to a majority of the canvassing board or to any candidate that an obvious error in the counting and recording of the vote for any particular office has been made by the judges in any precincts; then the county canvassing board shall refuse to count the returns of that precinct for that office, and they shall order an inspection of the ballots and the returns of the precinct for the purpose of correcting the obvious error; which error shall be specified by written resolution of the board such obvious errors may be corrected in accordance with the provisions of section 1, subdivision 2.*

Sec. 3. Minnesota Statutes 1961, Section 204.30, Subdivision 5, is amended to read:

Subd. 5. Canvassing board, report. *As soon as practicable after the board has reexamined the ballots and returns, it shall report to the county auditor. The report shall be signed by all the members of the canvassing board, and it shall contain the following information:*

(a) *A copy of the resolution of the board specifying the error to be corrected order of the court, if any;*

(b) *A statement of the minutes of the meeting of the board for the purposes of correcting the errors, showing the time, date,*

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and place of the meetings, and appearances entered by or on behalf of the candidates;

(c) A copy of the notice of the meeting given to each candidate with proof of service;

(d) A statement showing action of the board with reference to the conduct of the inspection and reexamination; and

(e) A statement showing results of the action of the canvassing board.

Sec. 4. Minnesota Statutes 1961, Section 209.02, Subdivision 2, is amended to read:

Subd. 2. **Contest, notice filed, where brought.** The contestant shall file a written notice of contest specifying the points upon which the contest will be made with the clerk of the district court of the county in which the candidate whose election is contested resides; *or if the contest relates to a question to be voted for in a county or more than one county, the notice shall be filed with the clerk of the district court of the county or one of the counties;* or in the case of a state an office; ~~in any district court of the state, and in that case the place of trial may be changed as in civil actions.~~ *elected on a statewide basis, including but not limited to United States senators and to presidential electors,* or if the contest relates to a constitutional amendment or other question to be voted for statewide ~~or to a question to be voted for in more than one county,~~ then the notice of contest shall be filed in the district court of Ramsey county, and the place of trial ~~may shall not be changed as in civil actions.~~

Sec. 5. Minnesota Statutes 1961, Section 209.02, Subdivision 3, is amended to read:

Subd. 3. **Notice of contest, filing, service.** The notice of contest shall be filed within ten days after the canvass is completed, except that if the contest relates to a primary election, the time for filing the notice of contest shall be limited to five days. Within the same period copies thereof shall be served upon the candidate whose election is contested and upon the official authorized to issue the certificate of election. When the contest relates to a constitutional amendment or other question to be voted for statewide or to a question to be voted for in more than one county, the secretary of state shall be designated the contestee, and a copy of the notice of contest shall be served upon him within ten days, or five days in the case of a primary, after the canvass is completed. When the contest relates to a question that affects a single county or a single municipi-

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pality, the county auditor or the clerk of the municipality, as the case may be, shall be designated the contestee, and a copy of the notice of contest shall be served upon him within ten days, or five days in the case of a primary, after the canvass is completed. In all cases where the contest relates to an irregularity in the conduct of the election or canvass of votes a copy of the notice of contest shall also be served within ten days, or five days in the case of a primary, after the canvass is completed upon the ~~clerk of the municipality~~ *county auditor of the county* in which the irregularity is said to have existed.

Sec. 6. Minnesota Statutes 1961, Section 209.02, is amended by adding a subdivision to read:

Subd. 7. Contests in Ramsey county. When a notice of contest is filed in the district court of Ramsey county in the case of an office or constitutional amendment or other question to be voted for statewide as provided in subdivision 2, the case shall be heard and determined by three judges of the district court of the state assigned by the supreme court. If there be a division of opinion that of the majority shall prevail.

Sec. 7. Minnesota Statutes 1961, Section 209.03, is amended to read:

209.03 **Contestee, answer.** When the contestee desires to offer testimony on points not specified in contestant's notice, he shall file and serve on the contestant notice thereof specifying such additional points. ~~All notices subsequent to the original notice of contest~~ *If the contest relates to a primary election service of such notice shall be made within the time fixed by the court, but not exceeding five days after service of contestant's notice upon him; if the contest relates to a general election, service of such notice shall be made within ten days after service of contestant's notice upon him. Service of such notices shall be made in the same manner as provided for service of an answer in civil actions. Any other notices shall be served in such manner and within such times as the court may by order direct.*

Approved March 15, 1965.

CHAPTER 82—H. F. No. 113

An act relating to wild animals; authorizing the commissioner of conservation to designate migratory waterfowl feeding and resting

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