

CHAPTER 437—H. F. No. 1575

An act relating to elections; regulating use of electronic voting systems; amending Minnesota Statutes 1965, Sections 206.026, Subdivisions 1, 2 and 5; 206.07, Subdivision 5; 206.08; 206.09; 206.185, Subdivisions 4 and 5; Chapter 205, by adding a section; and repealing Minnesota Statutes 1965, Section 206.212.

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

Section 1. Minnesota Statutes 1965, Section 206.026, Subdivision 1, is amended to read:

206.026 Elections; electronic voting systems. Subdivision 1. In precincts where an electronic voting 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. *In primary elections, separate marking devices may be provided in each voting booth for the use of the separate partisan primary ballots authorized by section 206.09 provided that the use of such separate ballots shall not be permitted if such use would impair the right of the elector to vote in secret.*

Sec. 2. Minnesota Statutes 1965, Section 206.026, Subdivision 2, is amended to read:

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. *Ballot cards shall contain an identification of the precinct for which they have been prepared which can be read visually and which can be tabulated by the automatic tabulating equipment.* Any voter who spoils his ballot or ballot cards or makes an error may return it to the election board and secure another.

Sec. 3. Minnesota Statutes 1965, Section 206.026, Subdivision 5, is amended to read:

Subd. 5. Except as otherwise provided by ~~Laws 1965, in this chapter 649,~~ the election judges shall conduct the election in the manner prescribed for precincts using paper ballots in Minnesota Statutes, Chapter 204.

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

Sec. 4. Minnesota Statutes 1965, Section 206.07, Subdivision 5, is amended 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, *except as provided in section 206.185 with respect to write-in votes*, 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. 5. Minnesota Statutes 1965, Section 206.08, is amended to read:

206.08 Minnesota Voting Machine Commission created. There is hereby created a body to be known as The Minnesota Voting Machine Commission, consisting of three members, including the attorney general, who shall be chairman.

There shall be appointed as members of the commission, two competent and responsible persons, who shall be master mechanics or graduates of a school of mechanical engineering.

The governor shall appoint one of the members and the attorney general the other.

None of the members of the commission shall, directly or indirectly, have any pecuniary interest in any voting machine. The appointees shall serve for a term of four years from the date of appointment and until their successors are in like manner appointed. The appointing power may fill vacancies in the commission. The members of the commissions so appointed shall qualify without delay by taking and filing with the secretary of state an oath of office in writing in the usual form, and shall elect one of their members to be secretary and one to be treasurer.

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Any person, company, or corporation, owning or being interested in any voting machine may apply to the commission to examine such machine and to report as to its compliance with the requirements of the law and on its accuracy, durability, efficiency and capacity to register the will of the electors. The commission shall thereupon examine the machine so submitted, and make and file its report thereon. The examination shall not be required as to each individual machine, but only as to each particular kind or type of machine, before its adoption, use or purchase as provided herein.

The report of the commission shall be signed by the attorney general and at least one other member, and shall be filed with the secretary of state within ten days after the close of said examination.

If, from the report, it shall appear that, in the opinion of the commission, the kind of machine so examined complies with the requirements of this chapter and can be used safely at elections in this state, under the conditions prescribed by this chapter, and by the laws of the state where the same do not conflict herewith, then the said machine shall be deemed approved by the said commission, and machines of its kind may be adopted and purchased for use, and may be used at elections in this state as herein provided. No form of voting machine not so approved may be used at any election in this state.

The commission may license any electronic voting system for experimental use at any election prior to its approval for general use. Such experimental use shall be observed by the commission or any person designated by them and the results so observed shall be considered at any proceedings for approval for general use thereafter. The attorney general shall have authority to adopt regulations, consistent with this chapter, relating to such experimental use. The extent of such experimental use shall be determined by the commission; provided that the governing body of any municipality licensed to use an electronic voting system for the state general election in 1966 may provide for the use of an electronic voting system in all precincts of such municipality at any or all elections in the two years following July 1, 1967, without obtaining the consent of the commission.

As the examination fee herein, the application shall be accompanied by the sum of \$150 which shall be deposited in the state treasury to be expended in conformity with this paragraph. There shall be deducted from the amount of such deposit all expenses incurred by the commission in the discharge of its duties. The remainder of such deposit shall be paid in equal parts to the members of the commission other than the attorney general as full

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compensation for their services and expense herein. Such moneys as are necessary to carry out the terms and provisions of this paragraph are hereby appropriated annually to the commission from the general revenue fund in the state treasury.

Sec. 6. Minnesota Statutes 1965, 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.

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 officers, 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. *In primary elections where electronic voting systems are used, the ballot pages for the partisan primary ballots may be different colors or may be otherwise distinctively differentiated as between parties and all pages of the partisan primary ballot of a single party shall be consecutive without the intervention of any pages of any other party. In a prominent place on such ballots there shall be conspicuously printed a notice stating in substance the effect of attempting to vote in more than one partisan primary. Preparation of separate ballots for use on separate marking devices, each ballot containing the partisan primary ballot of only one party, shall also be permitted.* 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'

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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. 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 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.

The county auditor may use a one inch or more space between partisan and non partisan ballots, but in all cases a canary yellow color shall be used as background color on the nonpartisan ballots.

Sec. 7. Minnesota Statutes 1965, Section 206.185, Subdivision 4, is amended to read:

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 sub-

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stituted for the damaged ballot card. Likewise, a duplicate ballot card shall be made of a defective ballot card which shall not include the invalid votes. All duplicate ballot cards shall be clearly labeled "duplicate," with an identification of the precinct in which the corresponding damaged or defective ballot was cast, 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.

Sec. 8. Minnesota Statutes 1965, Section 206.185, Subdivision 5, is amended to read:

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. *The automatic tabulating equipment shall be programmed to provide a complete recapitulation of all ballots processed and may be programmed to provide other information in addition to that otherwise required in the official return of each precinct as the officials charged with the conduct of elections may determine advisable in the interest of providing election statistics for use in evaluating the performance of the electronic voting system or other aspects of the election.*

Sec. 9. Minnesota Statutes 1965, Chapter 206, is amended by adding a section to read:

[206.075] Preparation of electronic voting system programs. *Every program for use in an election conducted by means of an electronic voting system shall be prepared at the direction of the proper authority having direct charge of the election and shall be independently verified by a competent person designated by such authority.*

Sec. 10. *Minnesota Statutes 1965, Section 206.212, is repealed.*

Approved May 15, 1967.

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