

**CHAPTER 18—H.F.No. 978**

*An act relating to elections; modifying certain election administration and districting procedures; amending Minnesota Statutes 2010, sections 204B.135, subdivision 1; 204B.14, subdivisions 2, 3; 204B.45, subdivision 2; 204B.46; 204C.06, subdivision 2; 206.57, subdivision 6; 375.025, subdivisions 2, 4.*

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

Section 1. Minnesota Statutes 2010, section 204B.135, subdivision 1, is amended to read:

Subdivision 1. **Cities with wards.** Except as provided in this subdivision, a city that elects its council members by wards may not redistrict those wards before the legislature has been redistricted ~~in a year ending in one or two~~. The wards must be redistricted within 60 days after the legislature has been redistricted or at least 19 weeks before the state primary election in the year ending in two, whichever is first.

In a city of the first class electing council members by wards in a year ending in one, the ward boundaries ~~must~~ may be reestablished no later than 14 days before the first day to file affidavits of candidacy for city council members. The ward boundaries may be modified after the legislature has been redistricted for the purpose of establishing precinct boundaries as provided in section 204B.14, subdivision 3, ~~but no modification in ward boundaries may result in a change of the population of any ward of more than five percent, plus or minus.~~

Sec. 2. Minnesota Statutes 2010, section 204B.14, subdivision 2, is amended to read:

Subd. 2. **Separate precincts; combined polling place.** (a) The following shall constitute at least one election precinct:

- (1) each city ward; and
- (2) each town and each statutory city.

(b) A single, accessible, combined polling place may be established no later than May 1 of any year:

(1) for any city of the third or fourth class, any town, or any city having territory in more than one county, in which all the voters of the city or town shall cast their ballots;

(2) for ~~two~~ contiguous precincts in the same municipality ~~that have a combined total of fewer than 500 registered voters;~~

(3) for up to four contiguous municipalities located entirely outside the metropolitan area, as defined by section 200.02, subdivision 24, that are contained in the same county; or

- (4) for noncontiguous precincts located in one or more counties.

A copy of the ordinance or resolution establishing a combined polling place must be filed with the county auditor within 30 days after approval by the governing body. A polling place combined under clause (3) must be approved by the governing body of each participating municipality. A polling place combined under clause (4) must be approved by the governing body of each participating municipality and the secretary of state and may be located outside any of the noncontiguous precincts. A municipality withdrawing from participation in a combined polling place must do so by filing a resolution of withdrawal with the county auditor no later than April 1 of any year.

The secretary of state shall provide a separate polling place roster for each precinct served by the combined polling place. A single set of election judges may be appointed to serve at a combined polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all precincts to be voting at the combined polling place. Separate ballot boxes must be provided for the ballots from each precinct. The results of the election must be reported separately for each precinct served by the combined polling place, except in a polling place established under clause (2) where one of the precincts has fewer than ten registered voters, in which case the results of that precinct must be reported in the manner specified by the secretary of state.

Sec. 3. Minnesota Statutes 2010, section 204B.14, subdivision 3, is amended to read:

Subd. 3. **Boundary changes; prohibitions; exception.** Notwithstanding other law or charter provisions to the contrary, during the period from January 1 in any year ending in zero to the time when the legislature has been redistricted in a year ending in one or two, no changes may be made in the boundaries of any election precinct except as provided in this subdivision.

(a) If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

(b) A municipality or county may establish new election precincts lying entirely within the boundaries of any existing precinct and shall assign names to the new precincts which include the name of the former precinct.

(c) Precinct boundaries in a city of the first class electing council members by wards may be reestablished within four weeks of the adoption of ward boundaries in a year ending in one, as provided in section 204B.135, subdivision 1.

(d) Precinct boundaries must be reestablished within 60 days of the time when the legislature has been redistricted, or at least 19 weeks before the state primary election in a year ending in two, whichever comes first. The adoption of reestablished precinct boundaries becomes effective on the date of the state primary election in the year ending in two.

Precincts must be arranged so that no precinct lies in more than one legislative or congressional district.

Sec. 4. Minnesota Statutes 2010, section 204B.45, subdivision 2, is amended to read:

Subd. 2. **Procedure.** Notice of the election and the special mail procedure must be given at least six weeks prior to the election. Not more than 46 days nor later than 14 days before a regularly scheduled election for federal, state, county, city, or school board office or a special election for federal office and not more than 30 days nor later than 14

days before any other election, the auditor shall mail ballots by nonforwardable mail to all voters registered in the town or unorganized territory. No later than 14 days before the election, the auditor must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots as provided in chapter 203B. Ballot return envelopes, with return postage provided, must be preaddressed to the auditor or clerk and the voter may return the ballot by mail or in person to the office of the auditor or clerk. The auditor or clerk must appoint a ballot board to examine the mail and absentee ballot return envelopes and mark them "accepted" or "rejected" within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of staff trained as election judges. Election judges performing the duties in this section must be of different major political parties, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10. If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed and the auditor or clerk shall provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

If the ballot is accepted, the county auditor or municipal clerk must mark the roster to indicate that the voter has already cast a ballot in that election. After the close of business on the fourth day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the members of the ballot board, and deposited in the ballot box.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

The mail and absentee ballots for a precinct must be counted together and reported as one vote total. No vote totals from mail or absentee ballots may be made public before the close of voting on election day.

The costs of the mailing shall be paid by the election jurisdiction in which the voter resides. Any ballot received by 8:00 p.m. on the day of the election must be counted.

Sec. 5. Minnesota Statutes 2010, section 204B.46, is amended to read:

**204B.46 MAIL ELECTIONS; QUESTIONS.**

A county, municipality, or school district submitting questions to the voters at a special election may conduct an election by mail with no polling place other than the office of the auditor or clerk. No more than two questions may be submitted at a mail election and no offices may be voted on. Notice of the election must be given to the county auditor at least 53 days prior to the election. This notice shall also fulfill the requirements of Minnesota Rules, part 8210.3000. The special mail ballot procedures must be posted at least six weeks prior to the election. Not more than 30 nor later than 14 days prior to the election, the auditor or clerk shall mail ballots by nonforwardable mail to all voters registered in the county, municipality, or school district. No later than 14 days before the election, the auditor or clerk must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20th day before the election. Eligible voters not registered at the time the ballots are mailed may apply for ballots

pursuant to chapter 203B. The auditor or clerk must appoint a ballot board to examine the mail and absentee ballot return envelopes and mark them "Accepted" or "Rejected" within three days of receipt if there are 14 or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of staff trained as election judges. Election judges performing the duties in this section must be of different major political parties, unless they are exempt from that requirement under section 205.075, subdivision 4, or section 205A.10. If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed and the auditor or clerk must provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or e-mail to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter.

If the ballot is accepted, the county auditor or municipal clerk must mark the roster to indicate that the voter has already cast a ballot in that election. After the close of business on the fourth day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed in the manner provided by section 206.86, subdivision 5, initialed by the ballot board, and deposited in the appropriate ballot box.

In all other respects, the provisions of the Minnesota Election Law governing deposit and counting of ballots apply.

The mail and absentee ballots for a precinct must be counted together and reported as one vote total. No vote totals from ballots may be made public before the close of voting on election day.

Sec. 6. Minnesota Statutes 2010, section 204C.06, subdivision 2, is amended to read:

Subd. 2. **Individuals allowed in polling place; identification.** (a) Representatives of the secretary of state's office, the county auditor's office, and the municipal or school district clerk's office may be present at the polling place to observe election procedures. Except for these representatives, election judges, sergeants-at-arms, and challengers, an individual may remain inside the polling place during voting hours only while voting or registering to vote, providing proof of residence for an individual who is registering to vote, or assisting a disabled voter or a voter who is unable to read English. During voting hours no one except individuals receiving, marking, or depositing ballots shall approach within six feet of a voting booth, ballot counter, or electronic voting equipment, unless lawfully authorized to do so by an election judge or the individual is an election judge monitoring the operation of the ballot counter or electronic voting equipment.

(b) Teachers and elementary or secondary school students participating in an educational activity authorized by section 204B.27, subdivision 7, may be present at the polling place during voting hours.

(c) Each official on duty in the polling place must wear an identification badge that shows their role in the election process. The badge must not show their party affiliation.

Sec. 7. Minnesota Statutes 2010, section 206.57, subdivision 6, is amended to read:

Subd. 6. **Required certification.** In addition to the requirements in subdivision 1, a voting system must be certified by an independent testing authority accredited by the Election Assistance Commission or appropriate federal agency responsible for testing

and certification of compliance with the federal voting systems guidelines at the time of submission of the application required by subdivision 1 to be in conformity with voluntary voting system guidelines issued by the Election Assistance Commission or other previously referenced agency. The application must be accompanied by the certification report of the voting systems test laboratory. A certification under this section from an independent testing authority accredited by the Election Assistance Commission or other previously referenced agency meets the requirement of Minnesota Rules, part 8220.0350, item L. A vendor must provide a copy of the source code for the voting system to the secretary of state. A chair of a major political party or the secretary of state may select, in consultation with the vendor, an independent third-party evaluator to examine the source code to ensure that it functions as represented by the vendor and that the code is free from defects. A major political party that elects to have the source code examined must pay for the examination. Except as provided by this subdivision, a source code that is trade secret information must be treated as nonpublic information, according to section 13.37. A third-party evaluator must not disclose the source code to anyone else.

Sec. 8. Minnesota Statutes 2010, section 375.025, subdivision 2, is amended to read:

Subd. 2. **Voters rights.** Any qualified voter may apply to the district court of the county for a writ of mandamus (a) requiring the county to be redistricted if the county board has not redistricted the county within the time specified in subdivision 1, or (b) to revise the redistricting plan. Any application for revision of a redistricting plan filed with the county auditor ~~more than 15 weeks before the state primary in a year ending in two~~ that seeks to affect elections held in a year ending in two must be filed with the district court ~~within three weeks but~~ no later than ~~14 weeks~~ one week before the ~~state primary first day to file for office in the year ending in two~~ "2". ~~If a plan for redistricting a county is filed less than 14 weeks before the state primary in a year ending in two, any application for revision of the plan that seeks to affect an election in the year ending in two shall be filed with the district court within one week after the plan has been filed with the county auditor.~~ The district court may direct the county board to show cause why it has not redistricted the county or why the redistricting plan prepared by it should not be revised. On hearing the matter it may allow the county board additional time in which to redistrict the county or to correct errors in the redistricting plan. If it appears to the court that the county board has not been sufficiently diligent in performing its redistricting duties, the court may appoint a redistricting commission to redistrict the county in accordance with the standards set forth in subdivision 1 and any other conditions the court shall deem advisable and appropriate. If a redistricting commission is appointed, the county board shall be without authority to redistrict the county.

Sec. 9. Minnesota Statutes 2010, section 375.025, subdivision 4, is amended to read:

Subd. 4. **Redistricting plan; election following redistricting.** A redistricting plan whether prepared by the county board or the redistricting commission shall be filed in the office of the county auditor. A redistricting plan shall be effective on the 31st day after filing unless a later effective date is specified but no plan shall be effective for the next election of county commissioners unless the plan is filed with the county auditor not less than ~~30 days~~ two weeks before the first date candidates may file for the office of county commissioner. One commissioner shall be elected in each district who, at the time of the election, is a resident of the district. A person elected may hold the office only while remaining a resident of the commissioner district or, after ~~June 15~~ the last day to file for office during a year ending in "2", while remaining a resident of the

county. The county board or the redistricting commission shall determine the number of members of the county board who shall be elected for two-year terms and for four-year terms to provide staggered terms on the county board. Thereafter, all commissioners shall be elected for four years. When a county is redistricted, there shall be a new election of commissioners in all the districts at the next general election except that if the change made in the boundaries of a district is less than five percent of the average of all districts of the county, the commissioner in office at the time of the redistricting shall serve for the full period for which elected.

Sec. 10. **EFFECTIVE DATE.**

Sections 1 to 9 are effective the day following final enactment.

Presented to the governor April 29, 2011

Signed by the governor April 29, 2011, 3:10 p.m.