

CHAPTER 65—S.F.No. 1009

An act relating to elections; changing certain procedures and requirements related to vacancies in nomination and certain primaries; amending Minnesota Statutes 2010, sections 204B.04, subdivision 2; 204B.13, subdivisions 1, 4; 204C.32, subdivision 1; 205.065, subdivision 5; 205.13, subdivision 1a; 205A.03, subdivision 4; 205A.06, subdivision 1a; repealing Minnesota Statutes 2010, sections 204B.41; 204D.169; 205.065, subdivision 7; 205A.03, subdivision 6.

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

Section 1. Minnesota Statutes 2010, section 204B.04, subdivision 2, is amended to read:

Subd. 2. **Candidates seeking nomination by primary.** No individual who seeks nomination for any partisan or nonpartisan office at a primary shall be nominated for the same office by nominating petition, ~~except as otherwise provided for nonpartisan offices in section 204B.13, subdivision 4.~~

Sec. 2. Minnesota Statutes 2010, section 204B.13, subdivision 1, is amended to read:

Subdivision 1. **Death or withdrawal.** A vacancy in nomination may be filled in the manner provided by this section. A vacancy in nomination exists when:

~~(a)~~ (1) a major political party candidate or nonpartisan candidate who was nominated at a primary dies or files an affidavit of withdrawal as provided in section 204B.12, subdivision 2a; or

~~(b)~~ (2) a candidate for a nonpartisan office, for which one or two candidates filed, ~~dies or files an affidavit of withdrawal~~ withdraws as provided in section 204B.12, subdivision 1.

Sec. 3. Minnesota Statutes 2010, section 204B.13, subdivision 4, is amended to read:

Subd. 4. **Nonpartisan office; filling vacancy by ~~nominating petitions.~~** A vacancy in nomination in a nonpartisan office may be filled by nominating petition filing an affidavit of candidacy and paying a filing fee or by filing an affidavit of candidacy and filing a petition in place of a filing fee in the manner provided in sections 204B.06, ~~to~~ 204B.09, and 204B.11. The petition shall All documents and fees required by this subdivision must be filed within ~~one week~~ five days after the vacancy in nomination occurs, ~~but not later than four calendar days before the election.~~ There must be a two-day period for withdrawal of candidates after the last day for filing.

~~An eligible voter is eligible to sign a nominating petition to fill a vacancy in nomination without regard to whether that eligible voter intends to vote or did vote for any candidate for that office at the primary or signed other nominating petitions for candidates for that office.~~

If the vacancy in nomination resulted from a withdrawal during the withdrawal period held on the 68th to 69th day before the primary, and if, at the end of the withdrawal

period to fill the vacancy in nomination, there are more than two candidates, the candidates' names must appear on the primary ballot.

In all other cases, the candidates' names must appear on the general election ballot.

Sec. 4. Minnesota Statutes 2010, section 204C.32, subdivision 1, is amended to read:

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office on either the second or third day following the state primary. After taking the oath of office, the canvassing board shall publicly canvass the election returns delivered to the county auditor. The board shall complete the canvass ~~on~~ by the third day following the state primary and shall promptly prepare and file with the county auditor a report that states:

(a) the number of individuals voting at the election in the county, and in each precinct;

(b) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;

(c) for each major political party, the names of the candidates running for each partisan office and the number of votes received by each candidate in the county and in each precinct;

(d) the names of the candidates of each major political party who are nominated; and

(e) the number of votes received by each of the candidates for nonpartisan office in each precinct in the county and the names of the candidates nominated for nonpartisan office.

Upon completion of the canvass, the county auditor shall mail or deliver a notice of nomination to each nominee for county office voted for only in that county. The county auditor shall transmit one of the certified copies of the county canvassing board report for state and federal offices to the secretary of state by express mail or similar service immediately upon conclusion of the county canvass. The secretary of state shall mail a notice of nomination to each nominee for state or federal office.

Sec. 5. Minnesota Statutes 2010, section 205.065, subdivision 5, is amended to read:

Subd. 5. **Results.** (a) The municipal primary shall be conducted and the returns made in the manner provided for the state primary so far as practicable. If the primary is conducted:

(1) only within that municipality, a canvass may be conducted on either the second or third day after the primary; or

(2) in conjunction with the state primary, the canvass must be conducted on the third day after the primary, except as otherwise provided in paragraph (b).

~~On the third day after the primary,~~ The governing body of the municipality shall canvass the returns, and the two candidates for each office who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to the office, who receive the highest number of votes, shall be the nominees for the office named. Their names shall be certified to the municipal clerk who shall place them on the municipal general election ballot without partisan designation and without payment of an additional fee.

(b) Following a municipal primary as described in paragraph (a), clause (2), a canvass may be conducted on the second day after the primary if the county auditor of each county in which the municipality is located agrees to administratively review the municipality's primary voting statistics for accuracy and completeness within a time that permits the canvass to be conducted on that day.

Sec. 6. Minnesota Statutes 2010, section 205.13, subdivision 1a, is amended to read:

Subd. 1a. **Filing period.** In a city nominating candidates at a primary, an affidavit of candidacy for a city office voted on in November must be filed no more than 84 days nor less than 70 days before the city primary. In municipalities that do not hold a primary, an affidavit of candidacy must be filed no more than 70 days and not less than 56 days before the municipal general election held in March in any year, or a special election not held in conjunction with another election, and no more than ~~91~~ 98 days nor less than ~~77~~ 84 days before the municipal general election held in November of any year.

Sec. 7. Minnesota Statutes 2010, section 205A.03, subdivision 4, is amended to read:

Subd. 4. **Results.** (a) The school district primary must be conducted and the returns made in the manner provided for the state primary as far as practicable. If the primary is conducted:

(1) only within that school district, a canvass may be conducted on either the second or third day after the primary; or

(2) in conjunction with the state primary, the canvass must be conducted on the third day after the primary, except as otherwise provided in paragraph (b).

~~On the third day after the primary,~~ The school board of the school district shall canvass the returns, and the two candidates for each specified school board position who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to at-large school board positions who receive the highest number of votes, are the nominees for the office named. Their names must be certified to the school district clerk who shall place them on the school district general election ballot without partisan designation and without payment of an additional fee.

(b) Following a school district primary as described in paragraph (a), clause (2), a canvass may be conducted on the second day after the primary if the county auditor of each county in which the school district is located agrees to administratively review the school district's primary voting statistics for accuracy and completeness within a time that permits the canvass to be conducted on that day.

Sec. 8. Minnesota Statutes 2010, section 205A.06, subdivision 1a, is amended to read:

Subd. 1a. **Filing period.** In school districts that have adopted a resolution to choose nominees for school board by a primary election, affidavits of candidacy must be filed with the school district clerk no earlier than the 84th day and no later than the 70th day before the second Tuesday in August in the year when the school district general election is held. In all other school districts, affidavits of candidacy must be filed no earlier than the ~~91st~~ 98th day and no later than the ~~77th~~ 84th day before the school district general election.

Sec. 9. **REPEALER.**

Minnesota Statutes 2010, sections 204B.41; 204D.169; 205.065, subdivision 7; and 205A.03, subdivision 6, are repealed.

Sec. 10. **EFFECTIVE DATE.**

Sections 1, 2, 3, 6, 8, and 9 are effective the day following final enactment.

Presented to the governor May 23, 2011

Signed by the governor May 24, 2011, 2:28 p.m.