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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3967

02/19/2024

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The bill was read for the first time and referred to the Committee on Elections Finance and Policy

1.1 A bill for an act

1.2 relating to elections; allowing voters to vote for "none of the above" in elections

1.3 for governor, lieutenant governor, and legislative offices; making conforming

1.4 changes; amending Minnesota Statutes 2022, sections 204B.36, by adding a

1.5 subdivision; 204C.21, subdivision 1; 204C.33, subdivision 1; 204C.40, subdivision

1.6 1; 351.02; Minnesota Statutes 2023 Supplement, sections 204C.24, subdivision

1.7 1; 204C.33, subdivision 3.

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

1.9 Section 1. Minnesota Statutes 2022, section 204B.36, is amended by adding a subdivision

1.10 to read:

1.11 Subd. 2a. **Legislative offices.** At a general or special election, "none of the above" must

1.12 be printed below the write-in line for the offices of governor and lieutenant governor and

1.13 for each legislative office. The option to select "none of the above" must not appear on a

1.14 primary ballot for a legislative office.

1.15 Sec. 2. Minnesota Statutes 2022, section 204C.21, subdivision 1, is amended to read:

1.16 Subdivision 1. **Method.** The election judges shall take all the ballots of the same kind

1.17 and count the votes cast for each office or question, beginning with the first office or question

1.18 on the ballot. They shall make one pile of the ballots for each candidate who received votes

1.19 for that office and one pile for "none of the above," where applicable, or one pile for the

1.20 "Yes" votes and one pile for the "No" votes on a question. They shall make a pile of totally

1.21 defective ballots and a pile of totally blank ballots. They shall make a pile of ballots that

1.22 are not totally defective but are defective with respect to the office or question being counted

1.23 and a pile of ballots that are not totally blank but are blank with respect to the office or

1.24 question being counted. After the separation into piles, the election judges shall examine

2.1 each pile and remove and place in the proper pile any ballots that are found in the wrong  
2.2 pile. The election judges shall count the totally blank and totally defective ballots and set  
2.3 them aside until the counting is over for that ballot. In conducting the count of blank ballots,  
2.4 election judges may presume that the total count provided for sealed prepackaged ballots  
2.5 is correct. The election judges may pile ballots crosswise in groups of 25 in the same pile  
2.6 to facilitate counting. When their counts agree, the election judges shall announce the number  
2.7 of ballots in each pile, and shall write the number in the proper place on the summary  
2.8 statements.

2.9 The election judges shall then return all the counted ballots, and all the partially defective  
2.10 or partially blank ballots, to the original pile to be separated and counted in the same manner  
2.11 for the next office or question.

2.12 Sec. 3. Minnesota Statutes 2023 Supplement, section 204C.24, subdivision 1, is amended  
2.13 to read:

2.14 Subdivision 1. **Information requirements.** Precinct summary statements shall be  
2.15 submitted by the election judges in every precinct. For all elections, the election judges  
2.16 shall complete three or more copies of the summary statements, and each copy shall contain  
2.17 the following information for each kind of ballot:

2.18 (1) the number of ballots delivered to the precinct as adjusted by the actual count made  
2.19 by the election judges, the number of unofficial ballots made, and the number of absentee  
2.20 ballots delivered to the precinct;

2.21 (2) the number of votes each candidate received or the number of yes and no votes on  
2.22 each question, the number of votes for "none of the above," the number of undervotes, the  
2.23 number of overvotes, and the number of defective ballots with respect to each office or  
2.24 question;

2.25 (3) the number of spoiled ballots, the number of duplicate ballots made, the number of  
2.26 absentee ballots rejected, and the number of unused ballots, presuming that the total count  
2.27 provided on each package of unopened prepackaged ballots is correct;

2.28 (4) the number of voted ballots indicating only a voter's choices as provided by section  
2.29 206.80, paragraph (b), clause (2), item (ii);

2.30 (5) the number of individuals who voted at the election in the precinct which must equal  
2.31 the total number of ballots cast in the precinct, as required by sections 204C.20 and 206.86,  
2.32 subdivision 1;

2.33 (6) the number of voters registering on election day in that precinct;

3.1 (7) the signatures of the election judges who counted the ballots certifying that all of the  
 3.2 ballots cast were properly piled, checked, and counted; and that the numbers entered by the  
 3.3 election judges on the summary statements correctly show the number of votes cast for each  
 3.4 candidate and for and against each question;

3.5 (8) the number of election judges that worked in that precinct on election day; and

3.6 (9) the number of voting booths used in that precinct on election day.

3.7 At least two copies of the summary statement must be prepared for elections not held  
 3.8 on the same day as the state elections.

3.9 Sec. 4. Minnesota Statutes 2022, section 204C.33, subdivision 1, is amended to read:

3.10 Subdivision 1. **County canvass.** (a) The county canvassing board shall meet at the  
 3.11 county auditor's office between the third and tenth days following the state general election.  
 3.12 After taking the oath of office, the board shall promptly and publicly canvass the general  
 3.13 election returns delivered to the county auditor. Upon completion of the canvass, the board  
 3.14 shall promptly prepare and file with the county auditor a report which states:

3.15 ~~(a)~~ (1) the number of individuals voting at the election in the county and in each precinct;

3.16 ~~(b)~~ (2) the number of individuals registering to vote on election day and the number of  
 3.17 individuals registered before election day in each precinct;

3.18 ~~(c)~~ (3) the names of the candidates for each office and the number of votes received by  
 3.19 each candidate in the county and in each precinct;

3.20 ~~(d)~~ (4) the number of votes for "none of the above" for each legislative office;

3.21 (5) the number of votes for governor and lieutenant governor;

3.22 (6) the number of votes counted for and against a proposed change of county lines or  
 3.23 county seat; and

3.24 ~~(e)~~ (7) the number of votes counted for and against a constitutional amendment or other  
 3.25 question in the county and in each precinct.

3.26 (b) The result of write-in votes cast on the general election ballots must be compiled by  
 3.27 the county auditor before the county canvass, except that write-in votes for a candidate for  
 3.28 federal, state, or county office must not be counted unless the candidate has timely filed a  
 3.29 request under section 204B.09, subdivision 3. The county auditor shall arrange for each  
 3.30 municipality to provide an adequate number of election judges to perform this duty or the  
 3.31 county auditor may appoint additional election judges for this purpose. The county auditor

4.1 may open the envelopes or containers in which the voted ballots have been sealed in order  
 4.2 to count and record the write-in votes and must reseal the voted ballots at the conclusion of  
 4.3 this process. The county auditor must prepare a separate report of votes received by precinct  
 4.4 for write-in candidates for federal, state, and county offices who have requested under  
 4.5 section 204B.09 that votes for those candidates be tallied.

4.6 (c) Upon completion of the canvass, the county canvassing board shall declare the  
 4.7 candidate duly elected who received the highest number of votes for each county and state  
 4.8 office voted for only within the county. In the case of the offices of governor and lieutenant  
 4.9 governor or a legislative office, if the majority of voters voted for "none of the above," the  
 4.10 county canvassing board must not declare a candidate as elected to that office. The county  
 4.11 auditor shall transmit a certified copy of the county canvassing board report for state and  
 4.12 federal offices to the secretary of state by messenger, express mail, or similar service  
 4.13 immediately upon conclusion of the county canvass.

4.14 Sec. 5. Minnesota Statutes 2023 Supplement, section 204C.33, subdivision 3, is amended  
 4.15 to read:

4.16 Subd. 3. **State canvass.** (a) The State Canvassing Board shall meet at a public meeting  
 4.17 space located in the Capitol complex area on the third Tuesday following the state general  
 4.18 election to canvass the certified copies of the county canvassing board reports received from  
 4.19 the county auditors and shall prepare a report that states:

4.20 (1) the number of individuals voting in the state and in each county;

4.21 (2) the number of votes received by each of the candidates, specifying the counties in  
 4.22 which they were cast; ~~and~~

4.23 (3) the number of votes for "none of the above" for legislative offices, including the  
 4.24 office for which the vote was received and specifying the counties in which they were cast;

4.25 (4) the number of votes for "none of the above" for the offices of governor and lieutenant  
 4.26 governor; and

4.27 (5) the number of votes counted for and against each constitutional amendment, specifying  
 4.28 the counties in which they were cast.

4.29 (b) All members of the State Canvassing Board shall sign the report and certify its  
 4.30 correctness. Within three days after completing the canvass, the State Canvassing Board  
 4.31 shall declare the result and declare the candidates duly elected who received the highest  
 4.32 number of votes for each federal office and for each state office voted on in more than one  
 4.33 county. In the case of the offices of governor and lieutenant governor or a legislative office,

5.1 if the majority of voters voted for "none of the above," the State Canvassing Board must  
5.2 not declare a candidate as elected to that office.

5.3 Sec. 6. Minnesota Statutes 2022, section 204C.40, subdivision 1, is amended to read:

5.4 Subdivision 1. **Preparation; method of delivery.** (a) The county auditor shall prepare  
5.5 an election certificate for every county candidate declared elected by the county canvassing  
5.6 board, and the secretary of state shall prepare a certificate for every state and federal candidate  
5.7 declared elected by either a county canvassing board or the State Canvassing Board. Except  
5.8 as otherwise provided in this section, the secretary of state or county auditor, as appropriate,  
5.9 shall deliver an election certificate on demand to the elected candidate. In an election for  
5.10 United States representative, the secretary of state shall deliver the original election certificate  
5.11 to the chief clerk of the United States House of Representatives. In an election for United  
5.12 States senator, the governor shall prepare an original certificate of election, countersigned  
5.13 by the secretary of state, and deliver it to the secretary of the United States Senate. In an  
5.14 election for state representative or state senator, the secretary of state shall deliver the original  
5.15 election certificate to the chief clerk of the house or the secretary of the senate. The chief  
5.16 clerk of the house or the secretary of the senate shall give a copy of the certificate to the  
5.17 representative-elect or senator-elect. Upon taking the oath of office, the representative or  
5.18 senator shall receive the original certificate of election. If a recount is undertaken by a  
5.19 canvassing board pursuant to section 204C.35, no certificate of election shall be prepared  
5.20 or delivered until after the recount is completed. In case of a contest, the court may invalidate  
5.21 and revoke the certificate as provided in chapter 209.

5.22 (b) If the county canvassing board or State Canvassing Board does not declare a winner  
5.23 for a legislative office as provided in section 204C.33, subdivision 1, paragraph (c), or 3,  
5.24 paragraph (b), the canvassing board must not prepare or deliver a certificate for any candidate  
5.25 for that office.

5.26 Sec. 7. Minnesota Statutes 2022, section 351.02, is amended to read:

5.27 **351.02 VACANCIES.**

5.28 Subdivision 1. Vacancies. Every office shall become vacant on the happening of either  
5.29 of the following events, before the expiration of the term of such office:

5.30 (1) the death of the incumbent;

5.31 (2) the incumbent's resignation;

5.32 (3) the incumbent's removal;

6.1 (4) the incumbent's ceasing to be an inhabitant of the state, or, if the office is local, of  
6.2 the district, county or city for which the incumbent was elected or appointed, or within  
6.3 which the duties of the office are required to be discharged;

6.4 (5) the incumbent's conviction of any infamous crime, or of any offense involving a  
6.5 violation of the official oath;

6.6 (6) the incumbent's refusal or neglect to take the oath of office, or to give or renew the  
6.7 official bond, or to deposit or file such oath or bond within the time prescribed;

6.8 (7) the decision of a competent tribunal declaring the incumbent's election or appointment  
6.9 void;

6.10 (8) the death of the person elected or appointed to fill a vacancy, or for a full term, before  
6.11 the person qualifies, or before the time when by law the person should enter upon the duties  
6.12 of the office, in which case the vacancy shall be deemed to take place at the time when the  
6.13 term of office would have begun had the person lived.

6.14 Subd. 2. **Vacancy does not occur.** When a county canvassing board or State Canvassing  
6.15 Board does not declare a winner for a legislative office as provided in section 204C.33,  
6.16 subdivision 1, paragraph (c), or 3, paragraph (b), the legislative seat is not a vacant seat and  
6.17 must not be filled as provided in chapter 204D or any other law.

6.18 Sec. 8. **EFFECTIVE DATE.**

6.19 This act is effective June 1, 2024, and applies to elections on or after that date.