

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **367**

02/06/2013 Authored by Simon, Bly, Freiberg, Rosenthal, Erhardt and others
The bill was read for the first time and referred to the Committee on Elections
02/28/2013 Adoption of Report: Pass as Amended and Read Second Time
05/20/2013 Pursuant to Rule 4.20, re-referred to the Committee on Elections
03/17/2014 Adoption of Report: Placed on the General Register
Read Second Time

1.1 A bill for an act
1.2 relating to elections; authorizing jurisdictions to adopt ranked-choice voting;
1.3 establishing procedures for adoption, implementation, and use of ranked-choice
1.4 voting; amending Minnesota Statutes 2012, section 205.13, subdivision 2;
1.5 proposing coding for new law in Minnesota Statutes, chapter 206; proposing
1.6 coding for new law as Minnesota Statutes, chapter 204E.

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

1.8 Section 1. **[204E.01] APPLICABILITY.**

1.9 This chapter applies to all elections expressly authorized in statute to use
1.10 ranked-choice voting. All other provisions of the Minnesota Election Law also apply, to
1.11 the extent they are not inconsistent with this chapter.

1.12 Sec. 2. **[204E.02] DEFINITIONS.**

1.13 Subdivision 1. **Scope.** The definitions in this section apply to this chapter.

1.14 Subd. 2. **Batch elimination.** "Batch elimination" means a simultaneous defeat of
1.15 multiple continuing candidates that have no mathematical chance of being elected.

1.16 Subd. 3. **Chief election official.** "Chief election official" means the principal officer
1.17 in the jurisdiction charged with duties relating to elections.

1.18 Subd. 4. **Duplicate ranking.** "Duplicate ranking" means a voter has ranked the
1.19 same candidate at multiple rankings for the office being counted.

1.20 Subd. 5. **Exhausted ballot.** "Exhausted ballot" means a ballot that can no longer be
1.21 advanced under the procedures in section 204E.06.

1.22 Subd. 6. **Highest continuing ranking.** "Highest continuing ranking" means the
1.23 ranking on a voter's ballot with the lowest numerical value for a continuing candidate.

2.1 Subd. 7. **Mathematically impossible to be elected.** "Mathematically impossible to
2.2 be elected" means either:

2.3 (1) the candidate cannot be elected because the candidate's current vote total plus all
2.4 votes that could possibly be transferred to the candidate in future rounds from candidates
2.5 with fewer votes or an equal number of votes and surplus votes would not be enough to
2.6 surpass the candidate with the next higher current vote total; or

2.7 (2) the candidate has a lower current vote total than a candidate who is described
2.8 by clause (1).

2.9 Subd. 8. **Overvote.** "Overvote" means a voter has ranked more than one candidate
2.10 at the same ranking.

2.11 Subd. 9. **Partially defective ballot.** "Partially defective ballot" means a ballot that
2.12 is defective to the extent that the election judges are unable to determine the voter's intent
2.13 with respect to the office being counted.

2.14 Subd. 10. **Ranked-choice voting.** "Ranked-choice voting" means an election
2.15 method in which voters rank candidates for an office in order of their preference, with
2.16 each vote counting for the highest-ranked continuing candidate on each ballot until that
2.17 candidate has been elected or defeated by the method established in this chapter.

2.18 Subd. 11. **Ranked-choice voting tabulation center.** "Ranked-choice voting
2.19 tabulation center" means the place selected for the automatic or manual processing and
2.20 tabulation of ballots.

2.21 Subd. 12. **Ranking.** "Ranking" means the number assigned by a voter to a candidate
2.22 to express the voter's preference for that candidate. Ranking number one is the highest
2.23 ranking. A ranking of lower numerical value indicates a greater preference for a candidate
2.24 than a ranking of higher numerical value.

2.25 Subd. 13. **Round.** "Round" means an instance of the sequence of voting tabulation
2.26 steps established in section 204E.06.

2.27 Subd. 14. **Skipped ranking.** "Skipped ranking" means a voter has left a ranking
2.28 blank and ranks a candidate at a subsequent ranking.

2.29 Subd. 15. **Surplus.** "Surplus" means the total number of votes cast for an elected
2.30 candidate in excess of the threshold.

2.31 Subd. 16. **Surplus fraction of a vote.** "Surplus fraction of a vote" means the
2.32 proportion of each vote to be transferred when a surplus is transferred. The surplus
2.33 fraction is calculated by dividing the surplus by the total votes cast for the elected
2.34 candidate, calculated to four decimal places, ignoring any remainder.

2.35 Subd. 17. **Threshold.** "Threshold" means the number of votes sufficient for a
2.36 candidate to be elected. In any given election, the threshold equals the total votes counted

in the first round after removing defective ballots, divided by the sum of one plus the number of offices to be filled and adding one to the quotient, disregarding any fractions.

Subd. 18. **Transfer value.** "Transfer value" means the fraction of a vote that a transferred ballot will contribute to the next ranked continuing candidate on that ballot. The transfer value of a vote cast for an elected candidate is calculated by multiplying the surplus fraction of each vote by its current value, calculated to four decimal places, ignoring any remainder. The transfer value of a vote cast for a defeated candidate is the same as its current value.

Subd. 19. **Transferable vote.** "Transferable vote" means a vote or a fraction of a vote for a candidate who has been either elected or defeated.

Subd. 20. **Totally defective ballot.** "Totally defective ballot" means a ballot that is defective to the extent that election judges are unable to determine the voter's intent for any office on the ballot.

Subd. 21. **Undervote.** "Undervote" means a voter did not rank any candidates for an office.

Sec. 3. [204E.03] AUTHORIZATION TO ADOPT RANKED-CHOICE VOTING; IMPLEMENTATION.

(a) The following political subdivisions may adopt, in the manner provided in this subdivision, ranked-choice voting as a method of voting for local offices within the political subdivision:

(1) home rule charter or statutory cities;

(2) counties;

(3) towns; and

(4) school districts.

(b) A jurisdiction that adopts ranked-choice voting may do so by adopting an ordinance, resolution, or in the case of a charter city by approval of voters of the city at a special or general election. If adoption by voter approval is used, the question placed on the ballot shall read "Shall (name of the jurisdiction) adopt the use of ranked-choice voting to elect local officials?" If a majority of voters voting on the question vote yes, ranked-choice voting shall be used in the jurisdiction to elect local officials. Use of the ranked-choice voting method may be repealed and it must be done by the same method provided for adoption.

(c) A home rule charter jurisdiction may adopt a ranked-choice voting system in its charter. Adoption of a ranked-choice voting system may be made by reference to this chapter in the charter. If ranked-choice voting is adopted by charter, it may only be

repealed by amending the charter. Nothing in this chapter prevents a home rule charter jurisdiction from adopting another voting method in its charter.

(d) Ranked-choice voting shall only be used to elect local offices at a general or special election. A primary election must not be held for any nonpartisan offices that are elected using ranked-choice voting.

(e) A jurisdiction that adopts the use of ranked-choice voting in local elections must do so no later than 30 days before the first day for filing affidavits of candidacy for the office for which ranked-choice voting is to be used as the method of election.

(f) Repeal of ranked-choice voting must be no later than 30 days before the first day for filing affidavits of candidacy for offices for which ranked-choice voting is used as the method of election.

(g) The chief election official shall notify the secretary of state and, if applicable, the county auditor within 30 days following adoption or repeal of ranked-choice voting.

Sec. 4. **[204E.04] BALLOTS.**

Subdivision 1. Ballot format. (a) If there are two or more qualified candidates, a ballot must allow a voter to rank at least three candidates for the office in order of preference. In the case of a multiseat race, if there are three or more qualified candidates, a ballot must allow a voter to rank at least three candidates for each office in order of preference. Regardless of the number of qualified candidates or number of seats to be elected, the ballot must permit the voter to add, and rank, write-in candidates for the office.

(b) A ballot must:

(1) include instructions to voters that clearly indicate how to mark the ballot;

(2) include instructions to voters that clearly indicate how to rank candidates in order of the voter's preference; and

(3) indicate the number of seats to be elected for each office.

(c) A jurisdiction may use ballots compatible with alphanumeric character recognition voting equipment.

Subd. 2. Mixed-election method ballots. If elections are held in which ranked-choice voting is used in addition to other methods of voting, the ranked-choice voting and non-ranked-choice voting elections must be on the same ballot card if possible, with ranked-choice voting and non-ranked-choice voting portions clearly separated on the ballot card. A separate ballot card may be used if necessary. A jurisdiction may deviate from the standard ballot order of offices only to the extent necessary to allow separation of ranked-choice voting and non-ranked-choice voting elections.

5.1 Subd. 3. **Ballot format.** The chief election official shall determine the ballot format
5.2 after a voting mechanism has been selected, consistent with this section.

5.3 Sec. 5. **[204E.05] RANKED-CHOICE VOTING TABULATION CENTER.**

5.4 Subdivision 1. **Tabulation of votes; generally.** The chief election official shall
5.5 designate one location to serve as the ranked-choice voting tabulation center. The
5.6 center must be accessible to the public for the purpose of observing the vote tabulation.
5.7 Tabulation of votes must be conducted as described in section 204E.06.

5.8 Subd. 2. **Precinct tabulation.** When the hours for voting have ended and all voting
5.9 has concluded, the election judges in each precinct shall record and publicly declare
5.10 the number of first choices cast for each candidate in that precinct. The election judges
5.11 must then securely transfer all electronic voting data and ballots from the precinct to the
5.12 ranked-choice voting tabulation center designated under this section. Upon receipt at the
5.13 ranked-choice voting tabulation center, all electronic voting data and ballots shall be
5.14 secured.

5.15 Subd. 3. **Notice of recess in count.** At any time following receipt of materials under
5.16 subdivision 1, the chief election official may declare a recess for meals or other necessary
5.17 purposes. Notice of the recess must include the date, time, and location at which the
5.18 process of recording and tabulating votes will resume and the reason for the recess. Notice
5.19 must be posted on the city's official bulletin board and on the door of the ranked-choice
5.20 voting tabulation center.

5.21 Subd. 4. **Recording write-in votes.** At a time set by the chief election official,
5.22 the judges of the election shall convene at the ranked-choice voting tabulation center to
5.23 examine ballots on which voters have indicated a write-in choice, and record the names
5.24 and number of votes received by each write-in candidate. In the event that votes cast for
5.25 the write-in category are not eliminated as provided in section 204E.06, the results must
5.26 be entered into the ranked-choice voting tabulation software, if used.

5.27 Subd. 5. **Ranked-choice vote tabulation.** After all votes have been recorded, and at
5.28 a time set by the chief election official, the process of tabulating votes cast for offices to be
5.29 elected using the ranked-choice method must begin. The counting must continue until
5.30 preliminary results for all races are determined, subject to subdivision 3.

5.31 Sec. 6. **[204E.06] TABULATION OF VOTES.**

5.32 (a) Tabulation of votes at the ranked-choice voting tabulation center must proceed
5.33 in rounds for each office to be counted. The threshold must be calculated and publicly
5.34 declared. Each round must proceed sequentially as follows:

(1) the number of votes cast for each candidate for the current round must be counted.
If the number of candidates whose vote totals equal or exceed the threshold are equal to
the number of seats to be filled, those candidates who are continuing candidates are elected
and the tabulation is complete. If the number of candidates whose vote totals are equal to
or greater than the threshold is not equal to the number of seats to be filled, a new round
begins and the tabulation must continue as provided in the remainder of this paragraph;

(2) surplus votes for any candidates whose vote totals are equal to or greater than
the threshold must be calculated;

(3) after any surplus votes are calculated but not yet transferred, all candidates for
whom it is mathematically impossible to be elected must be defeated by batch elimination.
Votes for the defeated candidates must be transferred to each ballot's next-ranked continuing
candidate, and the tabulation process reiterates beginning with clause (2). If no candidate
can be defeated mathematically, the tabulation must continue as described in clause (4);

(4) the transfer value of each vote cast for an elected candidate must be transferred
to the next continuing candidate on that ballot. Of the candidates whose vote totals reach
or exceed the threshold, the candidate with the largest surplus is declared elected and that
candidate's surplus is transferred. A tie between two or more candidates must immediately
and publicly be resolved by lot by the chief election official at the tabulation center. The
surplus of the candidate chosen by lot must be transferred before other transfers are made.
The result of the tie resolution must be recorded and reused in the event of a recount. If no
candidate has a surplus, the tabulation must continue as described in clause (5); otherwise,
the tabulation process must reiterate beginning with clause (2);

(5) if there are no transferable surplus votes, the candidate with the fewest votes is
defeated. Votes for the defeated candidate must be transferred to each ballot's next-ranked
continuing candidate. Ties between candidates with the fewest votes must be decided by
lot, and the candidate chosen by lot must be defeated. The result of the tie resolution must
be recorded and reused in the event of a recount. The tabulation process must reiterate
beginning with clause (2); and

(6) the procedures in clauses (2) to (5) must be repeated until the number of
candidates whose vote totals are equal to or exceed the threshold is equal to the number of
seats to be filled, or until the number of continuing candidates is equal to the number of
offices yet to be elected. If the number of continuing candidates is equal to the number of
offices yet to be elected, the remaining continuing candidates must be declared elected.
In the case of a tie between two continuing candidates, the tie must be decided by lot as
provided in section 204C.34, and the candidate chosen by lot must be defeated. The result
of the tie resolution must be recorded and reused in the event of a recount.

(b) When a single skipped ranking is encountered on a ballot, that ballot must count toward the next nonskipped ranking. If any ballot cannot be advanced because no further candidates are ranked on that ballot, because a voter has skipped more than one ranking, or because an undervote, overvote, or duplicate ranking is encountered, the ballot must not count toward any candidate in that round or in subsequent rounds for the office being counted.

Sec. 7. **[204E.07] REPORTING RESULTS.**

(a) Each precinct must print a precinct summary statement, which must include the number of first choices cast for each candidate in that precinct.

(b) The ranked-choice voting tabulation center must print a summary statement with the following information: total votes cast; number of undervotes; number of totally defective and spoiled ballots; threshold calculation; total first choice rankings for all candidates; round-by-round tabulation results, including simultaneous batch eliminations, surplus transfers, and defeated candidate transfers; and exhausted ballots at each round.

(c) The summary statement must be certified as true and accurate and include the signatures of those who are making the certification.

(d) The election abstract must include the information required in the ranked-choice voting tabulation center summary statement, with the addition of the number of registered voters by precinct, the number of same-day voter registrations, and the number of absentee voters.

Sec. 8. **[204E.08] RECOUNTS.**

(a) A candidate defeated in the final round of tabulation may request a recount as provided in section 204C.36.

(b) A candidate defeated in the final round of tabulation when the vote difference is greater than that provided in section 204C.36 may request a recount at the candidate's own expense. A candidate defeated in an earlier round of tabulation may request a recount at the candidate's own expense. The candidate is responsible for all expenses associated with the recount, regardless of the vote difference between the candidates in the round in which the requesting candidate was defeated. The requesting candidate shall file with the filing officer a bond, cash, or surety in an amount set by the filing officer for the payment of the recount expenses. Expenses must be determined as provided in section 204C.36, subdivision 4.

(c) Rules adopted by the secretary of state under section 204C.36 for recounts apply to recounts conducted under this section, as far as practicable.

8.1 Sec. 9. **[204E.09] POSTELECTION REVIEW OF RANKED-CHOICE VOTING**
8.2 **SYSTEMS.**

8.3 (a) Unless otherwise specified in this section, the requirements of section 206.89
8.4 apply to the postelection review of ranked-choice voting systems, as far as practicable.

8.5 (b) A postelection review of ranked-choice voting systems is required only where
8.6 tabulation software is used to determine the winner of an election. A postelection review
8.7 is not required for a race that will be subject to a recount pursuant to section 204E.08.

8.8 (c) When a postelection review is required under this section, the chief election
8.9 official must set the date, time, and place for the postelection review at least 30 days
8.10 before the election.

8.11 (d) When a postelection review is required under this section, the review must
8.12 include the district-wide vote totals for an office in at least one single-seat ranked choice
8.13 voting election and at least one multiple-seat ranked choice voting election, if such an
8.14 election occurred. The review must be conducted for elections decided most closely in
8.15 the final round, by percentage.

8.16 Sec. 10. **[204E.10] RULES.**

8.17 The secretary of state may adopt rules necessary to implement the requirements
8.18 and procedures established by this chapter.

8.19 Sec. 11. Minnesota Statutes 2012, section 205.13, subdivision 2, is amended to read:

8.20 Subd. 2. **Notice of filing dates.** At least two weeks before the first day to file
8.21 affidavits of candidacy, the municipal clerk shall publish a notice stating the first and last
8.22 dates on which affidavits of candidacy may be filed in the clerk's office and the closing time
8.23 for filing on the last day for filing. The clerk shall post a similar notice at least ten days
8.24 before the first day to file affidavits of candidacy. The notice must indicate the method of
8.25 election to be used for the offices on the ballot. The notice must separately list any office
8.26 for which affidavits of candidacy may be filed to fill the unexpired portion of a term when a
8.27 special election is being held to fill a vacancy as provided in section 412.02, subdivision 2a.

8.28 Sec. 12. **[206.802] ELECTRONIC VOTING SYSTEMS; PURCHASING.**

8.29 Any new voting equipment purchased for use in Minnesota for the purpose of
8.30 replacing a voting system must have the ability to:

8.31 (1) capture and store ballot data;

8.32 (2) keep data anonymous;

8.33 (3) accept ranked or cumulative voting data under a variety of tabulation rules;

9.1 (4) be programmable to follow all other specifications of the ranked-choice voting
9.2 system as provided in chapter 204E;

9.3 (5) provide a minimum of three rankings for ranked-choice voting elections;

9.4 (6) notify voters of the following errors: overvotes, skipped rankings, and duplicate
9.5 rankings in a ranked-choice voting election; and

9.6 (7) be programmable to print a zero tape indicating all rankings for all candidates in
9.7 a ranked-choice voting election.

9.8 **EFFECTIVE DATE.** This section is effective upon certification by the secretary of
9.9 state that equipment meeting the standards required by this section has been certified for
9.10 use in Minnesota pursuant to section 206.57.