

CHAPTER 206

CONDUCT OF ELECTIONS, MANNER OF VOTING

206.01 TIME FOR VOTING

HISTORY. RS 1851 c 5 s 11; PS 1858 c 6 s 9; 1861 c 15 s 7; GS 1866 c 1 s 7, 12; 1876 c 74 s 1; 1878 c 84 s 4; GS 1878 c 1 s 11; 1885 c 145 s 16; 1887 c 4 s 10; GS 1878 Vol 2 (1888 Supp) c 1 s 10; GS 1878 Vol 2 (1888 Supp) c 10 s 219; 1889 c 3 s 8; 1889 c 125; 1891 c 4 s 10; 1893 c 4 s 73; GS 1894 s 78, 1216; 1899 c 349 s 15; 1901 c 60; RL 1905 s 191, 252, 712; 1907 c 278 s 1; 1909 c 125 s 2; 1911 c 172 s 1; 1913 c 23 s 1, 2; 1913 c 413 s 1; GS 1913 s 346, 435, 437, 1252; 1917 c 34; 1919 s 282; GS 1923 s 305, 401, 1054, 1169; MS 1927 s 305, 401, 1054, 1169; 1929 c 198 s 1; 1939 c 345 Pt 6 c 8 s 1; M Supp s 601-6(8), 401-1; 1941 c 293 s 1; 1945 c 229 s 2.

206.02 BALLOT BOXES; OPENING, SEALING

HISTORY. 1862 c 15 s 9; GS 1866 c 1 s 9; 1878 c 84 s 4; GS 1878 c 1 s 13, 80; 1887 c 4 s 4, 14; GS 1888 Supp. c 1 s 14; 1889 c 3 s 4; 1891 c 4 s 21; 1893 c 4 s 85; GS 1894 s 90; RL 1905 s 262; Mason's 1927 s 411; 1939 c 345 Pt 6 c 8 s 2; Mason's Supp. s 601-6(8)a; 1947 c 9 s 1; 1953 c 240 s 1.

206.06 CHALLENGERS

A political party worker may not be present at a polling place to make a record of voters who asked for or who voted the ballot of either political party. OAG Feb. 11, 1952 (672-B-1).

206.08 WHO MAY APPOINT CHALLENGERS

HISTORY. 1915 c 329; MS 1927 s 425-1; 1939 c 345 Pt 6 c 8 s 8; M Supp s 601-6(8)g.

206.09 WHO MAY REMAIN IN POLLING PLACES

HISTORY. 1889 c 3 s 26; 1891 c 4 s 46; 1893 c 4 s 91; GS 1894 s 96; RL 1905 s 268; GS 1913 s 453; GS 1923 s 417; 1925 c 420 s 1; MS 1927 s 417; 1939 c 345 Pt 6 c 8 s 9; M Supp s 601-6(8)h.

Challengers may remain while the votes are being counted, but may not interfere with the counting of ballots by the judges and clerks. OAG Jan. 15, 1948 (182).

Distribution of literature carrying the wording "I voted" and which does not advocate in any way the candidacy of any person, is permitted on election day; but in view of the ease with which the placard could be stamped with the name of the candidate, it should not be distributed near the polling place. OAG Sept. 29, 1952 (627-H).

206.10 JUDGES OR CHALLENGERS MAY CHALLENGE VOTER; MAY BE REQUIRED TO TAKE OATH

HISTORY. RS 1851 c 5 s 16, 25; PS 1858 c 6 s 14, 23; 1861 c 15 s 71-75; GS 1866 c 1 s 65-69; GS 1878 c 1 s 65-69; GS 1878 c 1 s 68-72; 1887 c 4 s 25-27; 1889 c 3 s 49-51, 73; 1891 c 4 s 58; 1893 c 4 s 97, 98; GS 1894 s 102, 103; RL 1905 s 272; GS 1913 s 457; GS 1923 s 421; 1925 c 420 s 1; MS 1927 s 421; 1939 c 345 Pt 6 c 8 s 10; M Supp s 601-6(8)i.

206.12 CERTIFICATES OF REGISTERED VOTERS

HISTORY. RS 1851 c 5 s 16, 25; PS 1858 c 6 s 14, 23; 1861 c 15 s 71-75; GS 1866 c 1 s 65-69; GS 1878 c 1 s 68-72; 1887 c 4 s 25-27; 1889 c 3 s 49-51, 73; 1891 c 4

MINNESOTA STATUTES 1953 ANNOTATIONS

206.13 CONDUCT OF ELECTIONS AND MANNER OF VOTING

592

s 58; 1893 c 4 s 97, 98; GS 1894 s 102, 103; RL 1905 s 272; GS 1913 s 457; GS 1923 s 421; 1925 c 420 s 1; MS 1927 s 421; 1939 c 345 Pt 6 c 8 s 12; M Supp s 601-6(8)k.

206.13 VOTING

HISTORY. RS 1851 c 5 s 20; PS 1858 c 6 s 18; 1861 c 15 s 10-12; GS 1866 c 1 s 10, 11; 1878 c 84 s 8; GS 1878 c 1 s 14, 15, 84; 1881 c 79; 1887 c 4 s 16, 20, 80; GS 1878 Vol 2 (1888 Supp) c 1 s 16, 20, 80; 1889 c 3 s 31, 44, 73; 1891 c 4 s 52, 101; 1893 c 4 s 101; GS 1894 s 106; RL 1905 s 276; GS 1913 s 461; GS 1923 s 425; MS 1927 s 425; 1939 c 345 Pt 6 c 8 s 13; M Supp s 601-6(8)l.

206.14 VOTER TO RECEIVE BALLOTS

HISTORY. 1887 c 4 s 16; GS 1878 Vol 2 (1888 Supp) c 1 s 16; 1891 c 4 s 52, 56; 1893 c 4 s 97; GS 1894 s 104; 1899 c 349 s 16, 17; 1901 c 216 s 4; RL 1905 s 192; GS 1913 s 347; GS 1923 s 306; 1925 c 420 s 1; MS 1927 s 306; 1923 c 244 s 4; 1939 c 345 Pt 6 c 8 s 14; M Supp s 601-6(8)m.

206.15 MARKING BALLOTS

HISTORY. 1891 c 4 s 52; 1893 c 4 s 100; GS 1894 s 105; 1899 c 349 s 17; RL 1905 s 193; Ex1912 c 2 s 7; GS 1913 s 348; 1915 c 167 s 7; GS 1923 s 307; MS 1927 s 307; 1933 c 244 s 5; 1939 c 345 Pt 6 c 8 s 15; M Supp s 601-C(8)n.

Where two justices of the supreme court were to be elected and four names appeared upon the ballot even though the direction on the ballot said "vote for two," a voter may vote for only one and the ballot is not spoiled. Should the voter vote for more than two, the ballot is spoiled. OAG Nov. 10, 1948 (28-A-6).

206.16 SHALL MARK EACH BALLOT

When in the election of a town assessor a name is written on the ballot and there are two persons in the town by the same name, parol evidence may be considered in determining the intention of the voter. OAG March 22, 1949 (28-A-3).

Where two justices of the supreme court were to be elected and four names appeared upon the ballot even though the direction on the ballot said "vote for two," a voter may vote for only one and the ballot is not spoiled. Should the voter vote for more than two, the ballot is spoiled. OAG Nov. 10, 1948 (28-A-6).

In a presidential primary stickers and write-in names, if used, must be counted and reported in the election returns. OAG March 14, 1952 (28-C-5).

Where one candidate files for justice of the peace, and the vote is a tie with a write-in candidate, both are not elected, even though the town is entitled to two justices. The judges should have determined the election by lot. OAG March 31, 1953 (266-A-5).

206.17 SHALL FOLD BALLOTS AND DEPOSIT IN INDICATED BOXES

HISTORY. 1893 c 4 s 101; GS 1894 s 106; 1899 c 349 s 18; 1901 c 216 s 5; RL 1905 s 194; GS 1913 s 349; GS 1923 s 308; MS 1927 s 308; 1933 c 244 s 6; 1939 c 345 Pt 6 c 8 s 17; M Supp s 601-6(8)p.

In a "secret ballot" ordered by the state conciliator to aid in determining a controversy between two rival unions over representation and selection of an appropriate bargaining agent, a specific instruction on the printed ballot read: "Mark only in one place." Four hundred votes were cast, one of which was considered to be void. Of the other 399 ballots, 199 were for the C.I.O. and 199 were for the A.F.L. The remaining ballot creates the controversy. In view of the wide discretion given the labor conciliator by the statute, he was justified in finding the contested ballot void which was marked in one place "A.F.L." and in another place "No" respectively in the square opposite the choice of A.F.L. and the C.I.O. unions on the grounds that the markings on the ballot made it identifiable. State v Hanson, 229 M 341, 38 NW(2d) 844.

MINNESOTA STATUTES 1953 ANNOTATIONS

593

CONDUCT OF ELECTIONS AND MANNER OF VOTING 206.33

206.19 VOTER NOT TO DIVULGE NAME OF PERSON FOR WHOM HE VOTES

Spoiled ballots should not be included in determining the change of a town hall site requiring two-thirds of the votes cast at such election. OAG April 7, 1948 (128-A-3) (434-C-5).

206.21 EMPLOYEES MAY VOTE WITHOUT LOSS OF TIME

HISTORY. 1893 c 4 s 109; GS 1894 s 114; RL 1905 s 283; GS 1913 s 472; 1923 c 4 s 109; GS 1923 s 435; MS 1927 s 435; 1939 c 345 Pt 6 c 8 s 21; M Supp s 601-6(8)t.

The statutory provision making deduction of wages for four hour period employee absents himself for purpose of voting a misdemeanor, is unconstitutional as taking property from one person and giving it to another. *Illinois Central v Commonwealth*, 305 Ky 632, 204 SW(2d) 973.

Missouri Revised Statute 1949, Section 129.060, which provides that any employee entitled to vote may absent himself from his employment for four hours between the opening and closing of the polls on election days and that any employer who deducts wages for that absence is guilty of a misdemeanor, does not violate the Due Process or Equal Protection Clause of the Fourteenth Amendment or the Contract Clause of Article I, Section 10, of the Federal Constitution. Pp. 421-425. 362 Mo. 299, 240 SW(2d) 886, affirmed. *Modifying Illinois Central R. Co. v Commonwealth*, 305 Ky. 632, 204 SW(2d) 973; *People v Chicago, Milwaukee & St. Paul R. Co.*, 306 Ill. 486, 138 NE 155. *Day-Brite Lighting Inc. v Missouri*, 340 US 421.

A municipal employee, whether paid by the hour, by the day, or by the month, may absent himself without loss of pay for such reasonable time as is necessary to enable him to vote during the forenoon of election day. OAG Nov. 1, 1950 (185-A-3).

206.23 HAND BALLOTS TO VOTER

Amended, 1949 c 584 s 2.

206.28 TALLY BOOKS

HISTORY. 1893 c 4 s 130; GS 1894 s 135; RL 1905 s 294; GS 1913 s 483; GS 1923 s 446; MS 1927 s 446; 1939 c 345 Pt 6 c 9 s 1; M Supp s 601-6(9); 1941 c 194 s 1.

206.30 FORM OF TALLY BOOK

HISTORY. 1893 c 4 s 131; GS 1894 s 136; RL 1905 s 298; GS 1913 s 487; GS 1923 s 450; MS 1927 s 450; 1947 c 270 s 9; 1939 c 345 Pt 6 c 9 s 3; M Supp s 601-6(9)b; 1941 c 194 s 2; 1949 c 584 s 3.

206.31 COUNTY AUDITOR TO FURNISH TALLY BOOKS FOR PRIMARY ELECTION

HISTORY. 1899 c 349 s 21, 22; RL 1905 s 197; Ex1912 c 2 s 9; GS 1913 s 352; GS 1923 s 311; 1925 c 420 s 1; MS 1927 s 311; 1939 c 345 Pt 6 c 9 s 4; M Supp s 601-6(9)c; 1941 c 194 s 3.

206.32 TALLY BOOK TO BE PART OF ELECTION RETURNS

HISTORY. 1899 c 349 s 20; 1901 c 216 s 6; RL 1905 s 196; Ex1912 c 2 s 8; GS 1913 s 351; 1915 c 167 s 8; GS 1923 s 310; MS 1927 s 310; 1933 c 244 s 7; 1939 c 345 Pt 6 c 9 s 5; M Supp s 601-6(9)d; 1941 c 194 s 4.

206.33 ELECTION RETURNS

HISTORY. RS 1851 c 5 s 30; PS 1858 c 6 s 28; 1893 c 4 s 151; GS 1894 s 156; RL 1905 s 314; GS 1913 s 503; GS 1923 s 465; 1925 c 420 s 1; MS 1927 s 465; 1939 c 345 Pt 6 c 9 s 6; M Supp s 601-6(9)e; 1941 c 194 s 5.

MINNESOTA STATUTES 1953 ANNOTATIONS

206.34 CONDUCT OF ELECTIONS AND MANNER OF VOTING

594

206.34 SEALING RETURNS; STATEMENT OF TOTAL VOTE CAST

HISTORY. RS 1851 c 5 s 31; PS 1858 c 6 s 29; 1887 c 4 s 35; GS 1878 Vol 2 (1888 Supp) c 1 s 35; 1891 c 4 s 72; 1893 c 4 s 148, 152-154; GS 1894 s 157-159; RL 1905 s 315; GS 1913 s 504; GS 1923 s 466; 1925 c 126; 1925 c 420 s 1; MS 1927 s 466; 1937 c 270 s 12; 1939 c 345 Pt 6 c 9 s 7; M Supp s 601-6(9)f; 1941 c 194 s 6; 1951 c 167 s 6.

206.35 RETURNS, CLASSES OF FIRST, SECOND, AND THIRD CLASSES; DELIVERY

HISTORY. Amended, 1951 c 167 s 7.

A judge of election may not become an employee of a radio station for the purpose of giving news or perform other like services during the time he is performing the duties of an election judge. OAG May 27, 1953 (183-L).

206.40 CANVASS OF VOTES TO BE PUBLIC

It is improper for the clerk, who is not an election judge, to handle the ballots while the judges are engaged in counting them. OAG Dec. 12, 1950 (28-A-3).

206.41 ORDER OF CANVASS

Amended, 1949 c 584 s 4.

206.42 METHOD OF CANVASS

Section 206.46 as amended by Laws 1947, Chapter 564 is in conflict with the provisions of section 206.42, and where inconsistent the provisions of section 206.46 as amended apply. Under the present law one election judge will remove one ballot from the box, inspect it as to correctness of voting and marking, and hand it to the other judge who shall read each name voted for to the two tally clerks. As to defective ballots the reference to section 206.52 is clearly intended as a reference to section 206.51. OAG April 17, 1948 (183-S).

206.45 CLERKS TO TALLY BALLOTS

HISTORY. RS 1851 c 5 s 30; PS 1858 c 6 s 28; 1889 c 3 s 56; 1893 c 4 s 129; GS 1894 s 134; RL 1905 s 293; GS 1913 s 482; GS 1923 s 445; MS 1927 s 445; 1939 c 345 Pt 6 c 10 s 7; M Supp s 601-6(10)f.

When two candidates are to be elected to fill two vacancies, ballots containing a single vote for one candidate must be counted and included in the total. OAG May 28, 1953 (161-A-11).

206.46 CANVASSING VOTES; METHOD; INSPECTION

HISTORY. 1861 c 15 s 15; GS 1866 c 1 s 14; 1878 c 84 s 12; GS 1878 c 1 s 18, 88; 1887 c 4 s 32; GS 1878 Vol 2 (1888 Supp) c 1 s 32; 1889 c 3 s 56; 1891 c 4 s 69; 1893 c 4 s 143; 1893 c 4 s 134, 135; GS 1894 c 139, 140; RL 1905 s 300; GS 1913 s 489; GS 1923 s 452; 1925 c 420 s 1; MS 1927 s 452; 1939 c 345 Pt 6 c 10 s 8; M Supp s 601-6(10)g; 1947 c 564 s 1; 1949 c 103 s 1.

A canvassing board has no authority to determine that the death of a party nominee results in the nomination of a party candidate receiving the next highest number of votes. OAG Sept. 22, 1948 (28-B-1).

Tally sheets should be made up to conform to the provisions of Laws 1947, Chapter 564, and the certificate of the judges should be as prescribed in Laws 1947, Chapter 564. OAG Jan. 15, 1948 (183-S).

Section 206.46 as amended by Laws 1947, Chapter 564, is in conflict with the provisions of section 206.42, and where inconsistent the provisions of section 206.46 as amended apply. Under the present law one election judge will remove one ballot from

MINNESOTA STATUTES 1953 ANNOTATIONS

595

U. S. SENATORS; NOMINATION, SELECTION 207.02

the box, inspect it as to correctness of voting and marking, and hand it to the other judge who shall read each name voted for to the two tally clerks. As to defective ballots the reference to section 206.52 is clearly intended as a reference to section 206.51. OAG April 17, 1948 (183-S).

206.463 MINNEAPOLIS, ELECTIONS

HISTORY. 1953 c 232 s 1, 2.

206.47 BALLOTS TO BE PLACED IN ENVELOPES AND SEALED

HISTORY. RS 1851 c 5 s 31; PS 1858 c 6 s 29; 1861 c 15 s 18; GS 1866 c 1 s 17; GS 1878 c 1 s 21; 1887 c 4 s 34; GS 1878 Vol 2 (1888 Supp) c 1 s 34; 1889 c 3 s 58; 1893 c 4 s 138, 148; GS 1894 s 153; RL 1905 s 311; 1911 c 256 s 1; GS 1913 s 500; 1915 c 167 s 12; GS 1923 s 462; 1925 c 420 s 1; MS 1927 s 462; 1939 c 345 Pt 6 c 10 s 9; M Supp s 601-6(10)h.

206.50 RULES FOR CANVASSING BALLOTS

When in the election of a town assessor a name is written on the ballot and there are two persons in the town by the same name, parol evidence may be considered in determining the intention of the voter. OAG March 22, 1949 (28-A-3).

206.51 DEFECTIVE BALLOTS

Section 206.46 as amended by Laws 1947, Chapter 564, is in conflict with the provisions of section 206.42, and where inconsistent the provisions of section 206.46 as amended apply. Under the present law one election judge will remove one ballot from the box, inspect it as to correctness of voting and marking, and hand it to the other judge who shall read each name voted for to the two tally clerks. As to defective ballots the reference to section 206.52 is clearly intended as a reference to section 206.51. OAG April 17, 1948 (183-S).

206.52 MEMBERS OF COUNTY CANVASSING BOARD

HISTORY. RS 1851 c 5 s 33; PS 1858 c 6 s 31, 32; 1861 c 15 s 20, 22, 23, 31, 32, 35, 40; GS 1866 c 1 s 19, 21, 22, 29-33, 37; 1867 c 90; GS 1878 c 1 s 23-25, 32-36, 40; 1881 c 22; 1887 c 4 s 39, 40, 49-52; GS 1878 Vol 2 (1888 Supp) c 1 s 39, 40, 49-52; 1891 c 4 s 74-80; 1893 c 4 s 163, 164, 167-169; GS 1894 s 169-173; 1899 c 349 s 23, 24; 1901 c 216 s 7, 8; RL 1905 s 198, 199, 319, 321; Ex1912 c 2 s 10; GS 1913 s 353, 354, 512-515; 1915 c 167 s 14; GS 1923 s 312, 313, 474-477; MS 1927 s 474-476; 1939 c 345 Pt 6 c 11 s 1; M Supp s 601-6(11); 1941 c 330 s 1.

The clerk of court and the county auditor may serve on the canvassing board even if they are candidates for re-election. OAG Nov. 1, 1950 (183-C).

CHAPTER 207

UNITED STATES SENATORS; NOMINATION, SELECTION

207.02 AFFIDAVIT FILED

HISTORY. 1913 c 520 s 2; GS 1913 s 376; GS 1923 s 334; MS 1927 s 334; 1939 c 345 Pt 6 c 12 s 2; M Supp s 601-6(12)a; 1941 c 205 s 1; 1951 c 96 s 2.