

## CHAPTER 202A

### CAUCUSES, CONVENTIONS, ELECTIONS, CANVASS

- 202A.01 Definitions.  
CAUCUSES AND CONVENTIONS
- 202A.11 Party name.
- 202A.12 State convention, authority of.
- 202A.13 Committees, conventions.
- 202A.135 Leave time from employment; party officers; delegates to party conventions.
- 202A.14 Precinct caucus.
- 202A.15 Time and place of caucus.
- 202A.16 Caucus, who may participate and vote.
- 202A.17 Caucus, business.
- 202A.18 Caucus, procedure.
- 202A.19 Caucus, school schedule preemption, excusal from employment to attend.
- 202A.192 Use of public facilities.
- PRIMARY ELECTIONS
- 202A.21 Primary election, date.
- 202A.22 Affidavit of candidacy.
- 202A.23 Candidates, eligibility.
- 202A.24 Woman candidate, names used.
- 202A.25 Candidates, filing fees; petition in lieu of filing fee.
- 202A.26 Candidates, withdrawal.
- 202A.27 Nonpartisan office, vacancy.
- 202A.28 Nominating petitions; number of signers.
- 202A.29 Nominating petition.
- 202A.30 Time of signing.

- 202A.31 Nominating petition, more than one candidate.
- 202A.32 Nominating petitions, filed with secretary of state, time.
- 202A.41 Primary election results.
- 202A.42 Primary election contest.
- GENERAL ELECTIONS
- 202A.51 General election, when held.
- 202A.52 Officers chosen.
- 202A.53 Vacancy in nomination.
- 202A.54 Candidates, withdrawal.
- SPECIAL ELECTIONS
- 202A.61 Vacancy, congress, legislature, special election.
- 202A.62 Vacancies in certain cases.
- 202A.63 Candidates to fill vacancies.
- 202A.64 Nominations; vacancy.
- 202A.65 Nominations by petition.
- 202A.66 Writ of election.
- 202A.67 Affidavits of candidacy.
- 202A.68 Special election, precincts, judges, voters.
- 202A.69 Special election returns.
- 202A.70 Congressional or legislative district, change in boundaries.
- 202A.71 General election laws, applications.
- 202A.721 United States senate vacancy; manner of filling.

#### 202A.01 DEFINITIONS.

The words used in this chapter have the meanings prescribed to them in chapter 200.

**History:** 1975 c 5 s 1

#### CAUCUSES AND CONVENTIONS

##### 202A.11 PARTY NAME.

Subdivision 1. **Change.** Any political party as defined in the Minnesota election law may change its name by complying with the following conditions:

The state central committee of the party may call a convention, and shall state in its call that a convention is called for a certain time and place, for the purpose of changing the name of the party to some specific name given in the call. The convention shall be held before the termination of the time for filing for nomination for primary elections preceding the state general election, and the change shall be agreed upon by resolution of a majority of the convention. A copy of the resolution determining the change of the name, certified by the chairman and secretary of the convention, shall be filed with the secretary of state within five days after the holding of the convention. Thereafter the political party shall be known by the new name called for by the resolution, and the party under its new name shall have all the rights that it had under its former name.

Subd. 2. **Right to use.** A political party, as defined in the Minnesota election law, which has adopted a party name, is entitled to the exclusive use of the name for the designation of its candidates on all ballots, and no candidate of any other political party is entitled to have printed on a ballot as a party designation any part of that name.

**History:** 1975 c 5 s 2

**202A.12 STATE CONVENTION, AUTHORITY OF.**

Subdivision 1. **Time of convention.** The final authority over the affairs of each political party is vested in the party's state convention to be held at least once every general election year at the call of the state central committee.

Subd. 2. **State central committee.** Subject to the control of the state convention the general management of the affairs of the state party is vested in the party's state central committee.

Subd. 3. **State executive committee.** The state executive committee of the party shall have charge of the administration of the party's affairs, subject to the direction and control of the state convention and the state central committee.

Subd. 4. **Constitution, filing.** The chairman of the state central committee of each party shall file with the secretary of state a copy of the party's constitution and all amendments to the constitution as they are enacted.

**History:** 1975 c 5 s 3

**202A.13 COMMITTEES, CONVENTIONS.**

The rules of each political party shall provide that for each congressional district and each county or legislative district a convention shall be held at least once every general election year. Each political party shall also provide for each congressional district and each county or legislative district an executive committee consisting of a chairman and such other officers as may be necessary. The party rules may provide for only one executive committee and one convention where any county and congressional district have the same territorial limits.

**History:** 1975 c 5 s 4

**202A.135 LEAVE TIME FROM EMPLOYMENT; PARTY OFFICERS; DELEGATES TO PARTY CONVENTIONS.**

Upon giving at least ten days written notice to his employer, an employee may absent himself from his work to attend any meeting of the state central committee or executive committee of a political party if the employee is a member of the committee, or to attend any convention of political party delegates including meetings of official convention committees if the employee is a delegate or alternate delegate to that convention. An employee who gives proper notice as provided in this section shall suffer no penalty or deduction from his salary or wages on account of his absence other than a deduction in salary or wages for the actual time of his absence from employment. A violation of this section by an employer is a misdemeanor.

**History:** 1980 c 400 s 1

**202A.14 PRECINCT CAUCUS.**

Subdivision 1. **Time and manner of holding.** At 8:00 p.m. on the fourth Tuesday in February in every general election year there shall be held for every election precinct a party caucus in the manner provided in sections 202A.14 to 202A.19.

Subd. 2. **Caucus call.** The chairman of the county or legislative district executive committee, whichever is provided for by party rules, shall issue the call for the precinct caucus at least 20 days before the time set for holding the caucus, and the call shall contain the following:

- (a) Name of party;
- (b) Precinct number;
- (c) Date caucus is to be held;
- (d) Place caucus is to be held;

- (e) Hours during which caucus shall be held;
- (f) Statutory rules governing the caucus;
- (g) A statement of business to be conducted including the election of a chairman and such other officers as may be provided by party rules, and the election of delegates to county or district conventions;
- (h) Number of delegates to be elected;
- (i) Name of the county or legislative district chairman issuing the call;
- (j) Name of the present precinct chairman or other person who will be the convener of the caucus;
- (k) A space for entering the names of the officers and delegates elected by the caucus.

Subd. 3. **Notice.** The county or legislative district chairman shall give at least six days' published notice of the holding of the precinct caucus, stating the place, date, and time for holding the caucus. He shall deliver the same information to the county auditor at least 20 days before the precinct caucus. The county auditor shall make this information available to persons who request it.

**History:** 1975 c 5 s 5; 1975 c 292 s 1,2

#### **202A.15 TIME AND PLACE OF CAUCUS.**

Subdivision 1. Precinct caucuses within a county shall be held on the day provided by law and the caucuses shall remain open for at least one hour.

Subd. 2. The precinct caucuses shall be held at the regular polling places for each precinct or other suitable places designated in the call, and no caucus may be adjourned to any other place or time.

In the event that there is only one suitable meeting place in the precinct polling place and the political parties cannot agree as to its use, the county auditor shall decide by lot prior to January 15, 1970, the party which is to receive the use of the meeting place in years evenly divisible by four and which party shall receive the use of the meeting place in other years in which a general election is held. The report of such selections by lot in the county shall be filed by the auditor with the county board which shall publish the same as a part of the minutes of the board meeting at which the report is filed.

**History:** 1975 c 5 s 6; 1975 c 292 s 3

#### **202A.16 CAUCUS, WHO MAY PARTICIPATE AND VOTE.**

Subdivision 1. Only those persons who are qualified to vote for candidates for federal office in the precinct as defined by the Minnesota election law in section 200.02, subdivision 25, or who will be qualified to so vote at the time of the next general election, may vote or be elected a delegate or officer at the precinct caucus.

Subd. 2. Only those persons who are in agreement with the principles of the party as stated in the party's constitution, and who either voted or affiliated with the party at the last general election or intend to vote or affiliate with the party at the next general election, may vote at the precinct caucus.

Subd. 3. In case the right of a person to participate at the caucus is challenged, the question of his right to participate shall be decided by a vote of the whole caucus. A person so challenged may not vote on the question of his right to participate.

Subd. 4. No person may vote or participate at more than one party's caucuses in any one year.

**History:** 1975 c 5 s 7

**202A.17 CAUCUS, BUSINESS.**

Each precinct caucus shall elect a chairman and such other officers as may be provided by party rules, and the proper number of delegates to congressional district, county, or legislative district conventions as determined by the party's call. The caucus may also discuss party policies, candidates, and any other business as prescribed by party rules.

**History:** 1975 c 5 s 8

**202A.18 CAUCUS, PROCEDURE.**

Subdivision 1. The convener shall be the temporary chairman of the caucus.

Subd. 2. Nominations for the election of permanent officers and delegates shall remain open for at least the first half hour of the caucus.

Subd. 3. All voting shall be by secret ballot.

Subd. 4. Upon completion of the counting of votes the chairman shall announce the names of persons who are elected, and he shall certify the names to the chairman of the county or legislative district executive committee and to the chairman of the state central committee.

Subd. 5. All questions concerning the manner in which a caucus is conducted or called that are not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by party rules.

**History:** 1975 c 5 s 9; 1975 c 292 s 4

**202A.19 CAUCUS, SCHOOL SCHEDULE PREEMPTION, EXCUSAL FROM EMPLOYMENT TO ATTEND.**

Subdivision 1. No school board, county board of commissioners, township board, or city council may conduct a meeting after 7:00 p.m. on the day of a political party precinct caucus.

Subd. 2. Every employee who is entitled to attend a political party precinct caucus is entitled, after giving the employer at least ten days written notice, to absent himself from his work for the purpose of attending the caucus during the time for which the caucus is scheduled without penalty or deduction from his salary or wages on account of his absence other than a deduction in salary for the time he absented himself from his employment.

Subd. 3. No state university may schedule an event which will take place after 7:00 p.m. on the day of a political party precinct caucus unless permission to do so has been received from the state university board. No community college may schedule an event which will take place after 7:00 p.m. on the day of a political party precinct caucus unless permission to do so has been received from the state board for community colleges.

Subd. 4. No school official may deny the use of a public school building for the holding of a political party precinct caucus if the school office has received a written request for the use of the school building 30 days or more prior to the date of the caucus.

Subd. 5. No public elementary or secondary school may hold a school sponsored event after 7:00 p.m. on the day of a political party precinct caucus.

**History:** 1973 c 349 s 2; 1975 c 5 s 10; 1975 c 321 s 1

**202A.192 USE OF PUBLIC FACILITIES.**

Every statutory city, home rule charter city, county, town, school district and other public agency, including the university of Minnesota and other public colleges and universities, shall make their facilities available for the holding of precinct caucuses and legislative district or county conventions required by this

chapter. A charge for the use of the facilities may be imposed in an amount that does not exceed the lowest amount charged to any public or private group.

**History:** 1978 c 591 s 1

### PRIMARY ELECTIONS

#### 202A.21 PRIMARY ELECTION, DATE.

On the first Tuesday after the second Monday in September preceding any general election an election of nominees hereinafter designated as the "primary election" shall be held in each election precinct for the selection of party and other candidates for all elective offices to be filled at the general election except presidential electors.

**History:** 1975 c 5 s 11

#### 202A.22 AFFIDAVIT OF CANDIDACY.

Subdivision 1. **Filing, date.** Not more than 70 nor less than 56 days before the primary election any eligible person who desires to have his name placed on the primary ballot as a candidate for any elective office to be filled at the general election, except presidential electors, shall file his affidavit with the secretary of state when to be voted for in more than one county, and with the county auditor when to be voted for in a single county stating the following:

(a) That he is a qualified voter in the subdivision where he seeks nomination;

(b) The name of his political party if for a partisan office;

(c) The office for which he desires to be a candidate;

(d) That he has not filed as a candidate for any other office at the same primary election;

(e) That he is, or will be on assuming the office, 21 years of age or more, and that he will have been for 30 days previous to the general election a resident in the district from which he seeks election;

(f) If filing to be a United States senator, that on the next January 3 he will be 30 years of age or more and nine years a citizen of the United States;

(g) If filing to be a United States representative, that on the next January 3, or in the case of an election to fill a vacancy within 21 days after the election, he will be 25 years of age or more and seven years a citizen of the United States;

(h) If filing to be governor or lieutenant governor, that on the first Monday of the next January he will be 25 years of age or more and on general election day he will have been a resident of Minnesota for one year;

(i) If filing to be a supreme court justice or a district court judge that he is learned in the law;

(j) If filing to be a probate judge, county court judge, municipal judge or other judicial officer that he is qualified as prescribed by law;

(k) If filing to be a senator or representative in the legislature, that on election day he will have resided in the state for not less than one year and in the legislative district from which he seeks election for not less than six months;

(l) If for a partisan office, that he participated in his political party's most recent caucus in an election precinct or intends to vote for a majority of his political party's candidates at the ensuing election.

(m) If filing for a partisan office as an "Independent" or in any manner indicating he is unaffiliated with a political party as defined in section 10A.01, subdivision 17, that he did not seek, does not intend to seek and will not accept any party's support for his candidacy in that election.

Subd. 2. **United States senator, candidates, designation of term.** When two persons are to be elected United States senators in congress from this state at the same general election, each person filing for the nomination, as provided in this chapter, in addition to all other matters necessary to be stated in his affidavit, shall designate the term for which he desires to be a candidate by stating the date of the expiration of such term. The designation of terms shall be observed by all the election officials and canvassing boards at both the primary and general elections.

Subd. 3. **Judicial candidates, designation of term.** In addition to the statements required to be set forth in subdivision 1 any person who files as a candidate for the office of associate justice of the supreme court, as a candidate for the office of judge of the district court, or as a candidate for the office of county court judge, shall state in his affidavit of candidacy the office of the particular justice or judge for which he is a candidate. The filing of the affidavit of candidacy and a compliance with all other requirements of this section and section 202A.25, subdivision 1, makes the person a candidate for that nonpartisan office only.

Subd. 4. **Governor and lieutenant governor.** A person who desires to have his name placed on the primary ballot as a candidate to be governor or lieutenant governor shall file his affidavit jointly with the affidavit of another person who desires to have his name placed on the primary ballot as a candidate for the other office.

Subd. 5. **Judicial office.** Each justice of the supreme court and each district or county court judge is deemed to hold a separate nonpartisan office.

**History:** 1975 c 5 s 12; 1976 c 114 s 1; 1978 c 725 s 4

## 202A.23 CANDIDATES, ELIGIBILITY.

Subdivision 1. **Candidates of party.** No person may be named on any ballot as the candidate of more than one political party, or any political party other than that whose certificate of his nomination was first properly filed.

Subd. 2. **Candidates ineligible.** A person who has been a candidate for an office at the primary election in any year is not eligible for nomination for the same office in that year by nominating petition under the provisions of section 202A.27 or 202A.28, except as provided in section 202A.41, subdivision 3.

**History:** 1975 c 5 s 13

## 202A.24 WOMAN CANDIDATE, NAMES USED.

Any married woman including a widow who files as a candidate for a public office under the laws of this state may use the prefix "Mrs." and the full name of her husband or, in the case of a widow who has not remarried, her deceased husband, or the initials of her husband or, in the case of a widow who has not remarried, her deceased husband's given name, in stating her own name on her affidavit of candidacy; and the proper state, county, or municipal official in the preparation of the official ballot, shall use the name as written on the affidavit of candidacy, in designating the candidate on the ballot.

**History:** 1975 c 5 s 14

## 202A.25 CANDIDATES, FILING FEES; PETITION IN LIEU OF FILING FEE.

Subdivision 1. **Amount.** Each candidate at the time of filing his affidavit shall pay to the secretary of state or the county auditor a filing fee as follows:

(a) If for the office of governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general, judge of the supreme court, representative in congress, judge of the district court, or judge of the municipal court of Hennepin county, the sum of \$100;

- (b) If for the office of senator in congress, the sum of \$150;
- (c) If for the office of senator or representative in the legislature, the sum of \$20;
- (d) If for a county office, the sum of \$20;
- (e) If no compensation is provided by law for the office or if the office is that of presidential elector, no filing fee is required.

Subd. 1a. **Petition in lieu of filing fee.** A candidate at the time of filing his affidavit may present a petition in lieu of the filing fee. The petition shall be signed by a number of persons, qualified to vote in the election district in which the candidate is filing, as follows:

- (a) If for the office of governor, lieutenant governor, attorney general, state auditor, state treasurer, secretary of state, judge of the supreme court or senator in congress, 2,000;
- (b) If for the office of representative in congress, 1,000;
- (c) If for the office of representative or senator in the legislature or district, county, probate or municipal judge, 500;
- (d) If for any other office for which a filing fee is prescribed by law, municipal charter or ordinance, 500 signatures or 5 percent of the total number of persons voting in the municipality, ward or other election district at the last preceding municipal general election, whichever is less.

The petition authorized by this subdivision may not be used to fulfill the requirements of sections 202A.28 to 202A.32, relative to nominating petitions.

Subd. 2. **Filing fees, disposition.** The secretary of state and county auditor, respectively, shall number each affidavit and petition in numerical order as received. The auditor shall immediately pay to the county treasurer all fees received by him from candidates. The secretary of state shall immediately pay to the state treasurer all fees received by him from candidates.

**History:** 1975 c 5 s 15; 1975 c 130 s 1; 1977 c 347 s 34

## 202A.26 CANDIDATES, WITHDRAWAL.

Subdivision 1. **Affidavit of withdrawal.** No candidate may withdraw his name from the primary ballot unless he files an affidavit with the secretary of state or with the county auditor, as the case may be, within six days after the last day for filing for the office, requesting the officer to withdraw affiant's name from the ballot.

Subd. 2. **Filing or withdrawal, time limit.** No affidavit of filing by any candidate, or affidavit of withdrawal by any candidate, may be accepted by the secretary of state or county auditor later than 5:00 p.m. of the last day for filing or withdrawal as provided in this chapter.

Subd. 3. **Filing fees, not returned.** If an affidavit of candidacy has been filed and a filing fee has been paid, no filing officer may refund the filing fee.

**History:** 1975 c 5 s 16

## 202A.27 NONPARTISAN OFFICE, VACANCY.

No persons may be nominated by nominating petition pursuant to section 202A.28 for any office now or hereafter designated as nonpartisan except in the case of a vacancy.

**History:** 1975 c 5 s 17

**202A.28 NOMINATING PETITIONS; NUMBER OF SIGNERS.**

A petition for nomination of a candidate may be signed by electors resident within the district or political division from which the candidate is presented, as follows:

(a) If for a state office on a state ticket, equal to one percent of the total number of persons voting in the state at the last preceding general election, or 2,000, whichever is the lesser;

(b) If for a congressional or judicial district office, by five percent of the total number of persons voting in the district at the last preceding general election, or 1,000, whichever is the lesser;

(c) If for a county or legislative office, by ten percent of the total number of persons voting in the county, ward, or other election district at the last preceding general election, or 500, whichever is the lesser.

(d) If for a municipal office in a city of the first class, by two percent of the total number of persons voting in the municipality, ward, or other election district at the last preceding municipal general election, or 500, whichever is greater.

**History:** 1975 c 5 s 18

**202A.29 NOMINATING PETITION.**

Subdivision 1. **Form.** The nominating petition may consist of one or more writings and shall contain the name of the person nominated, the office for which he is nominated, the party or political principle he represents, expressed in not more than three words, and his place of residence, with street and number thereof, if any. It shall include or be supplemented by an affidavit of the person nominated conforming to the requirements of section 202A.22. In case of presidential electors, the names of the candidates for president and vice-president shall be added to the party or political designation. Only one petition shall be required for the nomination of each group of presidential electors which shall be the number to which the state is entitled.

Subd. 2. **Signer's address, oath.** After the signature of each signer there shall be written his post office address. Following the facts required to be stated in each petition signed by the voter shall be an oath in the following form: "I solemnly swear (or affirm) that I know the contents and purpose of this petition, that I do not intend to vote at the primary election for the office for which this nominating petition is made, and that I signed the same of my own free will." No signature shall require notarization or certification before any officer, but each signer in so signing shall be guilty of perjury for making a false oath therein.

**History:** 1975 c 5 s 19

**202A.30 TIME OF SIGNING.**

Nominating petitions for partisan offices may be signed and filed during the period allowed by law for the filing of affidavits of candidacy by candidates at the state primary election, and no nominating petition may be signed or filed thereafter except in the case of a vacancy in a nomination. With respect to candidates for presidential electors, nominating petitions may be filed up to and including primary election day.

**History:** 1975 c 5 s 20

**202A.31 NOMINATING PETITION, MORE THAN ONE CANDIDATE.**

Subdivision 1. **Number of candidates.** All nominating petitions containing the names of more than one candidate are void except those jointly nominating persons to be governor and lieutenant governor.



Subd. 2. **Signers, more than one nominee.** No person may join as a petitioner in nominating more than one candidate for the same office unless more than one person is to be elected thereto. If more than one person is to be elected to the office, the petitioner, if eligible, may petition for as many candidates therefor as there are persons to be chosen.

**History:** 1975 c 5 s 21

## **202A.32 NOMINATING PETITIONS, FILED WITH SECRETARY OF STATE, TIME.**

Subdivision 1. **Filing, acknowledgment of filing, fee.** Nominating petitions for names to be placed on the state white ballot shall be filed with the secretary of state when to be voted for in more than one county, and with the county auditor when to be voted for in a single county. The secretary of state or the county auditor shall give or send to the person filing a nominating petition an acknowledgment thereof on the same day it is received, and he shall file and preserve the nominating petitions, subject to public inspection. No filing of any nominating petition is effective unless at the time thereof the prescribed fee is paid or tendered. The nominating petitions filed with the secretary of state, shall be inspected by the secretary of state to verify that all signatures on the petition for nomination are persons residing within the district or political division from which the candidate is presented.

The nominating petitions filed with the county auditor shall be inspected in like manner, by the county auditor.

Subd. 2. **Filing, canary ballot, districts encompassing more than one county.** In the case of names to be placed upon the state white ballot or the county and district canary ballot, whenever the nomination of a candidate to be voted for in any district larger than a single county is made by nominating petition, the petition shall be filed with the secretary of state, who shall certify the nomination to the auditor of each county within the district, and such certification shall be authority for the auditor to place the name upon the state white ballot or the county and district canary ballots.

Subd. 3. **Time.** Except with respect to the nomination of candidates for presidential electors, no nomination for any office may be made either by nominating petition or otherwise later than the last day for filing affidavits of candidacy at the state primary election, except nominations to fill a vacancy in a nomination previously made. Candidates for presidential electors may be nominated on or before primary election day.

**History:** 1975 c 5 s 22; 1976 c 224 s 1

## **202A.41 PRIMARY ELECTION RESULTS.**

Subdivision 1. **Candidates, nonpartisan offices, who nominated.** The candidates on nonpartisan ballots receiving the highest and the next highest votes shall be the nominees for the office for which they are candidates. When more than one person is to be elected for the same nonpartisan office, the candidates, to a number equal to twice the number of persons to be elected, who receive the highest number of votes, shall be the nominees for that office.

Subd. 2. **Candidates, partisan offices, who nominated.** The candidate for any political party office receiving the highest vote at the primary election shall be the nominee of that political party for the office except as provided in subdivision 3.

Subd. 3. **Party primary, ten percent requirement.** If at the primary election any person seeking a party's nomination for an office receives a number of votes equal to ten percent of the average votes cast at the last general election for state officers of that political party within the district for which the office is

voted, then all candidates of that political party who receive the highest vote for an office are the nominees of that political party. If none of the candidates of a political party receive the required ten percent, then no candidates are nominated, and all the candidates of that political party may be nominated, by nominating petitions as provided in sections 202A.27 to 202A.31. The term "state officers," as used in this section for the purpose of computing the average vote to determine the ten percent as provided in this section, means the governor, lieutenant governor, secretary of state, state auditor, state treasurer, and attorney general.

Subd. 4. **General election, nominees.** The persons certified by canvassing boards to be nominated shall constitute the nominees of the several political parties or the nonpartisan nominees, as the case may be, to be voted for at the next ensuing general election, and their names shall be printed upon the official ballots prepared for the ensuing election.

**History:** 1975 c 5 s 23

#### **202A.42 PRIMARY ELECTION CONTEST.**

Any candidate at a primary election who desires to contest the nomination of another candidate for the same office shall proceed in the manner prescribed for general election contests, and the proceedings shall be conducted in the manner prescribed for general election contests, so far as practicable.

**History:** 1975 c 5 s 24

### **GENERAL ELECTIONS**

#### **202A.51 GENERAL ELECTION, WHEN HELD.**

An election which shall be known and designated as the "general election" shall be held in the several election precincts of the state on the first Tuesday after the first Monday in November in each even-numbered year.

**History:** 1975 c 5 s 25

#### **202A.52 OFFICERS CHOSEN.**

All elective, state and county officers, judges of the supreme and district courts, members of the legislature, and senators and representatives in congress shall be elected at the general election next before the respective terms thereof shall expire, and at the general election held in the year preceding the expiration of a term of a president of the United States presidential electors shall also be chosen.

**History:** 1975 c 5 s 26

#### **202A.53 VACANCY IN NOMINATION.**

Subdivision 1. **Death or withdrawal.** A vacancy in a nomination exists when, after the primary election, any candidate who was nominated to a nonpartisan or partisan office dies, withdraws, or for any other reason ceases to be the nominated candidate for that office, or when, on the last day of filing or after the closing of filing for a nonpartisan office for which one or two candidates filed, any such candidate dies or withdraws. When a vacancy in a nomination occurs a nomination to fill the vacancy may be made in the manner provided in subdivisions 2 to 4.

Subd. 2. **Partisan office.** If a vacancy in a nomination for a partisan office occurs after the primary election, it may be filled at any time before the general election by filing with the proper officer a nomination certificate executed by the chairman and secretary of the proper committee of the political party whose voters made the original nomination, under the direction of the committee; and the chairman and secretary when so filing the certificate shall attach thereto an

affidavit to the effect that the candidate has been duly selected by said committee and that the persons signing said certificate and making the affidavit as such are the duly authorized chairman and secretary of said committee.

Subd. 3. **Next highest candidate.** If there is no proper committee to fill the vacancy as provided in subdivision 2, or if a vacancy occurs in a nonpartisan office, then the person receiving the next highest number of votes for the office at the primary election shall be the candidate for the office.

Subd. 4. **Nominating petitions.** If there is no proper committee to fill the vacancy as provided in subdivision 2, or if there is no person who may be nominated under subdivision 3 and a vacancy exists by reason of this fact, the vacancy may be filled by the proper officer placing upon the ballot the name or names of candidates as are nominated by nominating petition in the manner provided in sections 202A.27 to 202A.31. Every voter is eligible to sign a petition choosing a nominee to fill the vacancy.

**History:** 1975 c 5 s 27

## 202A.54 CANDIDATES, WITHDRAWAL.

A candidate may withdraw any time after the primary election, but not during the 35 days preceding the general election, by filing an affidavit of withdrawal with the proper filing officer.

**History:** 1975 c 5 s 28

## SPECIAL ELECTIONS

### 202A.61 VACANCY, CONGRESS, LEGISLATURE, SPECIAL ELECTION.

Every vacancy in the office of representative in congress or member of the state legislature shall be filled for the unexpired term by election upon the writ of the governor as provided by sections 202A.61 to 202A.71. If there will not be any session of the congress or the legislature before the expiration of the term in which the vacancy exists, it shall not be necessary to fill the office.

**History:** 1975 c 5 s 29; 1980 c 509 s 84

### 202A.62 VACANCIES IN CERTAIN CASES.

Subdivision 1. **Vacancy filled at general election.** When a vacancy occurs more than 150 days before the next general election, and if there will not be any session of the congress or the legislature before the time fixed by law for the final canvass of the general election returns, the governor shall issue his writ directing that the vacancy be filled at the general election and that nominations therefor be made as provided in section 202A.63, subdivision 1.

Subd. 2. **Vacancy filled at special election.** If the congress or the legislature will be in session so that a person elected as provided by this section could take office and exercise the functions thereof immediately after his election, the governor shall issue and file his writ within five days after the vacancy occurs, calling the special election for the earliest possible time thereafter which will permit the giving of notice of the special election and the primary therefor as provided in section 202A.63, subdivision 3, and in any event not more than 28 days after the issuance of the writ.

Subd. 3. **Vacancy filled at special or other election.** In all cases other than those provided in subdivisions 1 and 2 and notwithstanding subdivision 2, if any vacancy in the legislature occurs after the last day of the session in odd-numbered years but more than 33 days prior to the date set for convening the legislature in the next even-numbered year, the governor shall issue his writ, seasonably calling the special election for such time that the person elected may take office at the opening of the next session of the congress or of the legislature, or at the reconvening of a session of the congress or of the legislature, so that can-

didates for the special election may be nominated as provided in section 202A.63.

Subd. 4. **Vacancies filled at special or other elections, manner.** Two or more vacancies may be filled at the same election and candidates therefor may be nominated at the same primary. Any special election or special primary held pursuant to sections 202A.61 to 202A.71 may be held on the same day as any other election or primary, using the same polling places and election officials. Separate ballots and ballot boxes shall be used, except where voting machines are used, in which case, it shall be treated as a separate election.

Subd. 5. **Writ for special election.** Notwithstanding subdivisions 1 to 4, if a vacancy is the result of a successful election contest, the governor shall issue his writ calling a special election 22 days after the first day of the legislative session unless the house in which the contest may be tried has passed a resolution which states that it will review the court's determination of the contest or which states that it will not review the court's determination of the contest in which case the governor shall issue his writ calling a special election within five days of the passage of such resolution.

**History:** 1975 c 5 s 30

#### **202A.63 CANDIDATES TO FILL VACANCIES.**

Subdivision 1. **Nominations at regular primary election.** Candidates for nomination to fill a vacancy shall be nominated at the regular primary election when the vacancy is to be filled at the next general election as provided in section 202A.62, subdivision 1.

Subd. 2. **Nomination at special primary on day of regular primary.** Candidates for nomination to fill a vacancy shall be nominated at a separate special primary election on the day of the regular primary election when the vacancy is to be filled at a special election to be held more than 14 days after the regular primary election.

Subd. 3. **Nomination at special primary on other day.** In all cases other than those provided in subdivisions 1 and 2 a special primary for the nomination of candidates shall be held on a date specified in the governor's writ not later than the fourteenth day before the election at which the vacancy is to be filled.

**History:** 1975 c 5 s 31

#### **202A.64 NOMINATIONS; VACANCY.**

Subdivision 1. **Nonpartisan office.** In the case of nonpartisan offices, the two candidates receiving the highest number of votes at the primary election for each office to be filled shall be nominated.

Subd. 2. **Partisan offices.** In the case of partisan offices, one candidate for each office to be filled may be nominated at the primary for each political party, and the candidate of each political party receiving the highest number of votes at the primary shall be nominated without any reference to the number of votes cast by that party at the last general election.

Subd. 3. **No primary, when.** If not more than twice the number of persons to be elected to a nonpartisan office file for the nomination thereof, or if in the case of a partisan office only one person from each party files as a candidate for the nomination of his party, then the persons who have filed therefor shall be nominated, and no primary may be held to make the nominations.

**History:** 1975 c 5 s 32

**202A.65 NOMINATIONS BY PETITION.**

Subdivision 1. **Conditions and manner.** Candidates also may be nominated by petition under the conditions and in the manner provided by law relating to nominating petitions so far as applicable.

Subd. 2. **Nominating petitions, time for filing.** When the vacancy is to be filled at the general election and, (a) candidates for nomination to fill the vacancy are to be nominated at the regular primary election, or, (b) candidates for nomination to fill the vacancy are to be nominated at a special primary held at least seven days before the expiration of the time prescribed for filing petitions for candidates for like offices at the general elections, the nominating petitions shall be filed within the time prescribed for filing petitions for candidates for like offices at the general election.

Subd. 3. **Nominating petitions, time for filing.** In all cases other than those provided in subdivision 2, nominating petitions shall be filed during the filing period preceding the election at which the vacancy is to be filled.

**History:** 1975 c 5 s 33; 1978 c 591 s 2

**202A.66 WRIT OF ELECTION.**

Subdivision 1. **Filing, transmittal.** Every writ issued by the governor under sections 202A.61 to 202A.71 shall be filed immediately with the secretary of state, who shall transmit immediately a certified copy thereof by certified mail to the auditor of each county in which candidates for the vacancy are to be voted upon.

Subd. 2. **Writ, posting.** At least five days before the expiration of the time for filing affidavits of candidates specified in the writ, the auditor of each county concerned shall post a copy of the writ at his office.

Subd. 3. **Notice of election, posting.** The auditor also shall direct posted notice of the primary and of the election to be given in the manner provided in section 204A.04, subdivision 1 at least seven days before the primary and at least 14 days before the election; but in any case where the primary is to be held on the fourteenth day before the election both may be included in the same notice to be posted seven days before the primary.

Subd. 4. **Notice of election, included in other notice.** When either the primary or the election is to be held on the same day as any other election, notice of the primary or election to be held to fill a vacancy may be included in the notice of other election, if practicable.

Subd. 5. **Failure of notice.** No omission of or defect in any notice required to be given by this section shall invalidate any primary or election held to fill a vacancy.

**History:** 1975 c 5 s 34; 1978 c 674 s 60

**202A.67 AFFIDAVITS OF CANDIDACY.**

Subdivision 1. **Filing.** Candidates at the primary for nomination to fill a vacancy shall file their affidavits within the time prescribed in this section with the same officers and in the same manner and shall pay the same fees as provided by law for candidates for like offices at the regular primary election.

Subd. 2. **Affidavits, filed at regular time.** When the nominations are to be made on the regular primary election day, the writ shall be issued and shall state that the affidavits may be filed within the time prescribed by law for the regular primary election, and all the affidavits shall be so filed.

Subd. 3. **Affidavits, filed at other times.** In all cases other than those provided in subdivision 2 the writ shall state that the affidavits may be filed not later than the seventh day before the primary, and all the affidavits shall be so filed.

Subd. 4. **Affidavits filed with the secretary, disposition, fees.** If the affidavits are filed with the secretary of state, he shall certify the names of the candidates to the auditors of all counties in which they are to be voted upon within 24 hours after the close of the time for filing, and all filing fees received by the secretary of state shall be paid to the state treasurer.

**History:** 1975 c 5 s 35

## **202A.68 SPECIAL ELECTION, PRECINCTS, JUDGES, VOTERS.**

The election precincts and officials for any special election or primary held under sections 202A.61 to 202A.71 shall be the same as the last preceding general election unless changed according to law. In any municipality having a permanent registration system under the Minnesota election law no person may vote at any special election or special primary unless he is registered under the system.

**History:** 1975 c 5 s 36

## **202A.69 SPECIAL ELECTION RETURNS.**

Subdivision 1. **Canvass.** The returns of any special election or primary held under sections 202A.61 to 202A.71 shall be transmitted forthwith, when completed, to the auditor of the county wherein the special election or primary is held, and the returns shall be canvassed and certified to the secretary of state on the next day other than a Sunday or a legal holiday following the special election or primary by the county canvassing board, except as provided in subdivisions 2 to 4.

Subd. 2. **Canvass, special election, held on regular days.** When the special primary is held on the regular primary election day and the special election is to be held on the next general election day, the returns of the special primary shall be canvassed by the county canvassing board at their regular meeting.

Subd. 3. **Canvass, special primary on regular day, special election on other day.** When the special primary is held on the regular primary election day and the special election will be more than 13 days after the regular primary, the returns of the special primary shall be canvassed by the county canvassing board at their regular meeting.

Subd. 4. **Canvass, vacancy filled at general election.** When the special election is held on the general election day and the governor's writ has not required that the special election be held as a separate election on that day, the returns of the special election shall be canvassed and the results thereof declared and certified by the county and state canvassing boards together with, and in the same manner as, the returns of the general election for officers of the same kind as those to be filled at the special election.

Subd. 5. **Canvass, special primary, state canvassing board.** The state canvassing board shall complete its canvass of the special primary, and not later than four days after the returns of the county canvassing boards are certified to the secretary of state he shall certify to the county auditors the name of the nominated persons and notify each nominee.

Subd. 6. **Canvass, special congressional election, state canvassing board.** Except as provided in subdivision 4 the state canvassing board shall complete its canvass of a special congressional election and declare the results within seven days after the returns of the county canvassing boards are certified to the secretary of state.

Subd. 7. **Special congressional election contest, conduct.** In case of a contest of a congressional election held under sections 202A.61 to 202A.71 the notice of contest shall be filed within five days after the canvass is completed, and the contest otherwise shall proceed in the manner provided by law for contesting elections.

Subd. 8. **Certificate of congressional election.** No certificate of election in a congressional election held under sections 202A.61 to 202A.71 may be issued by the auditor of any county or by the secretary of state to any person declared elected by the canvassing board of the county or by the state canvassing board until seven days after the canvassing board has canvassed the returns and declared the results of the election. In case of a contest the certificate may not be issued until the district court has determined the contest.

Subd. 9. **Canvass, special legislative election, state canvassing board.** Except as provided in subdivision 4 the state canvassing board shall complete its canvass of a special legislative election and declare the results within two days, excluding Sundays and legal holidays, after the returns of the county canvassing boards are certified to the secretary of state.

Subd. 10. **Special legislative election contest, conduct.** In case of a contest of a legislative election held under sections 202A.61 to 202A.71, the notice of contest shall be filed within two days, excluding Sundays and legal holidays, after the canvass is completed, and the contest otherwise shall proceed in the manner provided by law for contesting elections.

Subd. 11. **Certificate of legislative election.** A certificate of election in a legislative election held under sections 202A.61 to 202A.71 shall be issued by the auditor of a county or by the secretary of state to the person declared elected by the canvassing board of the county or by the state canvassing board two days, excluding Sundays and legal holidays, after the county canvassing boards have canvassed the returns.

In case of a contest the certificate shall not be issued until the district court has determined the contest.

**History:** 1975 c 5 s 37

## **202A.70 CONGRESSIONAL OR LEGISLATIVE DISTRICT, CHANGE IN BOUNDARIES.**

No change in the boundaries of any congressional or legislative district is effective as to any election to fill a vacancy in the representation therefrom when the term of the office which has become vacant commenced before the change was made.

**History:** 1975 c 5 s 38

## **202A.71 GENERAL ELECTION LAWS, APPLICATIONS.**

Except as provided in sections 202A.61 to 202A.71 all of the provisions of the Minnesota election law are applicable to election held to fill vacancies, so far as practicable.

**History:** 1975 c 5 s 39

## **202A.72 [ Repealed, 1978 c 456 s 3 ]**

## **202A.721 UNITED STATES SENATE VACANCY; MANNER OF FILLING.**

Subdivision 1. **Scope of section.** Every vacancy in the office of United States senator representing Minnesota shall be filled in the manner provided in this section.

Subd. 2. **Definitions.** For the purposes of this section, the terms defined in subdivisions 3 to 5 shall have the meanings given them in those subdivisions.

Subd. 3. **Vacancy.** "Vacancy" means a vacancy in the office of United States senator representing Minnesota.

Subd. 4. **November election.** "November election" means (a) the general election in even numbered years or (b) the first Tuesday after the first Monday in November of odd numbered years.

Subd. 5. **Regular primary.** "Regular primary" means (a) the primary at which candidates are nominated for offices elected at the general election or (b) a primary election held four weeks before the first Tuesday after the first Monday in November of odd numbered years.

Subd. 6. **Special election required; exception; when held.** Every vacancy shall be filled for the remainder of the term by a special election held pursuant to this subdivision; except that no special election shall be held in the year before the term expires.

The special election shall be held at the next November election if the vacancy occurs at least six weeks before the regular primary preceding that election. If the vacancy occurs less than six weeks before the regular primary preceding the next November election, the special election shall be held at the second November election after the vacancy occurs.

Subd. 7. **Special primary; when held.** A special primary shall be held at the regular primary preceding the November election at which the special election is held.

Subd. 8. **Notice of special election.** The secretary of state shall issue an official notice of any special election required to be held pursuant to this section not later than 10 weeks before the special primary unless the vacancy occurs 10 weeks or less before the special primary, in which case he shall issue the notice no later than two days after the vacancy occurs. The notice shall state the office to be filled, the opening and closing dates for filing of candidacy and the dates of the special primary and special election. For the purpose of the provisions of this chapter that apply generally to special elections this notice shall be used in lieu of the writ of the governor.

Subd. 9. **Filing by candidates.** The time for filing of affidavits and nominating petitions for candidates to fill a vacancy at a special election shall open six weeks before the special primary or on the day the secretary of state issues notice of the special election, whichever occurs later. Filings shall close four weeks before the special primary.

Subd. 10. **Temporary appointment.** The governor may make a temporary appointment to fill any vacancy. An appointee shall hold office until a successor is elected and qualified at a special election or until a successor is elected pursuant to subdivision 11.

Subd. 11. **Succession by regularly elected senator.** Any person who is elected to the office of United States senator for a regular six year term when the office is vacant or is filled by a person appointed pursuant to subdivision 10 shall also succeed to the office for the remainder of the unexpired term.

Subd. 12. **Application of other laws.** Except as otherwise provided in this section, all of the provisions of this chapter that apply generally to other special elections apply to a special election held pursuant to this section.

**History:** 1978 c 456 s 1