

CHAPTER 204C

ELECTION DAY ACTIVITIES

204C.02 Application.
 204C.06 Conduct in and near polling places.
 204C.07 Challengers.
 204C.08 Opening of polling places.
 204C.13 Receiving and marking ballots.
 204C.19 Counting votes; penalty.
 204C.20 Ballots; number to be counted.
 204C.22 Determining voter's intent.
 204C.24 Election returns; summary statements.
 204C.25 Disposition of ballots.

204C.26 Summary statements and envelopes for ballot returns; election officials to furnish.
 204C.27 Delivery of returns to county auditors.
 204C.28 Election night; duties of county auditors and municipal clerks.
 204C.29 Improper delivery of returns.
 204C.31 Canvassing boards; membership.
 204C.36 Recounts in county, school district, and municipal elections.

204C.02 APPLICATION.

This chapter applies to all elections held in this state except as otherwise provided by law.

History: 1987 c 266 art 1 s 34

NOTE: This section, as amended by Laws 1987, chapter 266, article 1, section 34, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.06 CONDUCT IN AND NEAR POLLING PLACES.

[For text of subd 1, see M.S.1986]

Subd. 2. Individuals allowed in polling place. Representatives of the secretary of state's office, the county auditor's office, and the municipal or school district clerk's office may be present at the polling place to observe election procedures. Except for these representatives, election judges, sergeants-at-arms, and challengers, an individual may remain inside the polling place during voting hours only while voting or registering to vote, providing proof of residence for an individual who is registering to vote, or assisting a handicapped voter or a voter who is unable to read English. During voting hours no one except individuals receiving, marking, or depositing ballots shall approach within six feet of a voting booth, unless lawfully authorized to do so by an election judge.

[For text of subds 3 to 7, see M.S.1986]

History: 1987 c 266 art 1 s 35

NOTE: Subdivision 2, as amended by Laws 1987, chapter 266, article 1, section 35, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.07 CHALLENGERS.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. Elections on a question. At an election where a question is to be voted upon, the mayor of a city, or the school board of a school district, or the board of supervisors of a town, upon receiving a written petition signed by at least 25 eligible voters, shall appoint by written certificate one voter for each precinct in the municipality, or school district if applicable, to act as a challenger of voters in the polling place for that precinct.

[For text of subd 4, see M.S.1986]

History: 1987 c 266 art 1 s 36

NOTE: Subdivision 3, as amended by Laws 1987, chapter 266, article 1, section 36, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.08 OPENING OF POLLING PLACES.*[For text of subds 1 to 3, see M.S.1986]*

Subd. 4. **Ballot boxes, boxcar seals.** The governing body of a municipality or school district by resolution may direct the municipal or school district clerk to furnish a boxcar seal for each ballot box in place of a lock and key. Each seal shall consist of a numbered metal strap with a self-locking device securely attached to one end of the strap so that the other end may be inserted and securely locked in the seal. No two metal straps shall bear the same number.

History: 1987 c 266 art 1 s 37

NOTE: Subdivision 4, as amended by Laws 1987, chapter 266, article 1, section 37, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.13 RECEIVING AND MARKING BALLOTS.*[For text of subd 1, see M.S.1986]*

Subd. 2. **Voting booths.** One of the election judges shall explain to the voter the proper method of marking and folding the ballots and, during a primary election, the effect of attempting to vote in more than one party's primary. Except as otherwise provided in section 204C.15, the voter shall retire alone to an unoccupied voting booth and mark the ballots without undue delay. The voter may take sample ballots into the booth to assist in voting. The election judges may adopt and enforce reasonable rules governing the amount of time a voter may spend in the voting booth marking ballots.

*[For text of subds 3 to 7, see M.S.1986]***History:** 1987 c 222 s 1**204C.19 COUNTING VOTES; PENALTY.***[For text of subd 1, see M.S.1986]*

Subd. 2. **Ballots; order of counting.** Except as otherwise provided in this subdivision, the ballot boxes shall be opened, the votes counted, and the total declared one box at a time in the following order: the white box, the pink box, the canary box, the light green box, the blue box, the buff box, the goldenrod box, and then the other kinds of ballots voted at the election. If enough election judges are available to provide counting teams of four or more election judges for each box, more than one box may be opened and counted at the same time. The election judges on each counting team shall be evenly divided between the major political parties. The numbers entered on the summary sheet shall not be considered final until the ballots in all the boxes have been counted and corrections have been made if ballots have been deposited in the wrong boxes.

*[For text of subd 3, see M.S.1986]***History:** 1987 c 266 art 1 s 38

NOTE: Subdivision 2, as amended by Laws 1987, chapter 266, article 1, section 38, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.20 BALLOTS; NUMBER TO BE COUNTED.*[For text of subds 1 to 3, see M.S.1986]*

Subd. 4. **Ballots not counted; disposition.** When the final count of ballots agrees with the number of ballots to be counted, those ballots not counted shall be attached to a certificate made by the election judges which states why the ballots were not counted. The certificate and uncounted ballots shall be sealed in a separate envelope and returned to the county auditor or municipal or school district clerk from whom they were received.

History: 1987 c 266 art 1 s 39

NOTE: Subdivision 4, as amended by Laws 1987, chapter 266, article 1, section 39, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.22 DETERMINING VOTER'S INTENT.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. Votes for too many candidates. If a voter places a mark (X) beside the names of more candidates for an office than are to be elected or nominated, the ballot is defective with respect only to that office. No vote shall be counted for any candidate for that office, but the rest of the ballot shall be counted if possible. At a primary, if a voter has not indicated a party preference and places a mark (X) beside the names of candidates of more than one party on the partisan ballot, the ballot is totally defective and no votes on it shall be counted. If a voter has indicated a party preference at a primary, only votes cast for candidates of that party shall be counted.

[For text of subds 4 to 15, see M.S.1986]

History: 1987 c 222 s 2**204C.24 ELECTION RETURNS; SUMMARY STATEMENTS.**

Subdivision 1. Information requirements. Precinct summary statements shall be submitted by the election judges in every precinct. The election judges shall complete three or more copies of the summary statements, and each copy shall contain the following information for each kind of ballot:

- (a) the number of votes each candidate received or the number of yes and no votes on each question, the number of undervotes or partially blank ballots, and the number of overvotes or partially defective ballots with respect to each office or question;
- (b) the number of totally blank ballots, the number of totally defective ballots, the number of spoiled ballots, and the number of unused ballots;
- (c) the number of individuals who voted at the election in the precinct;
- (d) in counties with permanent registration, the number of voters registered before the polling place opened and the number of voters registering on election day in that precinct; and
- (e) the signatures of the election judges who counted the ballots certifying that all of the ballots cast were properly piled, checked, and counted; and that the numbers entered by the election judges on the summary statements correctly show the number of votes cast for each candidate and for and against each question.

Subd. 2. Sealing in envelopes. The election judges shall place a full set of completed summary statements in each of three separate envelopes and seal them so that the envelopes cannot be opened without leaving evidence that they have been opened. The election judges shall then sign each envelope over the sealed part so that no envelope can be opened without disturbing the continuity of the signatures. Each of the envelopes shall show substantially the following information on its face:

"Summary statements of the returns of the election precinct, (Town) or (City) of, or (School District Number), in the County of, State of Minnesota."

History: 1987 c 175 s 8; 1987 c 266 art 1 s 40

NOTE: Subdivision 2, as amended by Laws 1987, chapter 266, article 1, section 40, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.25 DISPOSITION OF BALLOTS.

After the count and the summary statements have been completed, in the presence of all the election judges, the counted, defective and blank ballots shall be placed in envelopes marked or printed to distinguish the color of the ballots contained, and the envelopes shall be sealed. The election judges shall sign each envelope over the sealed part so that the envelope cannot be opened without disturbing the continuity of the

signatures. The number and kind of ballots in each envelope, the name of the town or city, and the name of the precinct shall be plainly written upon the envelopes. The number and name of the district must be plainly written on envelopes containing school district ballots. The spoiled ballots shall be placed in separate envelopes and returned with the unused ballots to the county auditor or municipal or school district clerk from whom they were received.

History: 1987 c 266 art 1 s 41

NOTE: This section, as amended by Laws 1987, chapter 266, article 1, section 41, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.26 SUMMARY STATEMENTS AND ENVELOPES FOR BALLOT RETURNS; ELECTION OFFICIALS TO FURNISH.

[For text of subd 1, see M.S.1986]

Subd. 2. Summary statements; contents. The blank summary statement forms furnished to each precinct shall identify the precinct, ward number if any, city, school district if applicable, or town, date, and kind of election and, under appropriate headings identifying each color ballot, shall contain spaces for the election judges to enter the information required by section 204C.24, subdivision 1.

Each blank summary statement form shall also contain a certificate to be signed by the election judges stating that the national flag was displayed on a suitable staff during voting hours; that all of the ballots cast were properly piled, checked, and counted; and that the numbers entered by the election judges on the summary statements correctly show the number of votes cast for each candidate and for and against each question.

Subd. 3. Secretary of state. On or before July 1 of each even-numbered year, the secretary of state shall prescribe the form for summary statements of election returns and the methods by which returns for the state primary and state general election shall be recorded by precinct, county, and state election officials. Each county auditor and municipal or school district clerk required to furnish summary statements shall prepare them in the manner prescribed by the secretary of state. The summary statement of the primary returns shall be in the same form as the summary statement of the general election returns except that a separate part of the summary statement shall be provided for the partisan primary ballot and a separate part for the nonpartisan primary ballot.

[For text of subd 4, see M.S.1986]

History: 1987 c 266 art 1 s 42,43

NOTE: Subdivisions 2 and 3, as amended by Laws 1987, chapter 266, article 1, sections 42 and 43 respectively, are effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.27 DELIVERY OF RETURNS TO COUNTY AUDITORS.

One or more of the election judges in each precinct shall deliver two sets of summary statements; all unused and spoiled white, pink, canary, and gray ballots; and the envelopes containing the white, pink, canary, and gray ballots either directly to the municipal clerk for transmittal to the county auditor's office or directly to the county auditor's office as soon as possible after the vote counting is completed but no later than 24 hours after the end of the hours for voting. One or more election judges shall deliver the remaining set of summary statements and returns, all unused and spoiled municipal and school district ballots, the envelopes containing municipal and school district ballots, and all other things furnished by the municipal or school district clerk, to the municipal or school district clerk's office within 24 hours after the end of the hours for voting.

History: 1987 c 175 s 9; 1987 c 266 art 1 s 44

NOTE: This section, as amended by Laws 1987, chapter 266, article 1, section 44, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.28 ELECTION NIGHT; DUTIES OF COUNTY AUDITORS AND MUNICIPAL CLERKS.*[For text of subds 1 and 2, see M.S.1986]*

Subd. 3. School district returns and materials. At a school district election held in conjunction with a state election, the county auditor or municipal clerk shall deliver the summary statements of the school district election returns, all unused and spoiled school district ballots, and the envelope containing the school district ballots from each precinct to the clerk of the appropriate school district within 48 hours after the polls close.

History: 1987 c 266 art 1 s 45

NOTE: Subdivision 3, as added by Laws 1987, chapter 266, article 1, section 45, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.29 IMPROPER DELIVERY OF RETURNS.

Subdivision 1. Failure of election judges to make delivery; penalty. If the election judges fail to deliver returns as required by section 204C.27, the county auditor or municipal or school district clerk to whom the returns should have been delivered shall dispatch a special messenger to obtain them. The messenger shall receive the same compensation as an election judge would receive for performing the same service and shall be subject to the same penalties as an election judge for violation of any provision of the Minnesota election law.

*[For text of subds 2 and 3, see M.S.1986]***History:** 1987 c 266 art 1 s 46

NOTE: Subdivision 1, as amended by Laws 1987, chapter 266, article 1, section 46, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.

204C.31 CANVASSING BOARDS; MEMBERSHIP.

Subdivision 1. County canvassing board. The county canvassing board shall consist of the county auditor, the court administrator of the district court, the mayor or chair of the town board of the county's most populous municipality, and two members of the county board selected by the board from its members who are not candidates at the election. Any member of the canvassing board may appoint a designee to appear at the meeting of the board, except that no designee may be a candidate for public office. If one of these individuals fails to appear at the meeting of the canvassing board and in the absence of any selection by the county board from among its own members, the county auditor shall appoint an eligible voter of the county who is not a public official or a candidate for public office to fill the vacancy. Three members constitute a quorum.

*[For text of subd 2, see M.S.1986]***History:** 1987 c 175 s 10**204C.36 RECOUNTS IN COUNTY, SCHOOL DISTRICT, AND MUNICIPAL ELECTIONS.**

A losing candidate for nomination or election to a county, municipal, or school district office may request a recount of the votes cast for the nomination or election to that office if the difference between the vote cast for that candidate and for a winning candidate for nomination or election is:

- (a) Five votes or less when the total vote cast for nomination or election to that office is 100 votes or less;
- (b) Ten votes or less when the total vote cast for nomination or election to that office is more than 100 but not more than 500 votes;
- (c) Twenty votes or less when the total vote cast for nomination or election to that office is more than 500 but not more than 2,000 votes;

(d) One percent of the votes or less when the total vote cast for nomination or election to that office is more than 2,000 but less than 10,000 votes; or

(e) One hundred votes or less when the total vote cast for nomination or election to that office is 10,000 votes or more.

Candidates for county offices shall file a written request for the recount with the county auditor. Candidates for municipal or school district offices shall file a written request with the municipal or school district clerk as appropriate. All requests shall be filed during the time for notice of contest of the primary or election for which a recount is sought.

Upon receipt of a request made pursuant to this section, the county auditor shall recount the votes for a county office at the expense of the county, the governing body of the municipality shall recount the votes for a municipal office at the expense of the municipality, and the school board of the school district shall recount the votes for a school district office at the expense of the school district.

A losing candidate for nomination or election to a county, municipal, or school district office may request a recount in the manner provided in this section at the candidate's own expense when the vote difference is greater than the difference required by clauses (a) to (e). The votes shall be recounted as provided in this section if the requesting candidate files with the county auditor, municipal clerk, or school district clerk a bond, cash, or surety in an amount set by the governing body of the jurisdiction or the school board of the school district for the payment of the recount expenses.

Time for notice of contest of a nomination or election to a county office which is recounted pursuant to this section shall begin to run upon certification of the results of the recount by the county canvassing board. Time for notice of contest of a nomination or election to a municipal office which is recounted pursuant to this section shall begin to run upon certification of the results by the governing body of the municipality. Time for notice of contest of a school district election that is recounted under this subdivision begins to run on certification of the results of the recount by the school board.

History: 1987 c 266 art 1 s 47

NOTE: This section, as amended by Laws 1987, chapter 266, article 1, section 47, is effective July 1, 1988. See Laws 1987, chapter 266, article 1, section 69.