

## CHAPTER 206

### VOTING MACHINES

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- 206.01 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.01 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.02 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.02 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.025 [Repealed, 1984 c 447 s 32]
- 206.026 [Repealed, 1984 c 447 s 32]
- 206.03 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.03 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.04 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.04 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.05 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.05 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.06 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.06 MS 1982 [Repealed, 1984 c 447 s 32]

#### 206.065 VOTING MACHINES, ACCESSIBILITY OF BALLOT.

Items appearing on the ballot on a voting machine must be positioned as low as possible on the machine so that individuals not able to reach the voting levers at the top of the machine may vote to the greatest extent possible without assistance.

**History:** 1984 c 471 s 13

- 206.07 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.07 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.075 [Repealed, 1984 c 447 s 32]
- 206.08 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.08 Subdivision 1. MS 1982 [Repealed, 1984 c 447 s 32]
- Subd. 2. MS 1982 [Repealed, 1984 c 447 s 32]
- Subd. 3. MS 1983 Supp [Repealed, 1984 c 447 s 32]
- Subd. 4. MS 1982 [Repealed, 1984 c 447 s 32]

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- 206.09 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.09 MS 1983 Supp [Repealed, 1984 c 447 s 32]
- 206.095 [Repealed, 1984 c 447 s 32]
- 206.10 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.10 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.11 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.11 MS 1983 Supp [Repealed, 1984 c 447 s 32]
- 206.12 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.12 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.13 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.13 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.14 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.14 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.15 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.15 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.16 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.16 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.17 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.17 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.18 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.18 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.185 [Repealed, 1984 c 447 s 32]
- 206.19 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.19 Subdivision 1. MS 1983 Supp [Repealed, 1984 c 447 s 32]
  - Subd. 2. MS 1982 [Repealed, 1984 c 447 s 32]
  - Subd. 3. MS 1982 [Repealed, 1984 c 447 s 32]
- 206.195 [Repealed, 1984 c 447 s 32]
- 206.20 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.20 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.21 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.21 Subdivision 1. MS 1982 [Repealed, 1984 c 447 s 32]
  - Subd. 2. MS 1982 [Repealed, 1984 c 447 s 32]
  - Subd. 3. MS 1983 Supp [Repealed, 1984 c 447 s 32]
  - Subd. 4. MS 1982 [Repealed, 1984 c 447 s 32]
  - Subd. 5. MS 1982 [Repealed, 1984 c 447 s 32]
- 206.211 [Repealed, 1984 c 447 s 32]
- 206.212 [Repealed, 1967 c 437 s 10]
- 206.22 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.23 MS 1957 [Repealed, 1959 c 675 art 13 s 1]
- 206.23 MS 1982 [Repealed, 1984 c 447 s 32]
- 206.24-206.54 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

## LEVER AND ELECTRONIC VOTING METHODS

### 206.55 MINNESOTA ELECTION LAW APPLIES.

The use of lever voting machines and electronic voting systems is governed by sections 206.55 to 206.87 and by all other provisions of the Minnesota election law which are not inconsistent with sections 206.55 to 206.87.

**History:** 1984 c 447 s 1

**206.56 DEFINITIONS.**

Subdivision 1. **Scope.** The definitions in chapter 200 and in this section apply to sections 206.55 to 206.87.

Subd. 2. **Automatic tabulating equipment.** "Automatic tabulating equipment" includes apparatus necessary to automatically examine and count votes designated on ballot cards, and data processing machines which can be used for counting ballots and tabulating results.

Subd. 3. **Ballot.** "Ballot" includes ballot strips, ballot cards, ballot booklets, and paper ballots.

Subd. 4. **Ballot booklet.** "Ballot booklet" means the material which contains the titles of offices, names of candidates, party designation in a partisan primary or election, and a statement of any question accompanied by the words "Yes" and "No," and which is used with the marking device in an electronic voting system.

Subd. 5. **Ballot card.** "Ballot card" means a ballot which is voted by the process of punching or which is marked so that votes may be counted by automatic tabulating equipment.

Subd. 6. **Ballot strips.** "Ballot strips" means that portion of the cardboard, paper, or other material within the ballot frame on a lever voting machine which contains the names of candidates, the title of offices, party designation in a partisan primary or election, and a statement of any question, accompanied by the words "Yes" and "No."

Subd. 7. **Counting center.** "Counting center" means a place selected by the governing body of a municipality where an electronic voting system is used for the automatic processing and counting of ballots.

Subd. 8. **Electronic voting system.** "Electronic voting system" means a system in which the voter records votes by means of marking or punching a ballot, which is designed so that votes may be counted by automatic tabulating equipment at a counting center.

Subd. 9. **Marking device.** "Marking device" means either an apparatus in which ballot cards are inserted and used in connection with a punch instrument for the piercing of the ballot cards by the voter or any approved device for marking a paper ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment. The mark made by the marking device may be in the form of a round dot, a square, or any other shape that will clearly indicate the intent of the voter.

Subd. 10. **Operating lever.** "Operating lever" means the lever on a lever voting machine which the voter must move to the right in order to close the curtains of the machine and unlock the machine for voting, and which the voter must move to the left in order to open the curtains of the machine and record a vote.

Subd. 11. **Primary lever.** "Primary lever" means the lever on a lever voting machine which the voter must operate in a political party primary to unlock the voting levers assigned to the candidates of the political party in whose primary the voter wishes to vote.

Subd. 12. **Protective counter.** "Protective counter" means the separate counter built into a lever voting machine which cannot be reset and which records the total number of movements of the operating mechanism.

Subd. 13. **Public counter.** "Public counter" means the counter which shows during a period of voting the total number of voters who have operated a lever voting machine during the period of voting.

Subd. 14. **Question.** "Question" means a statement of any constitutional amendment, local ordinance, charter amendment, or other proposition being submitted to the voters at an election.

Subd. 15. **Voting lever.** "Voting lever" means the lever on a lever voting machine which the voter must turn down over the name of the candidate and leave down in order to cast a vote for the candidate.

Subd. 16. **User list.** "User list" means a list of the chief election officials of each county and municipality responsible for preparation of a program to be used with an electronic voting system or for administration of a counting center.

Subd. 17. **Municipality.** "Municipality" means city, town, or school district.

**History:** 1984 c 447 s 2; 1986 c 362 s 6; 1986 c 444; 1987 c 266 art 1 s 61

## EXAMINATION OF NEW VOTING SYSTEMS; VENDOR BONDS

### 206.57 EXAMINATION OF NEW VOTING SYSTEMS.

Subdivision 1. **Examination and report by secretary of state; approval.** A vendor of a lever voting machine or electronic voting system may apply to the secretary of state to examine the machine or system and to report as to its compliance with the requirements of law and as to its accuracy, durability, efficiency, and capacity to register the will of voters. The secretary of state or a designee shall examine the machine or system submitted and file a report on it in the office of the secretary of state. Examination is not required of every individual machine or counting device, but only of each type of lever voting machine or electronic voting system before its adoption, use, or purchase and before its continued use after significant changes have been made in an approved machine or system.

If the report of the secretary of state or the secretary's designee concludes that the kind of machine or system examined complies with the requirements of sections 206.55 to 206.87 and can be used safely, the machine or system shall be deemed approved by the secretary of state, and may be adopted and purchased for use at elections in this state. A voting machine or system not approved by the secretary of state may not be used at an election in this state. The secretary of state may adopt permanent and emergency rules consistent with sections 206.55 to 206.87 relating to the examination and use of voting machines and electronic voting systems.

Subd. 2. **Examination fee.** The secretary of state may assess a fee to accompany the application to cover the actual and necessary costs for the examinations and licenses provided for in this section. The fee shall be deposited in the state treasury. The expenses of administering this section shall be paid from the appropriations made to the secretary of state.

Subd. 3. **Advisory task force.** The secretary of state may appoint a nonpartisan advisory task force to assist in the examining and reporting duties prescribed in this section.

The task force expires and the terms, compensation, and removal of members are as provided in section 15.059.

Subd. 4. **Vendor bonds.** Vendors of lever voting machines or electronic voting systems shall certify to the secretary of state that they will not offer for sale any voting machine or system which is not certified for use in Minnesota elections. The vendor shall furnish a bond in the amount of \$5,000 along with the certification to the secretary of state conditioned on offering the equipment for sale in accordance with Minnesota election laws and any conditions of the approval of the equipment granted as provided in this section.

**History:** 1984 c 447 s 3; 1984 c 640 s 32; 1986 c 362 s 7; 1986 c 444

### 206.58 AUTHORIZATION FOR USE.

Subdivision 1. **Municipalities.** The governing body of a municipality, at a regular meeting or at a special meeting called for the purpose, may provide for the use of lever voting machines or, by the affirmative vote of two-thirds of its members, may provide for the use of an electronic voting system, in one or more precincts and at all elections in the precincts. The governing body shall disseminate information to the public about the use of a new voting system at least 60 days prior to the election and shall provide

for instruction of voters with a demonstration voting machine or device in a public place for the six weeks immediately prior to the first election at which the new voting system will be used.

If a machine is designed in a way that does not allow voting on all candidates and issues pursuant to this chapter, the machines may be used to the extent compliance with this chapter is possible and paper ballots complying with election laws shall be used for all other offices and issues. No machine or system shall be adopted or used unless it has been approved by the secretary of state pursuant to section 206.57.

**Subd. 2. May use experimental machines.** The governing body of a municipality may provide for the experimental use of lever voting machines or an electronic voting system in one or more precincts without formal adoption of the machines or system. Use of the machines or system at an election shall be as valid for all purposes as if the machines or system had been permanently adopted.

When the governing body of a municipality decides to use lever voting machines or an electronic voting system, it shall, at a regular or special meeting held not less than 30 days before the election, prescribe suitable rules and instructions consistent with sections 206.55 to 206.87 for using the machine or system and shall submit the rules and instructions to the secretary of state for approval. When approved, a printed copy of the rules and instructions shall be posted prominently in the polling place and shall remain open to inspection by the voters throughout election day.

**Subd. 3. Counties.** The governing body of a county may provide for the use of lever voting machines in one or more precincts of the county at all elections. The governing body of a county containing a city of the first class, at a regular meeting or at a special meeting called for the purpose, may provide for the use of lever voting machines or, by the affirmative vote of two-thirds of its members, may provide for the use of an electronic voting system, in one or more municipalities of the county, at all elections. The governing body of the municipality shall give approval before a voting machine or electronic voting system may be adopted or used in the municipality under the authority of this section. No machine or system may be adopted or used unless it has been approved by the secretary of state pursuant to section 206.57.

**Subd. 4. Certification of use of voting machines.** When a municipality adopts the use of lever voting machines or an electronic voting system, it is the duty of the municipal clerk to certify to the secretary of state within 30 days from the date of adoption that lever voting machines or an electronic voting system will be used in the municipality and the date when use will commence.

**History:** 1984 c 447 s 4; 1986 c 362 s 8; 1987 c 266 art 1 s 62

## **206.59 PAYMENT FOR MACHINES.**

Payment for lever voting machines or an electronic voting system may be provided for in the manner deemed in the best interests of the political division adopting and purchasing them. A municipality or county may make payment by appropriating money from the general fund, by levying a tax in the same manner as other taxes are levied, or by issuing and selling bonds or other certificates of indebtedness, which shall be a charge upon the municipality or county adopting and purchasing the lever voting machines or electronic voting system. Bonds or other certificates of indebtedness may be issued by a majority vote of the governing body of the municipality or county adopting and purchasing voting machines or an electronic voting system, notwithstanding any contrary provision contained in any home rule charter or law of this state.

The bonds or certificates of indebtedness issued may bear interest at a rate not exceeding the rate provided in section 475.55 and may be made payable at a time not exceeding 20 years from the date of issue, as determined by the resolution or ordinance authorizing the issue. The bonds or certificates of indebtedness may be issued exclusive of and in addition to any limit of indebtedness fixed by the charter of a municipality, or by laws governing a municipality or county, but the bonds or certificates of indebtedness may not be issued or sold at less than par and accrued interest on them.

**History:** 1984 c 447 s 5

**206.60 PRECINCTS MAY BE CHANGED.**

The precincts in which lever voting machines or an electronic voting system are to be used may be enlarged, reduced, or reformed in the manner prescribed in sections 204B.14 and 204B.15, so that each precinct, when formed, shall contain not more than 600 registered voters for each voting machine or marking device to be used in the precinct. More than one voting machine or marking device may be used in a precinct.

*History: 1984 c 447 s 6*

**206.61 BALLOTS; DIAGRAMS FOR VOTING MACHINES.**

**Subdivision 1. Official responsible for providing ballots.** The official charged with providing paper ballots when they are used shall provide all ballot strips and ballot cards, ballot booklets, diagrams, sample ballots, precinct summary statements, and other necessary supplies needed for lever voting machines or electronic voting systems, except as otherwise provided by this section.

At general elections and primaries the county auditor of each county in which lever voting machines or an electronic voting system are used shall provide all ballot strips, ballot cards, ballot booklets, and other necessary printed forms and supplies needed for the lever voting machines or electronic voting system, including all forms needed for voting on candidates and questions, the ballots for which are required by the election laws to be provided by the state when paper ballots are used.

**Subd. 2. Printing on ballots.** A ballot strip or ballot booklet must have printed on its face the words "Official Ballot" and the date of the election. Except as otherwise provided in sections 206.55 to 206.87 all ballot strips and ballot booklets shall be printed in black ink in as plain, clear type as size permits, on material of the same color as is required for paper ballots and of a size which will fit the ballot frame of a lever voting machine or the marking device of an electronic voting system. In a prominent place on ballot strips for constitutional amendments or that portion of the ballot booklet containing constitutional amendments shall be printed a notice stating that failure to vote on a constitutional amendment is, in effect, a vote in the negative. The county auditor may use one inch or more space between the partisan and nonpartisan ballot strip or portions of the ballot booklet.

**Subd. 3. Candidates' names.** Candidates' names may be set in as large type as the length of the majority of names on the ballot permits. The remaining candidates' names may be set in smaller sizes of type as the length of each name requires, in order to fit the available space on the ballot strip or ballot booklet.

**Subd. 4. Order of candidates.** On the "State Partisan Primary Ballot" prepared for primary elections, and on the white ballot prepared for the general election, the order of the names of nominees or names of candidates for election shall be the same as required for paper ballots. More than one column or row may be used for the same office or party.

**Subd. 5. Alternation.** The provisions of the election laws requiring the alternation of names of candidates shall be observed as far as practicable by changing the order of the names on the lever voting machines or an electronic voting system in the various precincts so that each name appears on the machines or marking devices used in a municipality substantially an equal number of times in the first, last, and in each intermediate place in the list or group in which they belong. However, the arrangement of candidates' names shall be the same on all lever voting machines or marking devices used in the same precinct. When the number of names to be alternated exceeds the number of precincts, the election official responsible for providing the ballots, in accordance with subdivision 1, shall determine by lot the alternation of names.

**Subd. 6. Presidential candidates.** On the ballot strip under or adjacent to a single lever or in the ballot booklet shall be the names of the candidates for president and vice-president of a party or other political group, preceded by the party's or group's name. A vote registered or recorded by the use of the lever machine or device shall be counted for each of the candidates for presidential electors of that party or group.

**Subd. 7. Candidates for governor and lieutenant governor.** On lever voting machines and electronic voting systems, candidates for governor and lieutenant governor shall appear so that a single vote will apply to both offices and instructions to voters shall state that they are to vote for "one team." The full names of candidates for governor and lieutenant governor as they appear on their filing papers shall appear in type set as large as the majority of the other names on the partisan ballot.

**Subd. 8. Ballots used upon adoption or rejection of an ordinance.** In a city of the first class operating under a home rule charter, where lever voting machines or an electronic voting system are used, when there is a question of the adoption or rejection of an ordinance proposed by petition of the voters, when an ordinance passed by the council has been referred for submission to the voters by petition of the voters, or when by voluntary reference the council submits an ordinance to the vote of the people, as provided in the home rule charter, the ballot strip or ballot booklet used in voting on the question must state briefly the general nature of it without the necessity of setting forth the full title of the ordinance.

**History:** 1984 c 447 s 7; 1987 c 175 s 13

## 206.62 SAMPLE BALLOTS.

The officials who prepare ballot strips or ballot booklets shall provide each polling place with at least two sample ballots which are facsimiles of the ballot strip or ballot booklet to be voted on in that precinct. Candidates' names may not be rotated on the sample ballots but must be arranged in alphabetical order for all offices where rotation of names on the official ballots is required by law. The sample ballots may be either in full or reduced size. They must contain suitable illustrated directions for voting on a lever voting machine or for operating a marking device, or illustrated instructions must be provided on a separate poster placed adjacent to each sample ballot. The sample ballots must be posted prominently in the polling place and must remain open to inspection by the voters throughout election day.

**History:** 1984 c 447 s 8

## 206.63 PAPER BALLOTS TO BE AVAILABLE.

When lever voting machines or an electronic voting system are used in an election, a reasonable supply of paper ballots and ballot boxes must be maintained by the official charged with providing ballot strips or ballot booklets and ballot cards for a polling place where lever voting machines or an electronic voting system is used. If one or more of the voting machines or marking devices in a polling place fails to function during the election, the official in charge of elections may dispatch paper ballots and ballot boxes to the polling place in the quantity the official deems necessary to avoid undue delay occasioned by the machine or marking device failure. If paper ballots are used in an election pursuant to this section, they must be handled, counted, and canvassed in the same manner as absentee ballots. When notification of machine or marking device failure is received, the official in charge of supplying ballots shall notify the county headquarters of the major political parties with an office in the county or the county chairs of the major political parties without delay and before paper ballots are distributed.

**History:** 1984 c 447 s 9; 1986 c 444

## 206.64 ACCESSIBILITY; INSTRUCTIONS; ASSISTANCE TO VOTERS.

**Subdivision 1. General provisions for lever machine voting and electronic system voting.** Each lever voting machine and electronic voting system booth must be placed and protected so that it is accessible to only one voter at a time and is in full view of all the election judges and challengers at the polling place. The election judges shall admit one individual at a time to each machine or booth after determining that the individual is eligible to vote. Voting by lever voting machine or electronic voting system shall be secret, except as provided in this section for voters who need assistance.

A voter may remain inside the voting booth for three minutes. A voter who refuses to leave the voting booth after three minutes shall be removed by the election judges. An election judge shall inspect the face of each lever voting machine and marking device after each voter has voted to determine that the ballot strips and ballot booklets are in the proper places and that the machine or device has not been injured or tampered with. During voting hours the door or other compartment of a lever voting machine may not be unlocked or opened, nor may the counters be exposed except by a custodian or other authorized person, who shall make and sign a statement of explanation to be attached to the election returns.

**Subd. 2. Voter instruction at the polls.** For the instruction of the voters there shall be, so far as practicable in each polling place where lever voting machines or an electronic voting system are used, at least one mechanical model of a portion of the face of the voting machine or a demonstrator model of the electronic system. The model must be located during voting hours in a place which the voter must pass to reach the voting booth. Each voter before entering the voting booth shall be instructed in its operation. The instructions shall be illustrated on the model, and the voter shall be given the opportunity to operate the model. The voter's attention shall also be called to the sample ballot so that the voter becomes familiar with the location of the questions and the names of the offices and candidates. At least one election judge shall remain with the instruction model and diagram and shall be available at all times to instruct voters. A voter who asks for additional instruction in operating a lever voting machine or marking device after entering the voting booth shall be instructed by two judges belonging to opposite major political parties. After giving the instruction the election judges shall retire from the voting booth, and the voter shall proceed to vote alone and in secrecy.

**History:** 1984 c 447 s 10

## **206.66 VIOLATIONS; PENALTIES.**

**Subdivision 1. Injuring voting machines.** An individual who intentionally injures or attempts to injure or render ineffectual a lever voting machine or any component of an electronic voting system, or who violates any of the provisions of sections 206.55 to 206.87, is guilty of a felony.

**Subd. 2. Violation of law, rules.** An individual who violates any rules adopted by the secretary of state or by the governing body of a municipality where lever voting machines or an electronic voting system are used, or who violates any of the provisions of sections 206.55 to 206.87 is guilty of a gross misdemeanor.

**History:** 1984 c 447 s 11

## **LEVER MACHINES**

### **206.68 LEVER VOTING MACHINES.**

A lever voting machine adopted by a county or municipality must be constructed to automatically register and count all votes cast; to insure every voter an opportunity to vote in secret; to conceal the number of votes for each candidate and upon each question during the hours of voting; to permit a voter to vote once and only once for all the candidates and upon all the questions for whom or upon which the voter is legally entitled to vote; to permit a voter to vote by means of devices connected with the mechanism of the machine for any person for any office elective by the voters of the voter's precinct at an election, even if the person's name does not appear upon the machine as a candidate for the office; to prevent a voter from voting for more than one person for an office, unless the voter is lawfully entitled to vote for more than one person, and in that event to limit the voter to the number to be elected to the office; to prevent a primary voter from voting for the nomination of candidates of more than one party, or for a person whose name is not on the primary ballot; and to prevent a voter from voting for a candidate or upon a proposed question for whom or upon which



the voter is not lawfully entitled to vote. Lever voting machines may be used which are not constructed to permit a voter to change from one party to another in a party primary or to retract a write-in vote. In these cases the voter must follow the procedure provided in section 206.74, subdivision 2 in order to change a vote.

*History: 1984 c 447 s 12; 1986 c 444*

#### **206.685 VOTING MACHINES OR ELECTRONIC VOTING DEVICES AT SCHOOL ELECTIONS.**

Where lever voting machines or electronic voting devices are used in precincts containing more than one school district or more than one school election district, separate voting machines or devices must be used and must be allocated between the school districts or school election districts in proportion to the number of voters eligible to vote in the precinct from each district.

*History: 1987 c 266 art 1 s 63*

#### **206.69 BOND FOR UPKEEP OF MACHINES.**

Payment may not be made upon the purchase price of a lever voting machine until the vendor has filed with the secretary of state a bond with sufficient sureties, identifying each machine by its number, and conditioned to keep the machine in good working order, at the vendor's expense, for five years. The penalty of the bond must be at least \$200, and upon a breach of the bond's conditions the amount of the penalty is the measure of damages recoverable by the purchaser.

*History: 1984 c 447 s 13*

#### **206.70 CUSTODIAN OF MACHINES.**

Subdivision 1. **Appointment; duties.** Immediately after the installation of lever voting machines in a municipality or county the governing body shall appoint, to serve at its pleasure, as many custodians as necessary to prepare the machines for elections and to repair, store, and care for them. The custodians, under the direction of the governing body and the officials in charge of elections, shall represent these authorities during the preparation of the voting machines. After the machines have been prepared for the election, the custodians shall have the machines delivered to the polling places at least 12 hours before the opening of the polls and shall set them in proper manner for use at the election. The custodians of voting machines shall be paid for their services commensurate with the work required, and their compensation shall be fixed by the governing body of the municipality or county which appoints them.

Subd. 2. **Voting machine keys.** The custodians shall keep secure all keys to voting machines. A public official who by law is authorized to have custody of a voting machine may have the keys to a machine which is in the official's custody. Election officials entrusted with keys for election purposes may not retain them longer than necessary to accomplish these purposes. It is unlawful for an unauthorized person to possess the keys of a voting machine.

*History: 1984 c 447 s 14; 1986 c 444*

#### **206.71 CANDIDATES, ARRANGEMENT OF NAMES.**

Subdivision 1. **Placement.** On lever voting machines the titles of offices must be arranged either horizontally with the names of the candidates arranged vertically under the title of the office, or vertically with the names of the candidates arranged horizontally opposite the respective titles. The names of all candidates of a political party must be placed in the same row or column. If for any office there is no candidate of a party named at the primary, so that a blank space will appear on the ballot strip, the blank space must contain a notice in the same type size and style as names of candidates, indicating that names of candidates for the office appear (above and) below, or to the (left and) right, of the space, whichever applies.

Subd. 2. **Candidates for governor and lieutenant governor.** If two spaces or frames

in the candidates' column are necessary to accommodate the names comprising each team, only the voting lever opposite the name of the candidate for governor may be operable on machines on which candidates' names are arranged vertically. On machines where the candidates' names are arranged horizontally, the name of the candidate for governor must appear immediately above the corresponding candidate for lieutenant governor and only the voting lever on the right above that team may be operable. Voters shall be informed when a voting lever will not be operable.

**Subd. 3. Questions.** When a question is to be voted upon on a lever voting machine, the question must occupy an area no smaller than three inches by four inches in the space provided for that purpose and be arranged in the manner which construction of the machine requires. A prominent notice of the question must follow the last office title, or, if there is inadequate space, appear in the next available column or row. The notice must contain at least one arrow pointing toward the question and must contain language in the same type size as used for office titles, directing the voter to the location on the machine where the question is to be found.

**Subd. 4. Inadequate space on machine.** When the number of offices and questions to be voted on exceeds the maximum number that can be included on the lever voting machines in use in any precinct, a separate gray paper ballot shall be prepared as provided in section 204D.11, subdivision 6. Separate ballot boxes must be provided for these gray ballots. So far as is practicable, gray ballots must be distributed to voters, handled, counted, and canvassed in the manner provided by law for precincts using only paper ballots. The canvass of the gray paper ballots must not delay the canvass of votes recorded on the voting machines. A separate summary statement may be provided for reporting of the canvass of the gray paper ballots. The returns from the voting machines may be filed as provided in section 206.75, subdivision 2, before the canvass of the gray paper ballots is completed. Additional or replacement election judges may be appointed to count the gray paper ballots.

**History:** 1984 c 447 s 15; 1986 c 475 s 19

## 206.72 INSTRUCTIONS TO JUDGES AND VOTERS.

**Subdivision 1. Training for election judges.** Not more than 30 days before the primary or before the general election if no primary is held at which a lever voting machine is to be used, the official in charge of elections shall conduct a meeting or meetings to instruct election judges about the operation of the lever voting machine and the duties of election judges when lever voting machines are used. Each election judge serving in a precinct where lever voting machines are used shall attend at least one meeting prior to either the primary or the general election in which the judge is to serve, and shall receive a certificate showing attendance at an instruction meeting and a finding of qualification to serve. Each judge who attends an instruction meeting and qualifies and serves at an election shall receive at least \$1 for the time spent in receiving instruction, plus transportation costs for going to and from the meeting, which shall be paid at the same time and in the same manner as the payment for serving on election day. A training certificate may only be issued to an individual who has attended an instruction meeting and has been found qualified to serve as an election judge. No one is eligible to serve as judge who has not received a training certificate. In case of emergency, when an insufficient number of certified judges is available, election judges may be appointed to conduct the election who have not received the required certificate.

**Subd. 2. Sample voting machine.** Before an election at which lever voting machines will be used, the official in charge of elections shall have placed in one or more convenient locations a voting machine with sample ballot strips for the purpose of instructing voters in the operation of the machine. If the ballot strips used for this purpose are the same that will be used for the election, the counting mechanism of the machine must be concealed from view until the machine is prepared for the election; if the machine is not used at the election, the counting mechanism must remain concealed from view until after the election.

**History:** 1984 c 447 s 16; 1986 c 444

**206.73 OFFICIALS TO PREPARE LEVER MACHINES FOR USE.**

The official in charge of elections shall examine all lever voting machines before they are sent out to the polling places to see that all the registering counters are set at zero (000), to lock all voting machines so that the counting mechanism cannot be operated, to seal each voting machine with a numbered seal, and to make a written record of the seal.

Before the voting machines are prepared for an election, written notices must be mailed to the chair of the county committee of each political party, if the name of the chair is on file with the county auditor, stating when and where the voting machines will be prepared, and at which times and places one representative of each political party, designated by the chair of the county committee of the party, may be present to see that the machines are properly prepared and placed in condition for use at the election. In nonpartisan primaries and elections each candidate may designate one representative who shall have the same powers as the political party representatives.

When the machines have been prepared for the election, it is the duty of the custodians and the political party or the candidate representatives at their discretion, to make a certificate in writing, which must be filed in the office of the official in charge of elections in the municipality, stating the serial number of each machine, whether or not all registering counters have been set at zero (000), the number registered on the protective counter, and the number on the metal seal with which the machine is sealed.

**History:** 1984 c 447 s 17; 1986 c 444

**206.74 LEVER VOTING MACHINES ON ELECTION DAY.**

**Subdivision 1. Preparation of machines.** The election judges shall meet at the polling place at least one hour before the time for opening the polls. Not later than one hour before the polls open, the keys to the voting machines shall be delivered to one of the judges in a sealed envelope on which is recorded the location and number of the voting machine, the number of the seal, and the number registered on the protective counter as reported by the custodian. The election judges shall examine the envelope containing the keys to determine that it has not been opened and to ascertain that the number registered on the protective counter and the numbers on the seals with which the machine is sealed correspond with the numbers recorded on the envelope containing the keys. If the envelope appears to have been opened, if the numbers do not agree, if the numbered metal seal is broken or has been tampered with, or if any other discrepancy is found, the election judges shall immediately notify the custodian or other authorized person, who shall come to the polling place, reexamine the machine and, if it is found to be so, certify that it is in order. If the numbers on the seals and on the protective counter agree with the numbers on the envelope, the judges shall open the door concealing the registering counters, carefully examine every counter to see that it registers zero (000) and allow the challengers to examine them. If the machine is equipped with a device for printing, embossing, or photographing the registering counters, in lieu of opening the machine, the election judges shall operate it to produce a printed, embossed, or photographed record in order to determine that every counter registers zero (000). The judges shall allow the challengers to examine the record. The election judges shall then compare the ballot strips on the voting machine with the summary statements furnished, to determine that the names and numbers, and letters, if any, on the ballot strips agree with the summary statement. The judges shall then sign a certificate showing the delivery of the keys in a sealed envelope, the number on the seal or seals, the number registered on the protective counter, that all the registering counters are set at zero (000), and that the ballot strips are properly placed in the machine.

**Subd. 2. Changing party choice or retracting vote.** A voter at a primary who has entered the voting machine booth, set the primary lever of a major political party to release the candidates of the party for voting, and turned down levers over the names of candidates, but has not yet recorded votes for any candidates, may enter the primary of a different major political party by so informing the election judges. In a general

election, a voter who has cast a write-in vote may retract it by informing the judges. In either case all the judges shall go to the machine and shall see that all voting levers have been returned to the unvoted position or that any write-in vote has been removed, crossed out, or erased, so that no votes may be cast for any candidates or on any questions. The voter shall then be permitted to return the operating lever to its original position and start from the beginning. A change from one major political party to another in a primary or the retraction of a write-in vote in a general election shall be noted by the election judges. In each of these cases all the election judges shall sign a certificate stating what was done, and the certificate shall be included with the official returns of the primary.

**Subd. 3. Assistance in preparing ballots.** When a voter states under oath that the voter cannot read English or is physically unable to operate the voting machine, the voter may call for aid from two election judges of different major political party affiliation, who shall prepare the voter's ballot on the machine as the voter desires in as secret a manner as circumstances permit. If a voter states that the voter cannot speak the English language or understand it when spoken, the judges may select two persons from different major political parties to act as interpreters. The interpreters shall take an oath similar to that taken by the judges and shall assist the voter in voting. A voter who prefers may call for aid from another voter of the same precinct, who, unaccompanied by a judge, may retire with the voter to the voting booth and prepare the voter's ballot on the voting machine; but no person shall prepare the ballot of more than three voters at one election. Before registering a vote the voter may show the ballot, as prepared for recording, privately to a judge to ascertain that it is prepared as directed. No judge or other person assisting a voter shall in any manner request, persuade, induce, or attempt to persuade the voter to vote for or against a particular political party, candidate, or question but shall only prepare the ballot as requested, and shall not reveal to any one the name of any candidate for whom the voter has voted, or anything that took place while the judge or other person assisted the voter.

**Subd. 4. Lost, destroyed, stolen, or misdelivered ballots.** If the official ballots at a precinct at which a lever voting machine is to be used are not delivered on time or if after delivery they are lost, destroyed, or stolen, the election judges shall immediately notify the municipal clerk or county auditor to have other ballots prepared as nearly as practicable in the form of the official paper ballot. The judges shall use these substituted ballots in the same manner as the official ballots.

**Subd. 5. Inoperative voting machine.** If a lever voting machine being used in an election becomes out of order during the election, it must be repaired if possible or another machine substituted as promptly as possible. If substitution or repair cannot be made, printed or written paper ballots in any suitable form, including machine sample ballots, may be used for voting.

**Subd. 6. Write-in ballots.** Ballots not cast by the use of the lever on the voting machine must be designated write-in ballots.

**History:** 1984 c 447 s 18; 1986 c 444

## **206.75 MACHINES; LOCKING, OPENING, CUSTODY, AND CARE.**

**Subdivision 1. Reading and recording results.** As soon as voting has ended, the election judges shall lock or lock and seal each voting machine against voting. The judges shall then sign a certificate stating that each machine has been locked or locked and sealed against voting, the number of voters as shown on the public counter, the number on the seal, and the number registered on the protective counter. The judges shall then open the counter compartment in the presence of the challengers and any other persons who are lawfully present in the polling place, permitting a full view of all the counter numbers. If the machine is equipped with a device for printing, embossing, or photographing the registering counters, the judges shall produce a printed, embossed, or photographed record of the counters. One election judge, under the scrutiny of a judge of a different major political party, shall read and announce in distinct tones the designation on each counter for each candidate's name, the result as

shown by the counter numbers, and then the votes recorded for each office on the write-in ballots, in the order that the offices appear on the machine. The judge shall in the same manner announce the vote on each question. As each vote total is announced from the counter of the machine, or as a printed, embossed, or photographed record of it is produced, it must immediately be entered on the statement of results, in figures only, in ink, by two judges of different major political parties in the space which has the same designation as the vote total being announced. The figures must then be verified by being called off from the counters by an election judge who recorded the totals on a statement of results during the original count of the results. The judge who recorded the totals on a statement of results during the original count shall act as watcher at the machine counters during the verification of the results. Each judge shall then sign a certificate which is a part of the statement of results, indicating that the results shown are the true and correct results of the election and that the count has been completed in accordance with law. After the proclamation of the vote, ample opportunity shall be given to any person lawfully present to compare the results announced with the counter dials of the machine, or the printed, embossed, or photographed record. Necessary corrections shall then and there be made by the judges. If absent voters' ballots have been voted, those ballots shall be counted and the vote for each candidate announced and added to the vote recorded on the statement of results of votes cast by machine. Absent voters' ballots and write-in ballots, enclosed in separate properly sealed and endorsed packages, shall be filed with the original statement of results. In precincts using only one voting machine, if the machine is equipped with a device for printing, embossing, or photographing the registering counters, two copies of the printed, embossed, or photographed record, signed by the judges, together with a statement of write-in votes and absentee votes, if any, may constitute the statement of results for the precinct. The election judge filing the returns shall deliver to the official from whom they were received, the keys to each voting machine, enclosed in a sealed envelope bearing a certificate on which the judges state the number of each machine, the district where it was used, the number of the seal, if any, and the number of the protective counter.

**Subd. 2. Statement of results.** In each precinct where voting machines are used, a statement of results must be printed to conform to the type of lever voting machine used. The designation on the counter for each candidate must be printed next to the candidate's name on the statement of results. The arrangement of the names on the statement of results for each precinct must conform exactly to the arrangement of the names on the voting machines to be used in the precinct. The statement of results must provide for the entry of the number of votes for each candidate and the number of "yes" and "no" votes on each question as shown on each machine used in the precinct, the number of absentee ballots, and the total number of votes by absentee ballots and machine, for each candidate and upon each question. Upon completion of the count the election judges shall enclose the statements of results in sealed envelopes. The statements of results may be opened by the authorities in charge of elections before the official canvass for the purpose of checking the addition and compiling the unofficial returns and preparing the official records. Statements of results must be in the form prescribed by the secretary of state.

**History:** 1984 c 447 s 19

## **206.76 CANVASSING BOARD TO INSPECT MACHINES.**

When the canvassing board in a municipality where lever voting machines are used convenes to canvass the election returns, and before it proceeds with the canvass, the board shall inspect the registering counter or other recording device on the voting machine which shows the number of votes cast for each candidate or question voted on at the election and any write-in ballots recorded on the machine. The canvassing board shall also compare the number of votes shown by each voting machine to have been cast for each candidate and on each question with the statement of results made by the election judges of the precincts in which the voting machines were used. If there

is a discrepancy between the statement of results and the number of votes shown by the voting machines at the inspection, the canvassing board shall correct the statement of results, so that it conforms to the vote shown by the machines at the inspection. The statement of results as corrected by the canvassing board shall be deemed the true return of the number of votes cast for each candidate and on each question in the precinct. For the purpose of inspecting voting machines the canvassing board may adjourn its sessions from time to time as necessary and may hold its sessions at any place within the county where the voting machines are usually stored. After correcting the statements of results the canvassing board shall proceed to the performance of its duties as provided by law.

In case of an election contest the statements of results, as corrected by the canvassing board, are prima facie evidence of the vote cast for each candidate and on each question at an election, in the same manner as are the summary statements of the election judges in precincts where lever voting machines are not used.

**History:** 1984 c 447 s 20

#### **206.77 SECURITY OF MACHINES; RETENTION OF BALLOTS.**

**Subdivision 1. Opening of machines.** Lever voting machines shall remain locked against use until all automatic recounts have been verified by the appropriate election office and the time for filing a contest of election has passed. When a contest of election has been filed, the voting machines shall remain locked until the voting machine count has been verified in accordance with the orders of the appropriate court.

**Subd. 2. Write-in ballots.** Write-in ballots must be preserved for one year after an election and may be opened and examined only upon an order of a judge of a court having jurisdiction. After one year the ballots may be disposed of in the discretion of the official in charge of them.

**History:** 1984 c 447 s 21

#### **206.80 ELECTRONIC VOTING SYSTEMS.**

(a) An electronic voting system may not be employed unless it:

- (1) permits every voter to vote in secret;
- (2) permits every voter to vote for all candidates and questions for whom or upon which the voter is legally entitled to vote;
- (3) provides for write-in voting when authorized;
- (4) rejects by means of the automatic tabulating equipment, except as provided in section 206.84 with respect to write-in votes, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast;
- (5) permits a voter at a primary election to select secretly the party for which the voter wishes to vote; and
- (6) rejects, by means of the automatic tabulating equipment, all votes cast in a primary election by a voter when the voter votes for candidates of more than one party, except as provided in paragraph (b).

(b) A punch card electronic voting system may not be employed at a partisan primary election unless it permits a voter at a partisan primary election to select the party for which the voter wishes to vote by punching out an indicator for one of the parties only, and must reject, by means of the automatic tabulating equipment, all votes cast in a partisan primary election by a voter for candidates of a party other than the one chosen by the voter from the party indicators.

**History:** 1984 c 447 s 22; 1987 c 222 s 4; 1988 c 646 s 9

#### **206.81 ELECTRONIC VOTING SYSTEMS; EXPERIMENTAL USE.**

The secretary of state may license an electronic voting system for experimental use at an election prior to its approval for general use. Experimental use shall be observed by the secretary of state or the secretary's designee and the results observed shall be

considered at any subsequent proceedings for approval for general use. The secretary of state may adopt rules consistent with sections 206.55 to 206.87 relating to experimental use. The extent of experimental use shall be determined by the secretary of state.

**History:** 1984 c 447 s 23; 1986 c 444

## **206.82 PREPARATION OF ELECTRONIC VOTING SYSTEM PROGRAMS AND PLANS.**

**Subdivision 1. Program.** A program for use in an election conducted by means of an electronic voting system shall be prepared at the direction of the county auditor or municipal clerk who is responsible for the conduct of the election and shall be independently verified by a competent person designated by that official. The term "competent person" as used in this section means a person who can demonstrate knowledge as a computer programmer and who is other than and wholly independent of any person operating or employed by the counting center or the corporation or other preparer of the program. A test deck prepared by a competent person shall be used for independent verification of the program; it shall test the maximum digits used in totaling the returns and shall be usable by insertion during the tabulation process as well as prior to tabulation. The secretary of state shall adopt rules further specifying test procedures.

**Subd. 2. Plan.** The municipal clerk in a municipality where an electronic voting system is used and the county auditor of a county in which a counting center serving more than one municipality is located shall prepare a plan which indicates acquisition of sufficient facilities, computer time, and professional services and which describes the proposed manner of complying with section 206.80. The plan must be signed, notarized, and submitted to the secretary of state more than 60 days before the first election at which the municipality uses an electronic voting system. Prior to July 1 of each subsequent general election year, the clerk or auditor shall submit to the secretary of state notification of any changes to the plan on file with the secretary of state. The secretary of state shall review each plan for its sufficiency and may request technical assistance from the department of administration or other agency which may be operating as the central computer authority. The secretary of state shall notify each reporting authority of the sufficiency or insufficiency of its plan within 20 days of receipt of the plan. The attorney general, upon request of the secretary of state, may seek a district court order requiring an election official to fulfill duties imposed by this subdivision or by rules promulgated pursuant to this section.

**Subd. 3. Bond.** Before a contract is awarded to any vendor for preparation of a program for use with an electronic voting system, the vendor shall furnish the secretary of state with a sufficient bond conditioned on preparing the program in conformity with Minnesota election law and the instructions delivered to the vendor by the county auditor or municipal clerk who is responsible for the conduct of the election. The secretary of state shall send notice of the receipt or forfeiture of any such bond to each official on the user list. On or before March 15 of every even-numbered year the county auditor shall send to the secretary of state the current user list for the county.

**History:** 1984 c 447 s 24; 1986 c 362 s 9; 1986 c 444; 1987 c 175 s 14

## **206.83 TESTING OF MACHINES.**

The official in charge of elections shall have the automatic tabulating equipment tested to ascertain that the equipment will correctly count the votes cast for all candidates and on all questions (1) within five days prior to election day, for electronic voting systems, or (2) within 14 days prior to election day, for optical scan voting systems. Public notice of the time and place of the test must be given at least two days in advance by publication once in official newspapers. The test must be observed by at least two election judges, who are not of the same major political party, and must be open to representatives of the political parties, candidates, the press, and the public. The test must be conducted by processing a preaudited group of ballots punched or

marked to record a predetermined number of valid votes for each candidate and on each question, and must include for each office one or more ballot cards which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes. If any error is detected, the cause must be ascertained and corrected and an errorless count must be made before the automatic tabulating equipment is approved. The test must be repeated immediately before the start of the official count of the ballots, in the manner provided in this section. After the completion of the count, the programs used and ballot cards must be sealed, retained, and disposed of as provided for paper ballots.

**History:** 1984 c 447 s 25; 1988 c 424 s 1

## **206.84 METHODS OF USING ELECTRONIC VOTING SYSTEMS.**

**Subdivision 1. Instruction of judges, voters.** The officials in charge of elections shall determine procedures to instruct election judges and voters in the use of electronic voting system marking devices.

**Subd. 2. Sample marking device.** Before an election at which an electronic voting system will be used, the official in charge of elections shall have placed in one or more convenient locations a marking device with a sample ballot booklet for the purpose of instructing voters in the operation of the marking device. Official ballot cards may not be used for instructional purposes.

**Subd. 3. Ballots.** The ballot information, whether placed on the ballot card or on the ballot booklet must, as far as practicable, be in the same order provided for paper ballots, except that the information may be in vertical or horizontal rows, or on a number of separate pages. The secretary of state shall provide by rule for standard ballot formats for electronic voting systems.

The pages of a partisan primary ballot booklet must be different colors for different parties. The colors available for partisan primary ballot booklet pages are purple, orange, and buff. The chairs of the major political parties shall choose from among those colors in a random drawing conducted by the secretary of state. A color chosen by a party is permanently assigned to that party.

A partisan primary ballot booklet must be designed to include a form of party indicator by which the voter may choose the party in whose primary the voter intends to vote.

All pages of a party's primary ballot must be consecutive, without the insertion of pages from another party. Partisan primary ballot booklets must contain a prominent notice of the effect of attempting to vote in more than one party's primary. A separate ballot booklet may also be used for each party in a partisan primary.

Ballots for all questions must be provided in the same manner. Where ballot booklets are placed in a marking device, they shall be arranged on or in the marking device in the places provided. Ballot cards may contain special printed marks and holes as required for proper positioning and reading of the ballots by electronic vote counting equipment. Ballot cards must contain an identification of the precinct for which they have been prepared which can be read visually and which can be tabulated by the automatic tabulating equipment.

**Subd. 4. Write-in ballots.** If write-in space is not provided on the ballot card, a separate write-in ballot, which may be in the form of a paper ballot, card, or envelope in which the voter places a ballot card after voting, must be provided when write-in voting is authorized so that voters may write in the names of persons whose names are not on the ballot.

**Subd. 5. Voting booths.** In precincts where an electronic voting system is used, one voting booth or compartment must be provided for each marking device. The booths or compartments shall be arranged in the manner provided in precincts where paper ballots are used. At a primary, separate marking devices may be provided in each booth or compartment for use with the separate partisan primary ballot booklets permitted by this section, except that separate ballot booklets may not be used if they would impair the right to vote in secret.



Subd. 6. **Duties of official in charge.** The official in charge of elections in each municipality where an electronic voting system is used shall have the marking devices put in order, set, adjusted, and made ready for voting when delivered to the election precincts. The official shall also provide each precinct with a container for transporting ballot cards to the counting location after the polls close. The container shall be of sturdy material to protect the ballots from all reasonably foreseeable hazards including auto collisions. The election judges shall meet at the polling place at least one hour before the time for opening the polls. Before the polls open the election judges shall compare the ballot booklets used with the sample ballots furnished to see that the names, numbers, and letters on both agree and shall certify to that fact on forms provided for the purpose. The certification must be filed with the election returns.

Subd. 7. **Spoiled ballot cards.** A voter who spoils a ballot card or makes an error may return it to the election judges and obtain another. Except as otherwise provided in sections 206.55 to 206.87, the election judges shall conduct the election in the manner prescribed for precincts using paper ballots in chapters 204C and 204D.

**History:** 1984 c 447 s 26; 1986 c 362 s 10; 1986 c 444; 1987 c 222 s 5

## 206.85 OFFICIALS IN CHARGE OF COUNTING.

Subdivision 1. **Duties of responsible official.** The official in charge of elections in a municipality where an electronic voting system is used must:

- (a) be present or personally represented throughout the counting center proceedings;
- (b) be responsible for acquiring sufficient facilities and personnel to ensure timely and lawful processing of votes;
- (c) be responsible for the proper training of all personnel participating in counting center proceedings and deputize all personnel who are not otherwise election judges;
- (d) maintain actual control over all proceedings and be responsible for the lawful execution of all proceedings in the counting center whether or not by experts;
- (e) be responsible for assuring the lawful retention and storage of ballots and read-outs; and
- (f) arrange for observation by the public and by candidates' representatives of counting center procedures by publishing the exact location of the counting center in a legal newspaper at least once during the week preceding the week of election and in the newspaper of widest circulation once on the day preceding the election, or once the week preceding the election if the newspaper is a weekly.

The official may make arrangements with news reporters which permit prompt reporting of election results but which do not interfere with the timely and lawful completion of counting procedures.

Subd. 2. **Counting center in more than one municipality.** If a counting center serves more than one municipality, the county auditor of the county where the center is located is in sole charge of overall administration of the center and must

- (a) establish procedures to implement the timely and lawful completion of the counting center proceedings;
- (b) coordinate training of all counting center personnel and require additional training as needed;
- (c) ask the county attorney, at least 30 days prior to an election, whether circumstances require that the municipalities sharing the use of a counting center resolve their respective duties and financial responsibilities by execution of a joint powers agreement pursuant to section 471.59;
- (d) coordinate, and if necessary, exercise the duties imposed by this section on the official in charge of elections in a municipality where an electronic voting system is used; and
- (e) limit the number of ballots to be counted at a single counting center to no more than 100,000.

**History:** 1984 c 447 s 27; 1986 c 362 s 11; 1986 c 444

**206.86 COUNTING ELECTRONIC VOTING SYSTEM RESULTS.**

**Subdivision 1. At the voting location.** In precincts where an electronic voting system is used, as soon as the polls are closed the election judges shall secure the marking devices against further voting. They shall then open the ballot box and count the number of ballot cards or envelopes containing ballot cards that have been cast to determine that the number of ballot cards does not exceed the number of voters shown on the election register or registration file. If there is an excess, the judges shall process the ballot cards in the same manner as paper ballots are processed in section 204C.20, subdivision 2. The total number of voters must be entered on the forms provided. The judges shall next count the write-in votes and enter the number of those votes on forms provided for the purpose. If ballot cards are used, all ballot envelopes on which write-in votes have been recorded must be serially numbered, starting with the number one, and the same number must be placed on the ballot card of the voter. The judges shall compare the write-in votes with the votes cast on the ballot card. If the total number of votes for any office exceeds the number allowed by law, a notation to that effect must be entered on the back of the ballot card and the card must be returned to the counting center in an envelope marked "defective ballots"; however, valid votes on ballot cards containing invalid votes must be counted as provided in subdivision 5. If paper ballots are used, the judges, before counting the write-in votes, shall compare the write-in votes with the votes cast elsewhere on the ballot card. If the total number of votes for an office involving a write-in vote exceeds the number allowed by law, a notation to that effect must be entered on the back of the ballot. Valid votes on the rest of such a ballot must be tallied by the judges at the precinct, on a form provided for the purpose. The ballot must then be placed in an envelope marked "defective ballots" and returned to the counting center. The total number of defective ballots must be added to the totals for the respective precincts and the defective ballots disposed of as provided by section 204C.25.

**Subd. 2. Transportation of ballot cards.** The judges shall place all voted ballot cards, envelopes with write-in ballots, defective ballots, and damaged ballots in the container provided for transporting them to the counting center. The container must be sealed and delivered immediately to the counting center by two judges who are not of the same major political party. The judges shall also deliver to the counting center in a suitable container the unused ballot cards, the spoiled ballot envelope, and the ballot envelopes issued to the voters and deposited during the day in the ballot box.

**Subd. 3. Counting centers open; security.** Proceedings at the counting center are open to the public. They are under the direction of the official in charge of elections in each municipality where an electronic voting system is used and must be under the observation of at least two election judges who are not of the same major political party. Only persons employed and authorized for the purpose may touch any ballot card, ballot container, or statement of absentee ballot results.

**Subd. 4. Preliminary tabulation.** When the ballot cards arrive at a counting center where votes are counted by a multiple use computer, they must be given to the counting center election judges. For purposes of this subdivision a multiple use computer is automatic tabulating equipment which can perform functions other than counting votes. If the election judges at the precinct have determined that any ballot cards are not defective by reason of improper write-in votes, those ballot cards may be counted by the automatic tabulating equipment before inspection by the counting center election judges. The results of this preliminary tabulation may be made available to the public if the tabulation is clearly identified as unofficial.

After any preliminary tabulation has been made, the ballot cards must be returned to the counting center election judges who shall examine them for physical defects and prepare replacements, if necessary, as provided in subdivision 5.

**Subd. 5. Damaged, defective ballot cards.** If a ballot card is damaged or defective so that it cannot be counted properly by the automatic tabulating equipment, a true duplicate copy must be made of the damaged ballot card in the presence of two judges not of the same major political party and must be substituted for the damaged ballot

card. Likewise, a duplicate ballot card must be made of a defective ballot card which may not include the votes for the offices for which it is defective. Duplicate ballot cards must be clearly labeled "duplicate," indicate the precinct in which the corresponding damaged or defective ballot was cast, bear a serial number which must be recorded on the damaged or defective ballot card, and be counted in lieu of the damaged or defective ballot card. If a ballot card is damaged or defective so that it cannot be counted properly by the automatic tabulating equipment, the ballot card must be tallied at the counting center by two judges not of the same major political party and the totals for all these ballot cards must be added to the totals for the respective precincts.

**Subd. 6. Final tabulation.** A final tabulation of ballots must be obtained from the automatic tabulating equipment after all damaged or defective cards have been replaced. The final tabulation, together with the returns of write-in and absentee votes and the precinct summary statements prepared in accordance with section 204C.24, constitute the official return of each precinct. Upon completion of the count the returns are open to the public. The automatic tabulating equipment must be programmed to provide a complete recapitulation of all ballots processed. It may be programmed to provide information in addition to that required in the official return of each precinct, if the officials in charge of elections deem that advisable in order to provide election statistics to evaluate the performance of the electronic voting system or other aspects of the election.

**History:** 1984 c 447 s 28

## 206.87 CANVASSING BOARD DUTIES.

In a municipality where an electronic voting system is used the canvassing board shall be constituted and shall perform the same duties as provided in sections 204C.32, 204C.33, and 204C.39 on the canvassing of paper ballots.

**History:** 1984 c 447 s 29

## 206.90 OPTICAL SCAN VOTING SYSTEMS.

**Subdivision 1. Definition.** For the purposes of this section, "optical scan voting system" means an electronic voting system approved for use under sections 206.80 to 206.81 in which the voter records votes by marking with a pencil or other writing instrument a ballot on which the names of candidates, office titles, party designation in a partisan primary or election, and a statement of any question accompanied by the words "Yes" and "No" are printed.

**Subd. 2. Procedures.** To the extent possible, procedures for using an optical scan voting system must be the same as those used for other electronic voting systems, unless this section provides otherwise.

**Subd. 3. Availability of paper ballots.** For the purposes of section 206.63, "paper ballots" includes ballot cards which are voted by marking with a pencil or other writing instrument and on which are printed the names of candidates, office titles, party designation in a partisan primary or election, and a statement of any question accompanied by the words "Yes" and "No." At a state or county election where an optical scan voting system will be in use, the county auditor may provide ballot cards meeting the requirements of this section in lieu of paper ballots otherwise required to be prepared by the county auditor.

**Subd. 4. Absentee voting.** An optical scan voting system may be used for absentee voting as long as an appropriate marking instrument is supplied to the voter along with the ballot.

**Subd. 5. Instruction of judges, voters.** In instructing judges and voters under section 206.84, subdivision 1, officials in charge of election precincts using optical scan voting systems shall include instruction on the proper mark for recording votes on ballot cards marked with a pencil or other writing instrument and the insertion by the voter of the ballot card into automatic tabulating equipment that examines and counts votes as the ballot card is deposited into the ballot box.

Subd. 6. **Ballots.** In precincts using optical scan voting systems, a single ballot card on which all ballot information is included must be printed in black ink on white or buff colored material except that marks not to be read by the automatic tabulating equipment may be printed in another color ink. If more than one ballot card is required, the cards must, so far as practicable, be of the same color as is required for paper ballots.

Subd. 7. **Voting booths.** In precincts where an optical scan voting system is used, the number of voting booths must be sufficient to provide for the number of voters expected. Information needed to enable voters to mark ballot cards quickly and correctly must be posted in each voting booth.

Subd. 8. **Duties of election officials.** The official in charge of elections in each municipality where an optical scan voting system is used shall have the automatic tabulating equipment that examines and counts votes as ballot cards are deposited into ballot boxes put in order, set, adjusted, and made ready for voting when delivered to the election precincts.

Subd. 9. **Spoiled ballot cards.** Automatic tabulating equipment capable of examining a ballot card for defects and returning it to the voter before it is counted and deposited into the ballot box must be programmed to return as a spoiled ballot a ballot card with votes for an office or question which exceed the number which the voter is entitled to cast and at a primary a ballot card with votes for candidates of more than one party.

Subd. 10. **Counting write-in votes.** In precincts using optical scan voting systems, the judges shall count the write-in votes and enter the number of those votes on forms provided for the purpose. When the write-in votes are recorded on a medium that cannot be examined for write-in votes by the automatic tabulating equipment or the automatic tabulating equipment does not reject, with respect to write-in votes, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to count, all ballot envelopes or other medium on which write-in votes have been recorded must be serially numbered, starting with the number one and the same number must be placed on the ballot card of the voter. The judges shall compare the write-in votes with the votes cast on the ballot card. If the total number of votes for any office exceeds the number allowed by law, a notation to that effect must be entered on the back of the ballot card and the card must be returned to the counting center in an envelope marked "defective ballots"; however, valid votes on ballot cards containing invalid votes must be counted as provided in section 206.86, subdivision 5.

When the write-in votes are recorded on ballot cards that can be examined for write-in votes by the automatic tabulating equipment and the automatic tabulating equipment rejects all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast, the judges shall examine the ballot cards with write-in votes and count the valid write-in votes.

**History:** 1986 c 381 s 1; 1987 c 175 s 15