

CHAPTER 206

ELECTRONIC VOTING SYSTEMS

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206.065 [Repealed, 1997 c 147 s 79]

206.55 MINNESOTA ELECTION LAW APPLIES.

The use of electronic voting systems is governed by sections 206.55 to 206.90 and by all other provisions of the Minnesota election law which are not inconsistent with sections 206.55 to 206.90.

History: 1997 c 147 s 47

206.56 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in chapter 200 and in this section apply to sections 206.55 to 206.90.

[For text of subd 2, see M.S.1996]

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

Subd. 4. [Repealed, 1997 c 147 s 79]

Subd. 5. **Ballot card.** "Ballot card" means a ballot which is marked so that votes may be counted by automatic tabulating equipment.

Subd. 6. [Repealed, 1997 c 147 s 79]

[For text of subd 7, see M.S.1996]

Subd. 8. **Electronic voting system.** "Electronic voting system" means a system in which the voter records votes by means of marking 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 any approved device for marking a ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment.

Subd. 10. [Repealed, 1997 c 147 s 79]

Subd. 11. [Repealed, 1997 c 147 s 79]

Subd. 12. [Repealed, 1997 c 147 s 79]

Subd. 13. [Repealed, 1997 c 147 s 79]

[For text of subd 14, see M.S.1996]

Subd. 15. [Repealed, 1997 c 147 s 79]

[For text of subs 16 and 17, see M.S.1996]

History: 1997 c 147 s 48–52

206.57 EXAMINATION OF NEW VOTING SYSTEMS.

Subdivision 1. **Examination and report by secretary of state; approval.** A vendor of an electronic voting system may apply to the secretary of state to examine the 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 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 electronic voting system before its adoption, use, or purchase and before its continued use after significant changes have been made in an approved system. The examination must include the ballot programming, vote counting, and vote accumulation functions of each voting system.

If the report of the secretary of state or the secretary's designee concludes that the kind of system examined complies with the requirements of sections 206.55 to 206.90 and can be used safely, the 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 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 rules consistent with sections 206.55 to 206.90 relating to the examination and use of 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 must be deposited in the state treasury. The expenses of administering this section must be paid from appropriations to the secretary of state.

Subd. 4. **Vendor bonds.** Vendors of electronic voting systems shall certify to the secretary of state that they will not offer for sale a 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: 1997 c 147 s 53

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 an electronic voting system in one or more precincts and at all elections in the precincts, subject to approval by the county auditor. 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 system in a public place for the six weeks immediately prior to the first election at which the new voting system will be used.

No system may be adopted or used unless it has been approved by the secretary of state pursuant to section 206.57.

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

If the governing body of a municipality decides to use 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 206.90 for using the 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 must be posted prominently in the polling place and must 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 an electronic voting system in one or more precincts of the county at all elections. The governing body of the municipality shall give approval before an electronic voting system may be adopted or used in the municipality under the authority of this section. No 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 systems. If a municipality adopts the use of an electronic voting system, the municipal clerk shall certify to the secretary of state within 30 days from the date of adoption that an electronic voting system will be used in the municipality and the date when use will commence.

History: 1997 c 147 s 54

206.59 PAYMENT FOR VOTING SYSTEMS.

Payment for an electronic voting system may be provided for in the manner deemed in the best interests of the political division adopting and purchasing it. 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 must be a charge upon the municipality or county adopting and purchasing the 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 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: 1997 c 147 s 55

206.60 [Repealed, 1997 c 147 s 79]

206.61 BALLOTS.

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

At general elections and primaries the county auditor of each county in which an electronic voting system is used shall provide all ballot cards and other necessary printed forms and supplies needed for the 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. [Repealed, 1997 c 147 s 79]

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 card.

[For text of subd 4, see M.S.1996]

Subd. 5. Alternation. The provisions of the election laws requiring the alternation of names of candidates must be observed as far as practicable by changing the order of the names on 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 must be the same on all voting systems used in the same precinct. If 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. [Repealed, 1997 c 147 s 79]

Subd. 7. [Repealed, 1997 c 147 s 79]

Subd. 8. [Repealed, 1997 c 147 s 79]

History: 1997 c 147 s 56–58

206.62 SAMPLE BALLOTS.

The officials who prepare ballot cards shall provide each polling place with at least two sample ballots which are facsimiles of the card to be voted on in that precinct. The sample ballots may be either in full or reduced size. The sample ballots must be posted prominently in the polling place and must remain open to inspection by the voters throughout election day.

History: 1997 c 147 s 59

206.63 [Repealed, 1997 c 147 s 79]

206.64 ACCESSIBILITY; INSTRUCTIONS; ASSISTANCE TO VOTERS.

Subdivision 1. General provisions for electronic system voting. Each 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 booth after determining that the individual is eligible to vote. Voting by electronic voting system must be secret, except 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 must be removed by the election judges.

Subd. 2. [Repealed, 1997 c 147 s 79]

History: 1997 c 147 s 60

206.66 VIOLATIONS; PENALTIES.

Subdivision 1. Injuring voting machines. An individual who intentionally injures or attempts to injure or render ineffectual any component of an electronic voting system, or who violates any of the provisions of sections 206.55 to 206.90, 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 an electronic voting system is used, or who violates any of the provisions of sections 206.55 to 206.90, is guilty of a gross misdemeanor.

Subd. 3. Performance bond. A vendor of electronic voting systems or related election services shall furnish the secretary of state with a sufficient bond conditioned on the performance of those machines, systems, or services in accordance with the Minnesota election law and any contract or agreement made with an election jurisdiction in Minnesota. The vendor bond required under section 206.57, subdivision 4, may serve as the performance bond required under this subdivision. The secretary of state shall send notice of the receipt or forfeiture of a bond under this subdivision to each official on the user list.

History: 1997 c 147 s 61

206.68 [Repealed, 1997 c 147 s 79]

206.685 [Repealed, 1997 c 147 s 79]

206.69 [Repealed, 1997 c 147 s 79]

206.70 [Repealed, 1997 c 147 s 79]

206.71 [Repealed, 1997 c 147 s 79]

206.72 [Repealed, 1997 c 147 s 79]

206.73 [Repealed, 1997 c 147 s 79]

206.74 [Repealed, 1997 c 147 s 79]

206.75 [Repealed, 1997 c 147 s 79]

206.76 [Repealed, 1997 c 147 s 79]

206.77 [Repealed, 1997 c 147 s 79]

206.80 ELECTRONIC VOTING SYSTEMS.

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.

History: 1997 c 147 s 62

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 must be observed by the secretary of state or the secretary's designee and the results observed must be considered at any subsequent proceedings for approval for general use. The secretary of state may adopt rules consistent with sections 206.55 to 206.90 relating to experimental use. The extent of experimental use must be determined by the secretary of state.

History: 1997 c 147 s 63

206.83 TESTING OF VOTING SYSTEMS.

The official in charge of elections shall have the voting system tested to ascertain that the system will correctly count the votes cast for all candidates and on all questions within 14 days prior to election day. 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 voting system 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 voting system may be used in the election. After the completion of the test, the programs used and ballot cards must be sealed, retained, and disposed of as provided for paper ballots.

History: 1997 c 147 s 64

206.84 METHODS OF USING ELECTRONIC VOTING SYSTEMS.

[For text of subd 1, see M.S.1996]

Subd. 2. [Repealed, 1997 c 147 s 79]

Subd. 3. **Ballots.** The ballot information must 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.

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. [Repealed, 1997 c 147 s 79]

Subd. 5. [Repealed, 1997 c 147 s 79]

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 voting systems 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 cards 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 206.90, the election judges shall conduct the election in the manner prescribed for precincts using paper ballots in chapters 204C and 204D.

History: 1997 c 147 s 65–67

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 voting systems 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.

Subd. 2. **Transportation of ballot cards.** The judges shall place all voted ballot cards, 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.

[For text of subds 3 to 6, see M.S.1996]

History: 1997 c 147 s 68,69

206.90 OPTICAL SCAN VOTING SYSTEMS.

[For text of subds 1 to 3, see M.S.1996]

Subd. 4. **Absentee voting.** An optical scan voting system may be used for absentee voting. The county auditor may supply an appropriate marking instrument to the voter along with the ballot.

[For text of subd 5, see M.S.1996]

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 colored material except that marks not to be read by the automatic tabulating equipment may be printed in another color ink.

When optical scan ballots are used, the offices to be elected must appear in the following order: federal offices; state legislative offices; constitutional offices; proposed constitutional amendments; county offices and questions; municipal offices and questions; school district offices and questions; special district offices and questions; and judicial offices.

On optical scan ballots, the names of candidates and the words “yes” and “no” for ballot questions must be printed as close to their corresponding vote targets as possible.

The line on an optical scan ballot for write-in votes must contain the words “write-in, if any.”

[For text of subs 7 to 10, see M.S.1996]

History: 1997 c 147 s 70,71