

CHAPTER 203B

ABSENTEE VOTING

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203B.01 ABSENTEE BALLOTING; DEFINITIONS.

[For text of subs 1 and 2, see M.S.2004]

Subd. 3. **Military.** "Military" means the Army, Navy, Air Force, Marine Corps, Coast Guard or Merchant Marine of the United States, and all other uniformed services as defined in United States Code, title 42, section 1973ff-6.

[For text of subd 4, see M.S.2004]

History: 2005 c 156 art 6 s 20

203B.04 APPLICATION FOR BALLOTS.

Subdivision 1. **Application procedures.** Except as otherwise allowed by subdivision 2, an application for absentee ballots for any election may be submitted at any time not less than one day before the day of that election. The county auditor shall prepare absentee ballot application forms in the format provided by the secretary of state, notwithstanding rules on absentee ballot forms, and shall furnish them to any person on request. By January 1 of each even-numbered year, the secretary of state shall make the forms to be used available to auditors through electronic means. An application submitted pursuant to this subdivision shall be in writing and shall be submitted to:

- (a) the county auditor of the county where the applicant maintains residence; or
- (b) the municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence.

An application shall be approved if it is timely received, signed and dated by the applicant, contains the applicant's name and residence and mailing addresses, and states that the applicant is eligible to vote by absentee ballot for one of the reasons specified in section 203B.02. The application may contain a request for the voter's date of birth, which must not be made available for public inspection. An application may be submitted to the county auditor or municipal clerk by an electronic facsimile device. An application mailed or returned in person to the county auditor or municipal clerk on behalf of a voter by a person other than the voter must be deposited in the mail or returned in person to the county auditor or municipal clerk within ten days after it has been dated by the voter and no later than six days before the election. The absentee ballot applications or a list of persons applying for an absentee ballot may not be made available for public inspection until the close of voting on election day.

An application under this subdivision may contain an application under subdivision 5 to automatically receive an absentee ballot application.

[For text of subs 2 and 3, see M.S.2004]

Subd. 4. **Registration at time of application.** An eligible voter who is not registered to vote but who is otherwise eligible to vote by absentee ballot may register by including a completed voter registration card with the absentee ballot. The individual shall present proof of residence as required by section 201.061, subdivision 3, to the individual who witnesses the marking of the absentee ballots. A military voter, as defined in section 203B.01, may register in this manner if voting pursuant to sections 203B.04 to 203B.15, or may register pursuant to sections 203B.16 to 203B.27.

[For text of subd 5, see M.S.2004]

Subd. 6. Ongoing absentee status; termination. (a) An eligible voter may apply to a county auditor or municipal clerk for status as an ongoing absentee voter who reasonably expects to meet the requirements of section 203B.02, subdivision 1. Each applicant must automatically be provided with an absentee ballot application for each ensuing election other than an election by mail conducted under section 204B.45, and must have the status of ongoing absentee voter indicated on the voter's registration record.

(b) Ongoing absentee voter status ends on:

- (1) the voter's written request;
- (2) the voter's death;
- (3) return of an ongoing absentee ballot as undeliverable;
- (4) a change in the voter's status so that the voter is not eligible to vote under section 201.15 or 201.155; or
- (5) placement of the voter's registration on inactive status under section 201.171.

History: 2005 c 156 art 6 s 21-23

203B.07 RETURN AND BALLOT ENVELOPES; DIRECTIONS TO VOTERS.

[For text of subd 1, see M.S.2004]

Subd. 2. Design of envelopes. The return envelope shall be of sufficient size to conveniently enclose and contain the ballot envelope and a voter registration card folded along its perforations. The return envelope shall be designed to open on the left-hand end. Notwithstanding any rule to the contrary, the return envelope must be designed in one of the following ways:

(1) it must be of sufficient size to contain an additional envelope that when sealed, conceals the signature, identification, and other information; or

(2) it must provide an additional flap that when sealed, conceals the signature, identification, and other information. Election officials may open the flap or the additional envelope at any time after receiving the returned ballot to inspect the returned certificate for completeness or to ascertain other information. A certificate of eligibility to vote by absentee ballot shall be printed on the back of the envelope. The certificate shall contain a statement to be signed and sworn by the voter indicating that the voter meets all of the requirements established by law for voting by absentee ballot. The certificate shall also contain a statement signed by a person who is registered to vote in Minnesota or by a notary public or other individual authorized to administer oaths stating that:

(a) the ballots were displayed to that individual unmarked;

(b) the voter marked the ballots in that individual's presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them; and

(c) if the voter was not previously registered, the voter has provided proof of residence as required by section 201.061, subdivision 3.

The county auditor or municipal clerk shall affix first class postage to the return envelopes.

History: 2005 c 156 art 6 s 24

203B.11 HOSPITAL PATIENTS AND RESIDENTS OF HEALTH CARE FACILITIES.

Subdivision 1. Generally. Each full-time municipal clerk or school district clerk who has authority under section 203B.05 to administer absentee voting laws shall designate election judges to deliver absentee ballots in accordance with this section. The county auditor must also designate election judges to perform the duties in this section. A ballot may be delivered only to an eligible voter who is a temporary or permanent resident or patient in a health care facility or hospital located in the

municipality in which the voter maintains residence. The ballots shall be delivered by two election judges, each of whom is affiliated with a different major political party. When the election judges deliver or return ballots as provided in this section, they shall travel together in the same vehicle. Both election judges shall be present when an applicant completes the certificate of eligibility and marks the absentee ballots, and may assist an applicant as provided in section 204C.15. The election judges shall deposit the return envelopes containing the marked absentee ballots in a sealed container and return them to the clerk on the same day that they are delivered and marked.

[For text of subds 2 to 4, see M.S.2004]

History: 2005 c 156 art 6 s 25

203B.12 ELECTION JUDGES TO RECEIVE AND COUNT BALLOTS.

[For text of subd 1, see M.S.2004]

Subd. 2. Examination of return envelopes. Two or more election judges shall examine each return envelope and shall mark it accepted or rejected in the manner provided in this subdivision. If a ballot has been prepared under section 204B.12, subdivision 2a, or 204B.41, the election judges shall not begin removing ballot envelopes from the return envelopes until 8:00 p.m. on election day, either in the polling place or at an absentee ballot board established under section 203B.13.

The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges or a majority of them are satisfied that:

(1) the voter's name and address on the return envelope are the same as the information provided on the absentee ballot application;

(2) the voter's signature on the return envelope is the genuine signature of the individual who made the application for ballots and the certificate has been completed as prescribed in the directions for casting an absentee ballot, except that if a person other than the voter applied for the absentee ballot under applicable Minnesota Rules, the signature is not required to match;

(3) the voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope; and

(4) the voter has not already voted at that election, either in person or by absentee ballot.

There is no other reason for rejecting an absentee ballot. In particular, failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

The return envelope from accepted ballots must be preserved and returned to the county auditor.

If all or a majority of the election judges examining return envelopes find that an absent voter has failed to meet one of the requirements prescribed in clauses (1) to (4), they shall mark the return envelope "Rejected," initial or sign it below the word "Rejected," and return it to the county auditor.

[For text of subds 3 to 7, see M.S.2004]

History: 2005 c 156 art 6 s 26; 1Sp2005 c 7 s 21

203B.20 CHALLENGES.

Except as provided in this section, the eligibility or residence of a voter whose application for absentee ballots is recorded under section 203B.19 may be challenged in the manner set forth by section 201.195. The county auditor or municipal clerk shall not be required to serve a copy of the petition and notice of hearing on the challenged voter. If the absentee ballot application was submitted on behalf of a voter by an individual authorized under section 203B.17, subdivision 1, paragraph (a), the county

auditor must attempt to notify the individual who submitted the application of the challenge. The county auditor may contact other registered voters to request information that may resolve any discrepancies appearing in the application. All reasonable doubt shall be resolved in favor of the validity of the application. If the voter's challenge is affirmed, the county auditor shall provide the challenged voter with a copy of the petition and the decision and shall inform the voter of the right to appeal as provided in section 201.195.

History: 2005 c 156 art 6 s 27

203B.21 BALLOTS AND ENVELOPES.

Subdivision 1. **Form.** Absentee ballots under sections 203B.16 to 203B.27 shall conform to the requirements of the Minnesota Election Law, except that modifications in the size or form of ballots or envelopes may be made if necessary to satisfy the requirements of the United States postal service. The return envelope must be designed in one of the following ways:

- (1) it must be of sufficient size to contain an additional envelope that when sealed, conceals the signature, identification, and other information; or
- (2) it must provide an additional flap that when sealed, conceals the signature, identification, and other information.

The flap or the additional envelope must be perforated to permit election officials to inspect the returned certificate for completeness or to ascertain other information at any time after receiving the returned ballot without opening the return envelope.

[For text of subd 2, see M.S.2004]

Subd. 3. **Back of return envelope.** On the back of the return envelope an affidavit form shall appear with space for:

- (a) The voter's address of present or former residence in Minnesota;
- (b) A statement indicating the category described in section 203B.16 to which the voter belongs;
- (c) A statement that the voter has not cast and will not cast another absentee ballot in the same election or elections;
- (d) A statement that the voter personally marked the ballots without showing them to anyone, or if physically unable to mark them, that the voter directed another individual to mark them; and
- (e) The voter's military identification card number, passport number, or, if the voter does not have a valid passport or identification card, the signature and certification of an individual authorized to administer oaths under federal law or the law of the place where the oath was administered or commissioned or noncommissioned personnel of the military not below the rank of sergeant or its equivalent.

The affidavit shall also contain a signed and dated oath in the form required by section 705 of the Help America Vote Act, Public Law 107-252, which must read:

"I swear or affirm, under penalty of perjury, that:

I am a member of the uniformed services or merchant marine on active duty or an eligible spouse or dependent of such a member; a United States citizen temporarily residing outside the United States; or other United States citizen residing outside the United States; and I am a United States citizen, at least 18 years of age (or will be by the date of the election), and I am eligible to vote in the requested jurisdiction; I have not been convicted of a felony, or other disqualifying offense, or been adjudicated mentally incompetent, or, if so, my voting rights have been reinstated; and I am not registering, requesting a ballot, or voting in any other jurisdiction in the United States except the jurisdiction cited in this voting form. In voting, I have marked and sealed my ballot in private and have not allowed any person to observe the marking of the ballot, except for those authorized to assist voters under state or federal law. I have not been influenced.

My signature and date below indicate when I completed this document.

The information on this form is true, accurate, and complete to the best of my knowledge. I understand that a material misstatement of fact in completion of this document may constitute grounds for a conviction for perjury."

[For text of subd 4, see M.S.2004]

History: 2005 c 156 art 6 s 28,29

203B.24 DUTIES OF ELECTION JUDGES.

Subdivision 1. **Check of voter eligibility; proper execution of affidavit.** Upon receipt of an absentee ballot returned as provided in sections 203B.16 to 203B.27, the election judges shall compare the voter's name with the names appearing on their copy of the application records to insure that the ballot is from a voter eligible to cast an absentee ballot under sections 203B.16 to 203B.27. The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges are satisfied that:

(1) the voter's name on the return envelope appears in substantially the same form as on the application records provided to the election judges by the county auditor;

(2) the voter has signed the federal oath prescribed pursuant to section 705(b)(2) of the Help America Vote Act, Public Law 107-252;

(3) the voter has set forth the voter's military identification number or passport number or, if those numbers do not appear, a person authorized to administer oaths under federal law or the law of the place where the oath was administered or a witness who is military personnel with a rank at or above the rank of sergeant or its equivalent has signed the ballot; and

(4) the voter has not already voted at that election, either in person or by absentee ballot.

An absentee ballot case pursuant to sections 203B.16 to 203B.27 may only be rejected for the lack of one of clauses (1) to (4). In particular, failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

Election judges must note the reason for rejection on the back of the envelope in the space provided for that purpose.

Failure to return unused ballots shall not invalidate a marked ballot, but a ballot shall not be counted if the affidavit on the return envelope is not properly executed. In all other respects the provisions of the Minnesota Election Law governing deposit and counting of ballots shall apply.

[For text of subd 2, see M.S.2004]

History: 2005 c 156 art 6 s 30; 1Sp2005 c 7 s 22