

CHAPTER 203B

ABSENTEE VOTING

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203B.001 ELECTION LAW APPLICABILITY.

The Minnesota Election Law is applicable to voting by absentee ballot unless otherwise provided in this chapter.

History: 1989 c 291 art 1 s 3

203B.01 ABSENTEE BALLOTING; DEFINITIONS.

Subdivision 1. **Application.** The definitions in chapter 200 and this section apply to this chapter.

Subd. 2. **Municipal clerk.** "Municipal clerk" means a full-time town or city clerk who is authorized or required to administer the provisions of sections 203B.04 to 203B.15, as provided in section 203B.05. "Municipal clerk" also means clerk of the school district who is authorized or required to administer the provisions of sections 203B.04 to 203B.15, as provided in section 203B.05 for a school district election not held on the same day as a statewide election.

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.

Subd. 4. **Health care facility.** "Health care facility" means a licensed hospital, sanitarium, or other institution as defined in section 144.50, subdivision 2, or a nursing home licensed to serve adults under section 144A.02.

History: 1981 c 29 art 3 s 1; 1987 c 266 art 1 s 12; 1997 c 147 s 12; 2005 c 156 art 6 s 20

203B.02 GENERAL ELIGIBILITY REQUIREMENTS.

Subdivision 1. **Unable to go to polling place.** (a) Any eligible voter who reasonably expects to be unable to go to the polling place on election day in the precinct where the individual maintains residence because of absence from the precinct; illness, including isolation or quarantine under sections 144.419 to 144.4196 or United States Code, title 42, sections

264 to 272; disability; religious discipline; observance of a religious holiday; or service as an election judge in another precinct may vote by absentee ballot as provided in sections 203B.04 to 203B.15.

(b) If the governor has declared an emergency and filed the declaration with the secretary of state under section 12.31, and the declaration states that the emergency has made it difficult for voters to go to the polling place on election day, any voter in a precinct covered by the declaration may vote by absentee ballot as provided in sections 203B.04 to 203B.15.

Subd. 1a. Experimental procedures. A county board may authorize any eligible voter in the county to vote by absentee ballot without qualification by submitting a written request to the county auditor between August 1, 1991 and November 30, 1992, notwithstanding the provisions of subdivision 1. The county auditor shall notify the secretary of state immediately after the adoption of such a resolution of authorization by the county board.

The application for absentee ballots must include the voter's name, residence address in the county, address to which the ballots are to be mailed, the date of the request, and the voter's signature.

The county auditor shall maintain a record of the number of applications for absentee ballots submitted under this subdivision. No later than January 15, 1993, the secretary of state shall prepare a report to the legislature on the implementation of this subdivision.

Assistance to voters in marking absentee ballots is subject to section 204C.15, subdivision 1.

Subd. 2. Military service; temporary absence. An eligible voter who is either in the military, or is a spouse or dependent of an individual serving in the military, or is temporarily outside the territorial limits of the United States may vote by absentee ballot either as provided in sections 203B.04 to 203B.15 or as provided in sections 203B.16 to 203B.27.

Subd. 3. Permanent residence abroad. A United States citizen living permanently outside the United States who is eligible under federal law to vote in federal elections in Minnesota may vote by absentee ballot only as provided in sections 203B.16 to 203B.27.

History: 1981 c 29 art 3 s 2; 1983 c 303 s 2; 1984 c 471 s 3; 1986 c 444; 1991 c 227 s 9; 2006 c 242 s 16

203B.03 PROHIBITIONS; PENALTIES.

Subdivision 1. **Violation.** No individual shall intentionally:

- (a) make or sign any false certificate required by this chapter;
- (b) make any false or untrue statement in any application for absentee ballots;
- (c) apply for absentee ballots more than once in any election with the intent to cast an illegal ballot;
- (d) exhibit a ballot marked by that individual to any other individual;
- (e) do any act in violation of the provisions of this chapter for the purpose of casting an illegal vote in any precinct or for the purpose of aiding another to cast an illegal vote;
- (f) use information from absentee ballot materials or records for purposes unrelated to elections, political activities, or law enforcement;
- (g) provide assistance to an absentee voter except in the manner provided by section 204C.15, subdivision 1;
- (h) solicit the vote of an absentee voter while in the immediate presence of the voter during the time the individual knows the absentee voter is voting; or
- (i) alter an absentee ballot application after it has been signed by the voter, except by an election official for administrative purposes.

Before inspecting information from absentee ballot materials or records, an individual shall provide identification to the public official having custody of the material or information.

Subd. 2. Penalty. A violation of this section is a felony.

History: 1981 c 29 art 3 s 3; 1987 c 175 s 3; 1997 c 147 s 13; 1999 c 132 s 8

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.

Subd. 2. Health care patient. An eligible voter who on the day before an election becomes a resident or patient in a health care facility or hospital located in the municipality in which the eligible voter maintains residence may apply for absentee ballots on election day if the voter:

- (a) requests an application form by telephone from the municipal clerk not later than 5:00 p.m. on the day before election day; or
- (b) submits an absentee ballot application to the election judges engaged in delivering absentee ballots pursuant to section 203B.11.

Subd. 3. Delivery of application forms. The election judges designated to deliver absentee ballots pursuant to section 203B.11 shall deliver a blank application form for absentee ballots to any individual who requests one in order to apply for absentee ballots pursuant to subdivision 2.

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.

Subd. 5. Permanent illness or disability. (a) An eligible voter who reasonably expects to be permanently unable to go to the polling place on election day because of illness or disability may apply to a county auditor or municipal clerk under this section to automatically receive an absentee ballot application before each election, other than an election by mail conducted under section 204B.45, and to have the status as a permanent absentee voter indicated on the voter's registration record.

- (b) The secretary of state shall adopt rules governing procedures under this subdivision.

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: 1981 c 29 art 3 s 4; 1983 c 303 s 3; 1984 c 560 s 4; 1987 c 266 art 1 s 13; 1990 c 585 s 19; 1991 c 227 s 10; 1997 c 147 s 14; 1999 c 132 s 9; 2000 c 467 s 6; 1Sp2001 c 10 art 18 s 10,11; 2005 c 156 art 6 s 21-23

203B.05 DESIGNATION OF MUNICIPAL CLERKS TO ADMINISTER ABSENTEE VOTING LAWS.

Subdivision 1. **Generally.** The full-time clerk of any city or town shall administer the provisions of sections 203B.04 to 203B.15 if:

- (a) the county auditor of that county has designated the clerk to administer them; or
- (b) the clerk has given the county auditor of that county notice of intention to administer them.

Subd. 2. **City, school district, and town elections.** For city elections not held on the same day as a statewide election, for school district elections not held on the same day as a statewide election, and for town elections conducted under the Australian ballot system, applications for absentee ballots shall be filed with the city, school district, or town clerk and the duties prescribed by this chapter for the county auditor shall be performed by the city, school district, or town clerk unless the county auditor agrees to perform those duties on behalf of the city, school district, or town clerk. The costs incurred to provide absentee ballots and perform the duties prescribed by this subdivision shall be paid by the city, town, or school district holding the election.

Notwithstanding any other law, this chapter applies to school district elections held on the same day as a statewide election or an election for a county or municipality wholly or partially within the school district.

History: 1981 c 29 art 3 s 5; 1987 c 62 s 3; 1987 c 266 art 1 s 14

203B.06 APPLICATIONS; FILING WITH COUNTY AUDITOR OR MUNICIPAL CLERK; DELIVERY OF BALLOT.

Subdivision 1. **Printing and delivery of forms.** Each county auditor and municipal clerk shall prepare and print a sufficient number of blank application forms for absentee ballots. The county auditor or municipal clerk shall deliver a blank application form to any voter who requests one pursuant to section 203B.04.

Subd. 2. **Applications to wrong official.** If for any reason an application for absentee ballots is submitted to the wrong county auditor or municipal clerk, that official shall promptly forward it to the proper county auditor or municipal clerk.

Subd. 3. **Delivery of ballots.** (a) If an application for absentee ballots is accepted at a time when absentee ballots are not yet available for distribution, the county auditor, or municipal clerk accepting the application shall file it and as soon as absentee ballots are available for distribution shall mail them to the address specified in the application. If an application for absentee ballots is accepted when absentee ballots are available for distribution, the county auditor or municipal clerk accepting the application shall promptly:

- (1) mail the ballots to the voter whose signature appears on the application if the application is submitted by mail and does not request commercial shipping under clause (2);

(2) ship the ballots to the voter using a commercial shipper requested by the voter at the voter's expense;

(3) deliver the absentee ballots directly to the voter if the application is submitted in person; or

(4) deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots to a voter who is a patient in a health care facility, as provided in section 203B.11, subdivision 4, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4.

(b) If an application does not indicate the election for which absentee ballots are sought, the county auditor or municipal clerk shall mail or deliver only the ballots for the next election occurring after receipt of the application. Only one set of ballots may be mailed, shipped, or delivered to an applicant for any election, except as provided in section 203B.13, subdivision 2, or when a replacement ballot has been requested by the voter for a ballot that has been spoiled or lost in transit.

Subd. 3a. Unofficial ballots. If no official ballots are ready at the time absentee balloting is scheduled to begin or the supply is exhausted before absentee balloting ends, the county auditor or municipal clerk shall prepare unofficial ballots, printed or written as nearly as practicable in the form of the official ballots. These ballots may be used until the official ballots are available.

Subd. 4. Registration check. Upon receipt of an application for ballots, the county auditor, municipal clerk, or election judge acting pursuant to section 203B.11, who receives the application shall determine whether the applicant is a registered voter. If the applicant is not registered to vote, the county auditor, municipal clerk, or election judge shall include a voter registration application among the election materials provided to the applicant.

Subd. 5. Preservation of records. An application for absentee ballots shall be dated by the county auditor or municipal clerk when it is received and shall be initialed when absentee ballots are mailed or delivered to the applicant. All applications shall be preserved by the county auditor or municipal clerk and arranged according to precincts and the initial letter of the applicant's surname.

Subd. 6. Requests from abroad. If an application for absentee ballots requests delivery of absentee ballots to a point outside the continental United States, the absentee ballots must be sent by air mail. The transmittal and return envelopes must contain the text or symbol or both prescribed by the United States Postal Service for transmitting election mail outside the continental United States. Priority in mailing shall be given to all ballots sent by air mail.

Subd. 7. Special postal services. If the federal government or any of its branches, departments, agencies or other instrumentalities makes any special service available for the mailing of absentee voting materials, any county auditor or municipal clerk may use the service.

Subd. 8. Names on envelopes, directions. No envelope, return envelope, or directions for casting an absentee ballot shall contain the name of any candidate whose name appears on any of the absentee ballots.

History: 1981 c 29 art 3 s 6; 1984 c 560 s 5; 1987 c 175 s 4; 1987 c 266 art 1 s 15; 1997 c 147 s 15; 2000 c 467 s 7; 1Sp2001 c 10 art 18 s 12; 2004 c 293 art 1 s 21; 2006 c 242 s 17

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

Subdivision 1. Delivery of envelopes, directions. The county auditor or the municipal clerk shall prepare, print, and transmit a return envelope, a ballot envelope, and a copy of the directions for casting an absentee ballot to each applicant whose application for absentee ballots is accepted pursuant to section 203B.04. The directions for casting an absentee ballot shall be printed in at least 14-point bold type with heavy leading and may be printed on the ballot envelope. When a person requests the directions in Braille or on cassette tape, the

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county auditor or municipal clerk shall provide them in the form requested. The secretary of state shall prepare Braille and cassette copies and make them available.

When a voter registration card is sent to the applicant as provided in section 203B.06, subdivision 4, the directions or registration card shall include instructions for registering to vote.

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 201.06J, subdivision 3.

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

History: 1981 c 29 art 3 s 7; 1984 c 471 s 4; 1999 c 132 s 10; 1Sp2001 c 10 art 18 s 13; 2005 c 156 art 6 s 24

203B.08 MARKING AND RETURN OF ABSENTEE BALLOTS.

Subdivision 1. Marking and return by voter. An eligible voter who receives absentee ballots as provided in this chapter shall mark them in the manner specified in the directions for casting the absentee ballots. The return envelope containing marked ballots may be mailed as provided in the directions for casting the absentee ballots or may be left with the county auditor or municipal clerk who transmitted the absentee ballots to the voter. If delivered in person by an agent, the return envelope must be submitted to the county auditor or municipal clerk by 3:00 p.m. on election day.

The voter may designate an agent to deliver in person the sealed absentee ballot return envelope to the county auditor or municipal clerk or to deposit the return envelope in the mail. An agent may deliver or mail the return envelopes of not more than three voters in any election. Any person designated as an agent who tampers with either the return envelope or the voted ballots or does not immediately mail or deliver the return envelope to the county auditor or municipal clerk is guilty of a misdemeanor.

Subd. 1a. [Repealed, 1999 c 132 s 46]

Subd. 2. Address on return envelopes. The county auditor or municipal clerk shall address return envelopes to allow direct mailing of the absentee ballots to:

(a) the county auditor or municipal clerk who sent the ballots to the voter;

(b) the clerk of the town or city in which the absent voter is eligible to vote; or

(c) the appropriate election judges.

Subd. 3. **Procedures on receipt of ballots.** When absentee ballots are returned to a county auditor or municipal clerk, that official shall stamp and date the return envelope with an official seal of the office and place it in a secure location with other return envelopes received by that office. The county auditor or municipal clerk shall deliver to the appropriate election judges on election day all ballots received before or with the last mail delivery by the United States Postal Service on election day. A town clerk may request the United States Postal Service to deliver absentee ballots to the polling place on election day instead of to the official address of the town clerk.

Subd. 3a. [Repealed, 1999 c 132 s 46]

Subd. 4. **Rules.** The secretary of state shall adopt rules establishing procedures to be followed by county auditors and municipal clerks to assure accurate and timely return of absentee ballots. The rules of the secretary of state may authorize procedures and methods of return in addition to those specified in this section.

History: 1981 c 29 art 3 s 8; 1983 c 253 s 2,3; 1986 c 362 s 1,2; 1987 c 266 art 1 s 16; 1990 c 453 s 2; 1997 c 147 s 16; 1999 c 132 s 11; 2004 c 293 art 1 s 22

203B.081 LOCATIONS FOR ABSENTEE VOTING IN PERSON.

An eligible voter may vote by absentee ballot during the 30 days before the election in the office of the county auditor and at any other polling place designated by the county auditor. The county auditor shall make such designations at least 90 days before the election. At least one voting booth in each polling place must be made available by the county auditor for this purpose.

History: 1997 c 147 s 17; 1999 c 132 s 12

203B.085 COUNTY AUDITOR'S AND MUNICIPAL CLERK'S OFFICES TO REMAIN OPEN DURING CERTAIN HOURS PRECEDING ELECTION.

The county auditor's office in each county and the clerk's office in each city or town authorized under section 203B.05 to administer absentee balloting must be open for acceptance of absentee ballot applications and casting of absentee ballots from 10:00 a.m. to 3:00 p.m. on Saturday and until 5:00 p.m. on the day immediately preceding a primary, special, or general election unless that day falls on a Saturday or Sunday. Town clerks' offices must be open for absentee voting from 10:00 a.m. to 12:00 noon on the Saturday before a town general election held in March. The school district clerk, when performing the county auditor's election duties, need not comply with this section.

History: 1983 c 303 s 4; 1991 c 265 art 9 s 61; 1999 c 132 s 13; 2000 c 467 s 8; 2004 c 293 art 2 s 13

203B.09 FORM AND CONTENT OF REQUIRED MATERIALS; RULES OF SECRETARY OF STATE.

The secretary of state shall adopt rules establishing the form, content, and type size and style for the printing of blank applications for absentee ballots, absentee voter lists, return envelopes, certificates of eligibility to vote by absentee ballot, ballot envelopes, and directions for casting an absentee ballot. Any official charged with the duty of printing any of these materials shall do so in accordance with these rules.

History: 1981 c 29 art 3 s 9; 1990 c 585 s 20

203B.10 DELIVERY OF ABSENTEE BALLOT APPLICATIONS TO ELECTION JUDGES.

On the day before an election:

(a) the county auditor shall deliver to the municipal clerks within that county the applications for absentee ballots theretofore received and endorsed as provided in section 203B.06, subdivision 5; and

(b) the municipal clerks shall deliver the applications received from the county auditor and the applications for absentee ballots filed with their respective offices and endorsed as provided in section 203B.06, subdivision 5, to the appropriate election judges. Applications received on election day pursuant to section 203B.04, subdivision 2, shall be promptly delivered to the election judges in the precincts or to the judges of an absentee ballot board.

History: 1981 c 29 art 3 s 10; 1981 c 185 s 1; 1987 c 266 art 1 s 17; 1989 c 291 art 1 s 4

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.

Subd. 2. **Twenty days before an election.** During the 20 days preceding an election, the election judges shall deliver absentee ballots only to an eligible voter who has applied for absentee ballots to the county auditor or municipal clerk under section 203B.04, subdivision 1.

Subd. 3. **Election day.** On election day, the election judges shall deliver absentee ballots only to an eligible voter who on the day before the election became a resident or patient in a health care facility or hospital and who has applied for absentee ballots under section 203B.04, subdivision 2.

Subd. 4. **Agent delivery of ballots.** During the four days preceding an election and until 2:00 p.m. on election day, an eligible voter who is a patient of a health care facility, a participant in a residential program for adults licensed under section 245A.02, subdivision 14, or a resident of a shelter for battered women as defined in section 611A.37, subdivision 4, may designate an agent to deliver the ballots to the voter from the county auditor or municipal clerk. A candidate at the election may not be designated as an agent. The voted ballots must be returned to the county auditor or municipal clerk no later than 3:00 p.m. on election day. The voter must complete an affidavit requesting the auditor or clerk to provide the agent with the ballots in a sealed transmittal envelope. The affidavit must include a statement from the voter stating that the ballots were delivered to the voter by the agent in the sealed transmittal envelope. An agent may deliver ballots to no more than three persons in any election. The secretary of state shall provide samples of the affidavit and transmission envelope for use by the county auditors.

History: 1981 c 29 art 3 s 11; 1983 c 253 s 4; 1997 c 147 s 18,19; 1999 c 132 s 14,15; 2005 c 156 art 6 s 25; 2006 c 242 s 18

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

Subdivision 1. **Receipt of return envelopes.** The election judges in each precinct or the judges of an absentee ballot board shall take possession of all return envelopes delivered to them in accordance with section 203B.08.

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.

Subd. 3. Notation on polling place roster. If the return envelope is marked with the word "Accepted," the election judges shall record the fact that the voter has voted by absentee ballot on the polling place roster. This must be done by placing the letters "A.B." in the appropriate space on the roster. After a registration record has been marked to record that an individual has voted by absentee ballot, the individual shall not be allowed to vote in person at that election.

Subd. 4. Placement in container; opening and counting of ballots. The ballot envelopes from return envelopes marked "Accepted" shall be placed by the election judges in a separate absentee ballot container. The container and each ballot envelope may be opened only after the last regular mail delivery by the United States postal service on election day. The ballots shall then be initialed by the election judges in the same manner as ballots delivered by them to voters in person and shall be deposited in the appropriate ballot box.

If more than one ballot of any kind is enclosed in the ballot envelope, none of the ballots of that kind shall be counted but all ballots of that kind shall be returned in the manner provided by section 204C.25 for return of spoiled ballots.

Subd. 5. [Repealed, 1999 c 132 s 46]

Subd. 6. Exception for municipalities or school districts with absentee ballot boards. In municipalities or school districts with an absentee ballot board, the election judges in each precinct shall receive and process return envelopes and ballot envelopes as provided in this section except that the ballot envelopes from return envelopes marked "Accepted" shall be delivered in an absentee ballot container to the absentee ballot board for the counting of ballots as soon as possible after processing. Other law to the contrary notwithstanding, the governing body of a municipality or the school board of a school district with an absentee ballot precinct may authorize the judges of the absentee ballot precinct to validate ballots in the manner provided in this section. The vote totals provided by the absentee ballot board shall be included in the vote totals on the summary statements of the returns for the precinct in which they were received.

Subd. 7. **Names of persons submitting absentee ballots.** The names of voters who have submitted an absentee ballot return envelope to the county auditor or municipal clerk may not be made available for public inspection until the close of voting on election day.

History: 1981 c 29 art 3 s 12; 1981 c 185 s 2; 1983 c 253 s 5,6; 1984 c 560 s 6-9; 1987 c 266 art 1 s 18; 1989 c 291 art 1 s 5,6; 1990 c 585 s 21,22; 1991 c 320 s 1; 1997 c 147 s 20,21; 2004 c 293 art 1 s 23; 2005 c 156 art 6 s 26; 1Sp2005 c 7 s 21

203B.125 SECRETARY OF STATE TO MAKE RULES.

The secretary of state shall adopt rules establishing methods and procedures for issuing ballot cards and related absentee forms to be used as provided in section 203B.08, subdivision 1a, and for the reconciliation of voters and ballot cards before tabulation under section 203B.12.

History: 1983 c 253 s 7

203B.13 ABSENTEE BALLOT BOARDS.

Subdivision 1. **Establishment.** The governing body of any county that has established a counting center as provided in section 206.85, subdivision 2, any municipality, or any school district may by ordinance or resolution, authorize an absentee ballot board. The board shall consist of a sufficient number of election judges appointed as provided in sections 204B.19 to 204B.22.

Subd. 2. **Duties.** The absentee ballot board may do any of the following:

(a) receive from each precinct in the municipality or school district all ballot envelopes marked "Accepted" by the election judges; provided that the governing body of a municipality or the school board of a school district may authorize the board to examine all return absentee ballot envelopes and receive or reject absentee ballots in the manner provided in section 203B.12;

(b) open and count the absentee ballots, tabulating the vote in a manner that indicates each vote of the absentee voter and the total absentee vote cast for each candidate or question in each precinct; or

(c) report the vote totals tabulated for each precinct.

The absentee ballot board may begin the process of examining the return envelopes and marking them "accepted" or "rejected" at any time during the 30 days before the election. If an envelope has been rejected at least five days before the election, the ballots in the envelope must be considered spoiled ballots and the official in charge of the absentee ballot board shall provide the voter with a replacement absentee ballot and return envelope in place of the spoiled ballot. The secretary of state shall provide samples of the replacement ballot and return envelope for use by the county auditor.

Subd. 3. **Compensation of members.** The municipal clerk shall pay a reasonable compensation to each member of the absentee ballot board for services rendered during each election.

Subd. 3a. **Absentee voter list.** If the election judges of an absentee ballot board are authorized to receive, examine, validate, and count absentee ballots, the county auditor or municipal clerk shall prepare a list of all persons who have applied for absentee ballots at the election and deliver it to the election judges of the absentee ballot board along with the applications for absentee ballots. The polling place rosters must include an indicator for all persons on the absentee voter list. The county auditor may provide a supplemental list for use by the election judges after the polling place rosters have been prepared. If a person on the absentee voter list appears in the polling place, the election judges shall notify the election judges of the absentee ballot board. When notified by the precinct election judges that the voter has voted in person, the election judges of the absentee ballot board shall make a notation on the absentee voter list that the voter has voted and no absentee ballot may be counted for that voter.

Subd. 4. **Applicable laws:** Except as otherwise provided by this section, all of the laws applicable to absentee ballots and absentee voters and all other provisions of the Minnesota Election Law shall apply to an absentee ballot board.

History: 1981 c 29 art 3 s 13; 1981 c 185 s 3; 1986 c 444; 1987 c 266 art 1 s 19; 1989 c 291 art 1 s 7; 1990 c 585 s 23; 1991 c 320 s 2; 1997 c 147 s 22,23

203B.14 COUNTY AUDITOR OR MUNICIPAL CLERK MAY EMPLOY ADDITIONAL HELP.

Each county auditor and each municipal clerk may employ additional clerical assistance as necessary to discharge the responsibilities imposed on the county auditor or municipal clerk as provided in this chapter.

History: 1981 c 29 art 3 s 14

203B.15 ADMINISTRATIVE EXPENSES.

Each county shall pay the expenses incurred by its county auditor and each municipality or school district shall pay the expenses incurred by its clerk for administering the provisions of sections 203B.04 to 203B.15.

History: 1981 c 29 art 3 s 15; 1987 c 266 art 1 s 20

203B.16 ABSENT VOTERS IN THE MILITARY OR OUTSIDE THE UNITED STATES.

Subdivision 1. **Military service; temporary residence outside United States.** Sections 203B.16 to 203B.27 provide alternative voting procedures for eligible voters who are absent from the precinct where they maintain residence because they are:

- (1) either in the military or the spouses or dependents of individuals serving in the military; or
- (2) temporarily outside the territorial limits of the United States.

Sections 203B.16 to 203B.27 are intended to implement the federal Uniformed and Overseas Citizens Absentee Voting Act, United States Code, title 42, section 1973ff.

Subd. 2. **Permanent residence outside United States.** Sections 203B.16 to 203B.27 provide the exclusive voting procedure for United States citizens who are living permanently outside the territorial limits of the United States who meet all the qualifications of an eligible voter except residence in Minnesota, but who are authorized by federal law to vote in Minnesota because they maintained residence in Minnesota for at least 20 days immediately prior to their departure from the United States. Individuals described in this subdivision shall be permitted to vote only for the offices of president, vice-president, senator in Congress, and representative in Congress.

Subd. 3. **Duties of municipal clerk.** The municipal clerk shall administer the duties of the county auditor in sections 203B.16 to 203B.27 for municipal elections not held on the same day as a state or county election.

Subd. 4. **Duties of secretary of state.** The secretary of state shall provide information regarding voter registration and absentee balloting procedures to be used by absent uniformed services voters, their spouses and dependents, and overseas voters.

History: 1981 c 29 art 3 s 16; 1997 c 147 s 24; 1Sp2001 c 10 art 18 s 14; 2004 c 293 art 1 s 24

203B.17 APPLICATION FOR BALLOT.

Subdivision 1. **Submission of application.** (a) An application for absentee ballots for a voter described in section 203B.16 may be submitted in writing or by electronic facsimile device, or by electronic mail upon determination by the secretary of state that security concerns have been adequately addressed. An application for absentee ballots for a voter described in section 203B.16 may be submitted by that voter or by that voter's parent, spouse,

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sister, brother, or child over the age of 18 years. For purposes of an application under this subdivision, a person's Social Security number, no matter how it is designated, qualifies as the person's military identification number if the person is in the military.

(b) An application for a voter described in section 203B.16, subdivision 1, shall be submitted to the county auditor of the county where the voter maintains residence.

(c) An application for a voter described in section 203B.16, subdivision 2, shall be submitted to the county auditor of the county where the voter last maintained residence in Minnesota.

(d) An application for absentee ballots shall be valid for any primary, special primary, general election, or special election from the time the application is received through the next two regularly scheduled general elections for federal office held after the date on which the application is received.

(e) There shall be no limitation of time for filing and receiving applications for ballots under sections 203B.16 to 203B.27.

Subd. 2. Required information. An application shall be accepted if it contains the following information stated under oath:

(a) the voter's name, birthdate, and present address of residence in Minnesota, or former address of residence in Minnesota if the voter is living permanently outside the United States;

(b) a statement indicating that the voter is in the military, or is the spouse or dependent of an individual serving in the military, or is temporarily outside the territorial limits of the United States, or is living permanently outside the territorial limits of the United States and voting under federal law;

(c) a statement that the voter expects to be absent from the precinct at the time of the election;

(d) the address to which absentee ballots are to be mailed;

(e) the voter's signature or the signature and relationship of the individual authorized to apply on the voter's behalf; and

(f) the voter's military identification card number, passport number, or, if the voter does not have a valid passport or identification card, the signed statement of an individual authorized to administer oaths or a commissioned or noncommissioned officer of the military not below the rank of sergeant or its equivalent, certifying that the voter or other individual requesting absentee ballots has attested to the truthfulness of the contents of the application under oath.

The oath taken must be the standard oath prescribed by section 101(b)(7) of the Uniformed and Overseas Citizens Absentee Voting Act.

A form for providing this information shall be prepared by each county auditor and shall be furnished to individuals who request it pursuant to this section.

History: 1981 c 29 art 3 s 17; 1985 c 72 s 1; 1Sp2001 c 10 art 18 s 15; 2004 c 293 art 1 s 25

203B.18 FORWARDING APPLICATIONS.

If an application for absentee ballots under sections 203B.16 to 203B.27 is received by the secretary of state or by any election official other than the proper county auditor described in section 203B.17, subdivision 1, that official shall forward the application to the appropriate county auditor.

History: 1981 c 29 art 3 s 18

203B.19 RECORDING APPLICATIONS.

Upon accepting an application, the county auditor shall record in the statewide registration system the voter's name, address of present or former residence in Minnesota, mailing address, school district number, and whether the voter is in the military or the spouse or de-

pendent of an individual serving in the military, is a voter temporarily outside the territorial limits of the United States, or is living permanently outside the territorial limits of the United States and voting under federal law. The county auditor shall retain the record for six years. A voter whose name is recorded as provided in this section shall not be required to register under any other provision of law in order to vote under sections 203B.16 to 203B.27. Persons from whom applications are not accepted must be notified by the county auditor and provided with the reasons for the rejection.

No later than 60 days after the general election, the county auditor shall report to the secretary of state the combined number of absentee ballots transmitted to absent voters described in section 203B.16. No later than 60 days after the general election, the county auditor shall report to the secretary of state the combined number of absentee ballots returned and cast by absent voters described in section 203B.16. The secretary of state may require the information be reported by category under section 203B.16 or by precinct.

No later than 90 days after the general election, the secretary of state shall report to the federal Election Assistance Commission the number of absentee ballots transmitted to voters under section 203B.16.

History: 1981 c 29 art 3 s 19; 1987 c 266 art 1 s 21; 1997 c 147 s 25; 2004 c 293 art 1 s 26

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: 1981 c 29 art 3 s 20; 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.

Subd. 2. **Mailing of ballots; return.** Ballots and instructions for marking them, ballot envelopes, and return envelopes shall be sent by first class mail to addresses within the continental United States and by air mail to addresses outside the continental United States. The ballot envelope and return envelope shall be marked "Official Ballot," and shall contain sufficient postage to assure proper return delivery. The return envelope shall be addressed to comply with any method for return of absentee ballots as authorized under section 203B.08, subdivision 2.

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."

Subd. 4. **Names on envelopes, instructions.** No envelope, return envelope, or instruction to voters shall contain the name of an individual who appears as a candidate on any enclosed ballot.

History: 1981 c 29 art 3 s 21; 1983 c 303 s 5; 1985 c 72 s 2; 1991 c 320 s 3; 2005 c 156 art 6 s 28,29

203B.22 MAILING BALLOTS.

The county auditor shall mail the appropriate ballots, as promptly as possible, to an absent voter whose application has been recorded under section 203B.19. If the county auditor determines that a voter is not eligible to vote at the primary but will be eligible to vote at the general election, only general election ballots shall be mailed. Only one set of ballots shall be mailed to any applicant for any election. Ballots to be sent outside the United States shall be given priority in mailing. A county auditor may make use of any special service provided by the United States government for the mailing of voting materials under sections 203B.16 to 203B.27.

History: 1981 c 29 art 3 s 22

203B.23 APPLICATION RECORDS; DELIVERY TO ELECTION JUDGES.

When election materials are transmitted to the municipal clerks as provided in section 204B.28, subdivision 2, the county auditor shall also transmit a certified copy of the record of

applications compiled as provided in section 203B.19, for absentee ballots to be cast at that election in that town, school district, or city. A certified copy of the record of additional applications received by the county auditor after the ballots have been delivered shall also be delivered to the appropriate municipal clerk. Each municipal clerk shall in turn deliver to the election judges in the appropriate precincts the application records received from the county auditor.

History: 1981 c 29 art 3 s 23; 1987 c 266 art 1 s 22

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.

Subd. 2. **Voting more than once.** The election judges shall compare the voter's name with the names appearing on their copy of the application records to insure that the voter has not already returned a ballot in the election. The election judges must indicate on the record whether an absentee ballot was accepted for each applicant whose name appears on the record. If a voter whose application has been recorded under section 203B.19 casts a ballot in person on election day, no absentee ballot shall be counted for that voter. If more than one return envelope is received from a voter whose application has been recorded under section 203B.19, the ballots in the return envelope bearing the latest date shall be counted and the uncounted ballots shall be returned by the election judges with the rejected ballots. The election judges must preserve the record and return it to the county auditor or municipal clerk with the election day materials.

History: 1981 c 29 art 3 s 24; 2004 c 293 art 1 s 27; 2005 c 156 art 6 s 30; 1Sp2005 c 7 s 22

203B.25 DEATH OF VOTER; INDIVIDUALS VOTING UNDER SPECIAL ABSENTEE PROCEDURES.

If the election judges receive proof that a voter who has returned an absentee ballot as provided in sections 203B.16 to 203B.27 has died before the time when voting is scheduled

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to begin on election day, the ballot of that voter shall be returned by the election judges with the rejected ballots. Notwithstanding the other provisions of this section, the counting of the absentee ballot of a deceased voter shall not invalidate the election.

History: *1981 c 29 art 3 s 25*

203B.26 SEPARATE RECORD.

A separate record of the ballots of absent voters cast under sections 203B.16 to 203B.27 must be kept in each precinct. The content of the record must be in a form prescribed by the secretary of state.

History: *1981 c 29 art 3 s 26; 2004 c 293 art 1 s 28*

203B.27 EXPENSE CHARGEABLE TO GENERAL REVENUE.

Expenses incurred by a county auditor to carry out the provisions of sections 203B.16 to 203B.27 shall be paid by that county from its general revenue fund.

History: *1981 c 29 art 3 s 27*