

CHAPTER 209

VOTING MACHINES \*

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**209.01 MUNICIPAL CORPORATIONS MAY PROVIDE FOR VOTING MACHINES.** The governing body of any municipal corporation, at any regular meeting thereof, or at any special meeting called for that purpose, may provide for the use of voting machines in any one or more districts thereof, at all elections to be held therein. No such machine shall be adopted or used unless it be so constructed and operated as to insure the secrecy of each vote, and to automatically register and count all votes given, and to conceal the number of votes for each candidate and upon each proposition from the opening of the polls to the closing thereof.

[1939 c. 345 part 8 c. 1 s. 1] (601-8(1))

**209.02 MAY USE EXPERIMENTAL MACHINES.** The governing body of any municipal corporation may provide for the experimental use of voting machines in one or more districts without formal adoption thereof; and the use of voting machines at such election shall be as valid for all purposes as if the machines had been permanently adopted.

When the governing body of any municipal corporation shall determine to use such machines, it shall, at a regular or special meeting held not less than 30 days before the election, prescribe suitable rules and instructions, not inconsistent with the provisions of this chapter, for using the same, submit the same to the attorney general for his approval, and, when approved by him, a printed copy of such rules and instructions shall be posted in a prominent place in the polling place and remain open to inspection by the voters throughout the election days.

[1939 c. 345 part 8 c. 1 s. 2; 1941 c. 191] (601-8(1)a)

**209.03 BOND FOR UPKEEP OF MACHINES.** No payment shall be made upon the purchase price of any such machine until the vendor thereof shall have filed with the secretary of state a bond with sufficient sureties, specifying such machine by its number, and conditioned to keep the same in good working order, at his own expense, for five years. The penalty of such bond shall be at least \$200.00, and upon a breach thereof the amount of such penalty shall be the measure of damages recoverable by the purchaser.

[1939 c. 345 part 8 c. 1 s. 3] (601-8(1)b)

**209.04 JUDGES.** In districts where one voting machine is used three judges shall be appointed, and in districts where more than one voting machine is used one additional judge may be appointed for each additional voting machine used therein. In all districts where voting machines are used the services of the clerks shall be dispensed with and such duties as are by law assigned to the clerks shall be assumed by the judges. The judges shall enforce the rules prescribed for the use of such voting machines, and carry out all of the provisions of this chapter relating to the elections, except such as are rendered inapplicable by the use of such machines.

[1939 c. 345 part 8 c. 1 s. 4] (601-8(1)c)

**209.05 MAY USE MACHINES IN ONE OR ALL DISTRICTS.** The governing body of any municipal corporation in this state may provide for the use of voting machines in all or one or more districts thereof at all elections to be held therein;

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and at such elections, the vote or ballot may be had and taken, and the votes cast thereat registered or recorded and counted, and the results of such election or elections ascertained by the use of voting machines instead of in the mode and manner now established by law; provided, that the adoption, examination, purchase and use of such machines and their use at such elections, shall be subject to the provisions herein contained.

[1939 c. 345 part 8 c. 1 s. 5] (601-8(1)d)

**209.06 ARRANGEMENT OF NAMES OF CANDIDATES.** Where voting machines are authorized and employed, the titles of offices may be arranged horizontally with the names of the candidates arranged vertically under the title of the office, or the titles of the offices may be arranged vertically with the names of the candidates arranged horizontally opposite the respective titles. More than one column or row may be used for the same office or party. Questions, constitutional amendments or other propositions shall be placed on the machines in the space provided for that purpose and shall be arranged in the manner which the construction of the machine requires.

The provisions of the election laws requiring the alternation of the names of candidates shall be observed so far as practicable by changing the order of the names on the voting machines in the various districts so that each name shall appear upon the several machines used in a given municipal corporation substantially an equal number of times at the top, at the bottom, and in each intermediate place, if any of the list or group in which they belong; provided, that the arrangement of the names shall be the same on each voting machine used in the same district.

For presidential electors one device may be provided for voting for all the candidates of one political party at one time by the use of such device, under or adjacent to which shall be a ballot on the machine containing only the names of the candidates for president and vice president of that party, preceded by the party's name, and a vote registered or recorded by the use of such device shall be counted for each of the candidates for presidential electors of such party.

The machine adopted or employed must be so constructed, as to insure to every elector an opportunity to vote in secret; to permit him to vote once and only once for all the candidates and upon all the propositions for whom or upon which he is legally entitled to vote; to permit him to vote by means of some devices connected with the mechanism of the machine, for any person for any office elective by the voters of his district at such election, although such person has not been regularly nominated for such office by any political party, and his name does not appear upon the ballot form on or in such machines as a candidate for such office; to prevent the elector from voting for more than one person for the same office, unless he is lawfully entitled to vote for more than one person therefor, and in that event to limit him to the number to be elected to that office; to prevent him at a primary election, from voting for the nomination of candidates of more than one party, or for any person whose name is not on the official ballot at such election; to prevent him from voting for any office or upon any proposed amendment, question or proposition, for whom or upon which he is not lawfully entitled to vote; to permit him to change or retract any vote he has attempted to cast for any candidate for any office or upon any proposition up to the time his vote has been completed, and his vote in favor of such person or proposition has been registered thereon. No machine which does not comply with these requirements shall be approved, authorized or employed; except that machines may be used which are not so constructed as to permit a voter to change from one party to another in a party primary or to retract a vote cast on the irregular ballot device. In such cases the voter shall be required to first return all voting levers to the unvoted position and remove, cross out or erase any vote recorded on the irregular ballot device, as the case may be, and shall then call upon the election officials to witness that it has been done, and they shall then cause the voting machine to be returned to the original unvoted position and shall permit the voter to begin from the beginning once more. Such operation of the voting machine under such conditions as in this paragraph mentioned shall be designated as a spoiled voting machine ballot and the election officials present shall make out and sign a certificate stating the facts for each such case which shall be returned with the official returns of the election.

[1939 c. 345 part 8 c. 1 s. 6] (601-8(1)e)

**209.07 MINNESOTA VOTING MACHINE COMMISSION CREATED.** There is hereby created a body to be known as the Minnesota Voting Machine Commission, consisting of three members, including the attorney general, who shall be chairman.

There shall be appointed as members of the commission, two competent and responsible persons, who shall be master mechanics or graduates of a school of mechanical engineering.

The governor shall appoint one of the members and the attorney general the other.

None of the members of the commission shall, directly or indirectly, have any pecuniary interest in any voting machine. The appointees shall serve for a term of four years from the date of appointment and until their successors are in like manner appointed. The appointing power may fill vacancies in the commission. The members of the commission so appointed shall qualify without delay by taking and filing with the secretary of state an oath of office in writing in the usual form, and shall elect one of their members to be secretary and one to be treasurer.

Any person, company, or corporation, owning or being interested in any voting machine may apply to the commission to examine such machine and to report as to its compliance with the requirements of the law and on its accuracy, durability, efficiency, and capacity to register the will of the electors. The commission shall thereupon examine the machine so submitted, and make and file its report thereon. The examination shall not be required as to each individual machine, but only as to each particular kind of type of machine, before its adoption, use or purchase as provided herein.

The report of the commission shall be signed by the attorney general and at least one other member, and shall be filed with the secretary of state within ten days after the close of said examination.

If, from the report, it shall appear that, in the opinion of the commission, the kind of machine so examined complies with the requirements of this chapter and can be used safely at elections in this state, under the conditions prescribed by this chapter, and by the laws of the state where the same do not conflict herewith, then the said machine shall be deemed approved by the said commission, and machines of its kind may be adopted and purchased for use, and may be used at elections in this state as herein provided. No form of voting machine not so approved may be used at any election in this state.

As the examination fee herein, the application shall be accompanied by the sum of \$150. After there has been deducted and paid out of such sum all expenses incurred by the commission in the discharge of its duties herein the balance shall, at such time as the commission may decide, be paid in equal parts to the members of the commission other than the attorney general as full compensation for their services and expense herein.

[1939 c. 345 part 8 c. 1 s. 7] (601-8(1)f)

**209.08 OFFICERS TO PROVIDE BALLOT LABELS, DIAGRAMS FOR VOTING MACHINES.** The same authorities as are charged with providing paper ballots when such are used shall be required to provide all ballot labels, diagrams, sample ballots, return sheets, and all other necessary supplies needed for the voting machines.

In state and county general elections the auditor of each county using voting machines shall provide all ballot labels and other necessary printed forms and supplies needed for the voting machines, including all such forms needed for placing on such voting machines, all offices, candidates, and constitutional amendments and other questions and propositions, the ballots for which are required by the election laws to be provided by the state when paper ballots are used. The total cost of printing and providing all such forms shall be prorated by each county auditor so that the state and county will pay each its proportionate share based on the total number of candidates and questions under the jurisdiction of each. The state shall pay to the county its proportionate share of such cost, as herein provided, all provisions of the statutes of this state notwithstanding.

Except as herein provided all ballots (or ballot labels) shall be printed in black ink on clear white material of such size as will fit the ballot frame of the voting machine, and in as plain, clear type as the space will reasonably permit. Candidates' names may be set in as large type as the length of the majority of such names of all candidates on the ballot permits and the remaining candidates' names may be set in such smaller sizes or styles of type as the length of each such name requires

based upon the available space in the frame of the voting machine. Constitutional amendment ballots (or ballot labels) shall be printed on material tinted pink and in a prominent place on such ballots, there shall be conspicuously printed a notice stating in substance that if a voter fails to vote on a constitutional amendment he votes, in effect, in the negative.

The authorities charged with the duty of providing ballots for any polling place where voting machines are used shall provide therefor at least two sample ballots which shall be arranged in the form of a diagram showing such part of the face of the voting machine as shall be in use at that election for voting for all candidates whose names are entitled to be placed on the ballot at such election and shall also show such part of the face of the voting machine as shall be in use for voting for all referendum questions, constitutional amendments, or other propositions. Candidates' names shall not be rotated on such sample ballots but shall be arranged in alphabetical order for all offices where rotation of names on the official ballots on the voting machines is required by law. Such sample ballots shall be either in full or reduced size and shall contain suitable illustrated directions for voting on the voting machine. Not less than two such sample ballots shall be posted in a prominent place in the polling place and shall remain open to inspection by the voters throughout the election day.

[1939 c. 345 part 8 c. 1 s. 8; 1941 c. 72 s. 2; 1941 c. 245] (601-8(1)g)

**209.09 MAY PURCHASE VOTING MACHINES.** The governing body of each municipal corporation in this state is hereby authorized to purchase for the use of each district in which it has authorized the use of voting machines, one or more such machines in complete working order, and to make suitable provision for the adjustment, custody, and care thereof.

[1939 c. 345 part 8 c. 1 s. 9] (601-8(1)h)

**209.10 DISTRICTS MAY BE CHANGED.** The districts in which voting machines are to be used may be enlarged, reduced or reformed, in the manner prescribed in chapter 205, so that each district shall, when so first formed, contain not to exceed 600 registered voters for each voting machine to be used therein. More than one voting machine may be used in any district.

[1939 c. 345 part 8 c. 1 s. 10] (601-8(1)i)

**209.11 PAYMENT FOR MACHINES.** Payment of such machines may be provided for in such manner as is deemed for the best interests of the political division adopting and purchasing them, and each municipal corporation is hereby authorized, for that purpose, to appropriate money from the general fund, to levy a tax in the same manner as other taxes are levied or to issue and sell bonds or other certificates of indebtedness, which shall be a charge upon such municipal corporation so adopting and purchasing such voting machines, and to provide for the payment and redemption thereof, at maturity. Such bonds or other certificates of indebtedness may be issued by a majority vote of the governing body of the municipal corporation adopting and purchasing such voting machines, notwithstanding any provision contained in any home rule charter or law of this state.

The bonds or certificates of indebtedness so issued may bear interest at a rate not exceeding six per cent per annum and may be made payable at such time not exceeding 20 years from the date thereof, as may be determined by the resolution or ordinance authorizing the issue thereof, and may be issued exclusive of and in addition to any limit of indebtedness fixed by the charter of such municipal corporation, or by the laws of this state for such municipal corporation, but such bonds or certificates of indebtedness shall not be issued or sold at less than par and accrued interest thereon.

Each municipal corporation may, by a majority vote of its governing body, enter into a contract for the purchase of voting machines on a rental-purchase or deferred payment plan. Such contracts may provide for the annual rental of the voting machines at a definite amount with such annual rentals applied towards the purchase price of the voting machines.

[1939 c. 345 part 8 c. 1 s. 11] (601-8(1)j)

**209.12 NOT TO AFFECT LAWS APPLICABLE.** All laws and parts of laws now in force in this state relating to state, county, city, village and town elections so far as applicable to the use of voting machines, shall remain in full force and effect, and all laws and parts of laws inconsistent herewith shall be suspended in

each election district wherein such voting machines are used, so long as the same shall be used therein.

[1939 c. 345 part 8 c. 1 s. 12] (601-8(1)k)

**209.13 WILFUL INJURY OR DESTRUCTION OF MACHINE TO BE FELONY.** Any person who shall wilfully injure or attempt to injure, or render ineffectual, any voting machine provided in accordance with the provisions of this chapter, or who shall violate any of the provisions hereof, shall be guilty of a felony and punished accordingly.

[1939 c. 345 part 8 c. 1 s. 13] (601-8(1)l)

**209.14 MAY BE USED AT ALL ELECTIONS.** Where voting machines shall be provided in the manner permitted by law, such voting machines may be used at all elections, insofar as the use of the same is applicable, and not inconsistent with this chapter. If the mechanism of such machines will not permit the voter to record his vote in the manner provided by this chapter, the machines may be used in the manner now provided by law so far as is applicable, and as to offices to which such voting machines will not apply, separate paper ballots conforming with the law shall be used. All votes on voting machines shall be recorded and counted and the results thereof ascertained, canvassed, and returned as provided by this chapter.

[1939 c. 345 part 8 c. 1 s. 14] (601-8(1)m)

**209.15 CUSTODIAN OF MACHINES.** Immediately after the installation of voting machines in any municipal corporation the governing body thereof shall appoint as many custodians as may be necessary for the proper preparation of the machines for an election and for their maintenance, storage, and care. Such custodian or custodians, under the direction of the governing body of the municipal corporation installing the voting machines, together with the proper officials of such municipal corporation, having charge of the conduct of elections therein, shall have charge of and represent these authorities during the preparation of the voting machines and serve at the pleasure of the governing body of the municipal corporation. It shall be the duty of the custodian or custodians, after the machines have been prepared for the election, to cause the same to be delivered to each of the respective polling places in which they are to be used at least 12 hours before the time set for the opening of the polls and set them in proper manner for use at the election. The custodians of voting machines shall be paid for their services commensurate with the work required and their compensation shall be fixed by the governing body of the municipal corporation appointing them.

[1939 c. 345 part 8 c. 1 s. 15] (601-8(1)n)

**209.16 OFFICIALS TO PREPARE MACHINES FOR USE.** It shall be the duty of the proper authority having direct charge of elections in each municipal corporation where voting machines are to be used to cause the proper ballot labels to be placed on the voting machines and to place the machines in proper order for voting. These ballot labels shall have printed on the face thereof the words "Official Ballot," the date of the election, and a facsimile of the signature of the officer under whose direction the ballot is printed. The authorities shall examine all voting machines before they are sent out to the different polling places, to see that all the registering counters are set at zero (000), to lock all voting machines so that the counting mechanism cannot be operated, and to seal each voting machine with a numbered seal and to make a written record thereof.

Before preparing the voting machines for any election written notices shall be mailed to the chairman of the county committee of each political party, who have theretofore presented the name of the chairman to the county auditor, stating the times when and the place or places where the voting machines will be prepared, at which times and places one representative of each such political party designated by the respective chairman of such county committee of such party shall be entitled to be present and see that the machines are properly prepared and placed in proper condition and order for use at the election. In non-partisan primaries and elections each candidate may designate one representative who shall have the same powers as the political party representatives.

When the machines have been prepared for the election it shall be the duty of the custodians and political party or candidate representatives to make a certificate in writing which shall be filed in the office of the proper authority having charge of the conduct of elections in such municipal corporation, stating the serial number of each machine, whether or not all registering counters have been set at zero

(000), the number registered on the protective counter and the number on the metal seal with which the machine is sealed.

[1939 c. 345 part 8 c. 1 s. 16; 1941 c. 188] (601-8(1)o)

**209.17 CANVASSING BOARD TO INSPECT MACHINES.** It shall be the duty of the canvassing board in any municipal corporation of this state wherein voting machines shall be used in any election, at the time it convenes to canvass the election returns of any election wherein voting machines shall have been used within such municipal corporation, or as soon thereafter as it conveniently can do so, and before it proceeds to canvass such returns, to inspect the registering counter, or other mechanical recording device on any such voting machine showing the number of votes cast for any candidate or proposition voted on at any such election and any irregular ballots recorded thereon or therein, and to compare the number of votes so shown by such voting machines to have been cast for each candidate voted for on and by such voting machines and each proposition submitted to the voters voting thereon or thereby with the returns made by the election officers of the several districts in which the voting machines were used at such election and in case there is a discrepancy between the returns so made by such election officers and the number of votes shown by such voting machines on such inspection, then and in such case it shall be the duty of such canvassing board to correct such returns as to all candidates and propositions, the returns with reference to which are to be canvassed by it, so made by such district election officers, so as to make such election returns conform to the vote so shown by such machines on such inspection, as aforesaid, and such corrected returns shall thereupon and thereafter be regarded and deemed by such canvassing board as the true and correct return of the number of votes cast for each candidate voted for and each proposition voted on, in the district the returns from which shall have been so corrected by such canvassing board. After correcting such returns the canvassing board shall proceed to the performance of its duties as now provided by law.

In case of any election contest the returns of the election officers, as corrected by the canvassing board as aforesaid, shall be prima facie evidence of the vote cast for each candidate and on each proposition voted on at any election, to the same extent and in the same manner, and not otherwise, as is the return of the election officers in districts where voting machines are not used. For the purpose of inspecting such voting machines such canvassing board may adjourn its sessions from time to time as occasion may require and may hold its sessions at any place within the county where the voting machines are usually kept and stored.

[1939 c. 345 part 8 c. 1 s. 17] (601-8(1)p)

**209.18 INSTRUCTIONS TO JUDGES.** Not more than 21 days before each election and primary at which a voting machine is to be used, there shall be held under the direction of the proper authority having charge of the conduct of the elections, a meeting or meetings for the purpose of instructing the judges about the operation of the voting machine and the duties of election officials when voting machines are used. Each judge serving in a district where voting machines are used shall attend one such meeting preceding each election at which such judge is to serve, and shall receive a certificate showing that he has attended such instruction meeting and has been found qualified to serve. Each judge, who shall attend such instruction meeting and shall qualify and serve at an election, shall receive the sum of \$1.00 for the time spent in receiving such instruction, in addition to car or railroad fare in going to or returning from such meeting, which shall be paid at the same time and in the same manner as the payment for serving on election day. Such certificate shall not be issued to any person unless he has attended an instruction meeting and been found qualified and no person shall be eligible to serve as judge unless he has first received a certificate as herein provided. In case of emergency, when an insufficient number of certified judges is available for the proper conduct of the election, there shall be appointed a sufficient number of judges to conduct such election, although such judges have not received the required certificate; provided that no person shall be appointed a judge who is not a qualified voter in the district to which he is appointed as such judge.

The authorities in charge of elections shall provide adequate facilities for the instruction of voters prior to an election and cause to be placed in one or more convenient locations a voting machine with sample ballot labels affixed for the purpose of instructing voters in the operation of the machine. If the ballot labels that are used for this purpose are the same that will be used for the succeeding

election the counting mechanism of the machine shall be concealed from view until the machine is prepared for the election and if the machine or machines are not used at the election the counting mechanism shall remain concealed from view until after the election.

The judges of each district shall meet at the polling place at least one hour before the time for opening the polls. The keys to the voting machines shall be delivered to one of the judges at least one hour before the time set for opening the polls in a sealed envelope on which shall be recorded the location and number of the voting machine, the number of the seal, and the number registered on the protective counter as reported by the custodian. The envelope containing the keys shall not be opened until the election officers of the district have examined the same to see that it has not been opened and shall have ascertained that the number registered on the protective counter and the numbers on the seals with which the machine is sealed correspond with the numbers recorded on the envelope containing the keys. If the envelope appears to have been opened, or if the numbers do not agree, or if the numbered metal seal is broken or has been tampered with, or if any other discrepancy is found, the judges shall immediately notify the custodian or other authorized person who shall present himself at the polling place and reexamine such machine and if found to be properly arranged and in order to so certify. If the numbers on the seals and on the protective counter are found to agree with the numbers on the envelope, the judges shall then open the door concealing the registering counters, carefully examine every counter to see that it registers zero (000) and also allow the watchers to examine them. The judges shall then compare the ballot labels on the voting machine with the statements of canvass furnished, and see that the names and numbers, and letters, if any, thereon agree. The judges shall then sign a certificate showing the delivery of the keys in a sealed envelope, the number on the seal or seals, the number registered on the protective counter, that all the registering counters are set at zero (000), and that the ballot labels are properly placed in the machine.

[1939 c. 345 part 8 c. 1 s. 18; 1941 c. 189] (601-8(1)q)

**209.19 MACHINES TO BE ACCESSIBLE TO ONE VOTER AT A TIME.** The voting machine or machines shall be so placed and protected that each such machine shall be accessible to only one voter at a time and in full view of all of the election officers and watchers at the polling place. A judge shall inspect the face of each voting machine after each voter has voted to see that the ballot labels are in their proper places and that the machine has not been injured or tampered with. During elections the door or other compartment of the machine shall not be unlocked or opened or the counters exposed except by a custodian or other authorized person, a statement of which shall be made and signed by the custodian or authorized person and attached to the returns.

For the instruction of the voters there shall be, so far as practicable in each polling place, at least one mechanical model being a mechanical reproduction of a portion of the face of the voting machine. Such model furnished shall be located during the election in some place which the voter must pass to reach the machine and every voter before entering the booth shall be instructed regarding its operation and such instruction illustrated on the model and the voter given the opportunity to personally operate the model. The voter's attention shall also be called to the diagram on the face of the machine so that the voter can become familiar with the location of the questions and the names of the offices and candidates. At least one judge shall remain in constant attendance at the instruction model and diagram and occupy himself at all times with the duties of instructing the voters. If any voter after entering the voting machine booth shall ask for additional instruction in operating the machine such instruction shall be given him by two judges belonging to opposite political parties, if such there be. After giving such instruction such judges shall retire from the voting machine booth and such voter shall thereafter proceed to vote alone and in secrecy. If any voter at a primary election after entering the voting machine booth and setting the primary lever of a party so as to release the candidates of such party for voting, and turning down levers over the names of candidates, but before recording the votes for any candidates, shall state to the judges that he wishes to enter the primary of a different political party, the entire election board shall go to such machine and shall see that all voting levers have been returned to the unvoted position so that no votes may be cast for any candidates or for or against any questions or other propositions, and such voter

shall then be permitted to return the operating lever to its original position and start from the beginning once more. In each such case the entire election board shall sign a certificate stating what was done and such certificate shall be returned with the official returns of the primary.

When any voter states under oath that he cannot read English, or that he is physically unable to operate the voting machine in order to record his vote thereon, he may call to his aid one or more of the judges, who shall prepare his ballot on the machine as he may desire, and in as secret a manner as circumstances permit. When he also states that he cannot speak the English language or understand it when spoken, the judges may select two persons from different political parties to act as interpreters, who shall take an oath similar to that taken by the judges, and assist such person in voting. When the voter shall prefer, he may call to his aid any voter of the same district, who, unaccompanied by a judge, may retire with him to the voting machine booth and prepare such voter's ballot on such voting machine for him; but no such person shall prepare the ballot of more than three such voters at one election. Before registering his vote such voter shall show his ballot, as prepared for recording, privately to a judge to ascertain that it is prepared as directed; but a physically disabled voter, who is able to determine for himself, need not show his ballot as prepared for recording. No judge or other person so assisting a voter shall in any manner request, persuade, or induce, or attempt to persuade such voter to vote for any particular political party or candidate, but shall prepare the ballot as requested, and shall not reveal to any other person the name of any candidate for whom the voter has voted, or anything that took place while so assisting him.

The judges shall admit but one voter to the voting machine at one time and only after it has been ascertained that he is entitled to vote. The voting on the voting machine shall be secret except as herein provided for voters needing assistance and no voter shall remain within the voting machine booth longer than three minutes and if he shall refuse to leave it after the lapse of three minutes he shall be removed by the judges.

If the official ballots at a district at which a voting machine is to be used are not delivered at the time required, or if after delivery they shall become lost, destroyed or stolen the judges shall immediately notify the clerk or other authority under whose direction the ballots are printed who shall cause other ballots to be prepared, printed, or written as nearly in the form of the official ballot as practicable. The judges shall cause such substituted ballots to be used in the same manner as the official ballots.

Ballots cast for persons not nominated by the use of the machine device provided for that purpose shall be designated irregular ballots.

If any voting machine being used in any election shall become out of order during such election it shall be repaired if possible or another machine substituted as promptly as possible. In case such substitution or repair cannot be made, paper ballots printed or written, and of any suitable form may be used for the taking of votes and for such purpose voting machine sample ballots may be used.

[1939 c. 345 part 8 c. 1 s. 19] (601-8(1)r)

**209.20 JUDGES TO LOCK AND SEAL MACHINES AFTER POLLS ARE CLOSED.** As soon as the polls of the election are closed, the judges shall immediately lock or lock and seal each voting machine against voting. The judges shall then sign a certificate stating that each machine has been locked against voting or locked and sealed; the number of voters as shown on the public counter; the number on the seal; the number registered on the protective counter. The judges shall then open the counter compartment in the presence of the watchers and any other persons who may lawfully be present in the polling place, giving full view of all the counter numbers. One of the judges shall, under the scrutiny of the judge of a different political party, if such there be, if more than three judges be serving in such district, in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones the designating number and letter, if any, on each counter for each candidate's name, the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce the vote on each constitutional amendment, proposition or other question. As each vote total is announced from the counter of the machine, it shall immediately be entered on the duplicate statements of canvass, in figures only, in ink, by two judges of different



political parties, if such there be, in the same order on the space which has the same designating number and letter, if any, after which the figures shall be verified by being called off from the counters in the same manner as herebefore by a judge who recorded the totals on a statement of canvass during the original canvass of the results. If more than three judges are serving in such district, the other judge who recorded the totals on a statement of canvass during the original canvass shall act as watcher at the machine counters during the verification of the results. Each judge shall then sign a certificate which shall be a part of the statement of canvass stating that the results as shown on the statement of canvass are the true and correct results of the election, that the canvass has been completed in accordance with the law as herein provided. After the proclamation of the vote, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine and any necessary corrections shall then and there be made by the judges. If absent voters' ballots have been voted, such ballots shall be canvassed and counted, the vote thereon for each candidate announced and added to the vote as recorded on the statement of canvass of votes cast by machine. Absent voters' ballots and irregular ballots, enclosed in properly sealed packages respectively, and properly endorsed, shall be filed with the original statement of canvass. The judge filing the returns shall deliver to the board or officer from whom they were received, the keys to each voting machine, enclosed in a sealed envelope having endorsed thereon a certificate of the judges stating the number of each machine, the district where it has been used, the number of the seal, if any, and the number of the protective counter.

In each district where voting machines are used, statements of canvass shall be printed to conform with the type of voting machine used. The designating number and letter, if any, on the counter for each candidate shall be printed next to the candidate's name on the statements of canvass. The arrangement of the names on the statements of canvass for each district shall conform exactly with the arrangement of the names on the voting machines to be used in such district. Such statements of canvass shall provide for the entry of the number of votes for each candidate and the "yes" and "no" of each question as shown on each machine used in the district; also for the absent voters' ballots and total number of votes, by such ballots and by machine, for each candidate and upon each question. Upon completion of the canvass the election judges shall enclose the statements of canvass in sealed envelopes without sewing with twine or sealing with wax. Such official statements of canvass may be opened by the authorities in charge of elections before the official canvass for the purpose of checking additions and compiling the unofficial returns and preparing the official records. Such official statements of canvass shall be used in lieu of the summary sheets which shall be dispensed with when voting machines are used.

The voting machines shall remain locked against use for a period of at least 30 days and as much longer as may be necessary or advisable because of any existing or threatened contest over the result of the election, except that any voting machine may be opened and all data and figures therein examined upon the order of any judge of a court having jurisdiction; provided, that any voting machine used at a primary election may be opened ten days following such primary election if such opening becomes necessary in order to prepare the voting machine so used at such primary election for an election which is to be held on a day which is within 40 days after the day upon which such primary election is held.

Irregular ballots shall be preserved for six months after such election and the packages thereof may be opened and the contents thereof examined only upon an order of a judge of a court having jurisdiction, and after the expiration of such time, such ballots may be disposed of in the discretion of the officer or board having charge of them.

The municipal corporation adopting the machines shall have the custody thereof when not in use at an election and shall preserve and keep them in repair. All keys for voting machines shall be securely preserved under lock and key by the officer having them in charge. A public officer, who by any provision of law is entitled to the custody of the machine for any period of time, shall be entitled to the keys therefor of such machines in his charge. It shall be unlawful for any unauthorized person to have in his possession any keys of any voting machine; and all election officers or persons entrusted with such keys for election purposes or in prepara-

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## 209.21 VOTING MACHINES

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tion of the machine therefor shall not retain them longer than necessary to use them for such legal purpose.

[1939 c. 345 part 8 c. 1 s. 20; 1941 c. 190] (601-8(1)s)

**209.21 DEFINITIONS.** The word "Ballot" or "Ballot Labels," as used in this chapter, shall be defined as that portion of the cardboard, paper or other material, within the ballot frames, containing the name of the candidate, the official title, party designation, or a statement of a proposed constitutional amendment or other question or proposition, with the word "Yes" for voting for any question or the word "No" for voting against any question.

The term "question" means a statement of any constitutional amendment, proposition or other question appearing on the machine and to be submitted to the voters at any election.

The term "protective counter" means the separate counter built into the voting machine which cannot be reset, and which records the total number of movements of the operating mechanism.

The term "public counter" means the counter which shows during any period of voting the total number of voters who have operated the machine during the period of voting.

The term "primary lever" means the lever which the voter must operate in a political party primary to unlock the voting levers assigned to the candidates of the political party in the primary of which the voter wishes to vote.

The term "voting lever" means the lever which the voter must turn down over the name of the candidate and leave there in order to cast a vote for the candidate.

The term "operating lever" means the lever which the voter must move to the right to close the curtains of the machine and to unlock the machine to permit voting thereon, and which the voter must move to the left to open the curtains of the machine and to record his vote.

[1939 c. 345 part 8 c. 1 s. 21] (601-8(1)t)

**209.22 VIOLATIONS; PENALTIES.** Any person who shall violate any of the rules and regulations adopted by the governing body of any municipal corporation where voting machines are used, providing for the conduct of elections and primaries, or who shall violate any of the provisions of this chapter shall be guilty of a felony; and, upon conviction, punished by a fine of not more than \$1,000, or by imprisonment in the state prison for not more than one year.

[1939 c. 345 part 8 c. 1 s. 22] (601-8(1)u)