

House Research Act Summary

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TOPIC: Help America Vote Act Conformity and Election Administration Changes

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Overview

In 2002 Congress passed the Help America Vote Act (HAVA), which provides federal funding to states for election purposes and requires states to implement some election administration law changes. Article 1 of this act responds to HAVA. Article 2 makes miscellaneous elections administration technical changes.

Article 1: HAVA Compliance

- 1 **Permanent registration system.** Amends the law on the current system, which is described as linked county systems. Changes this to “a single centralized, statewide voter registrations list.” Requires assigning a unique identifier to each legally registered voter.
- 2 **Establishment.** Relocates from rules to statute existing language on 11 factors the statewide registration system must satisfy. Adds accepting and verifying the driver license/state identification number and last four digits of the social security number (SSN) for each voter, assigning a unique identifier to each registered voter, providing access for municipal clerks, providing reports on the number of uniformed and permanently overseas absentee voters, and coordinating with other state agency data bases.
- 3 **Registration before election day.** Defines mail-in registration as any voter registration applications delivered by U.S. Postal Service or commercial carrier.
- 4 **Incomplete registration by mail.** Conforms state law to HAVA provision requiring identification to be shown at the polls if the original voter registration application is not accompanied by a copy of an identification document from the list authorized for election day registration. ID may also be shown to the county auditor, or the person may reregister or

Section

register on election day in person. Another option is that if voting absentee or by mail, an individual may use current election day registration procedures for absentee voting.

- 5 **Election day registration.** Changes “registration card” to “registration application.”
- 6 **Form.** Specifies that the voter registration application must include spaces for the drivers’ license or ID card number, or SSN and for certain optional information. Specifies what the voter must attest to regarding eligibility. Provides that the secretary of state shall approve all forms. Notes that the form is used by voters to initially apply for registration and also to change information on an existing registration.
- 7 **Instructions.** The instructions must include a statement that if the voter has no drivers’ license or Minnesota ID card, that the last four digits of the voter’s SSN must be provided if the voter has a SSN. Also indicates that the county auditor must provide large print instructions (16-point with 24-point leading).
- 8 **Deficient registration.** Defines a voter registration application as not deficient if it contains certain elements, including drivers’ license, state ID card number, or, if the voter has neither, the last four digits of the voter’s SSN. Grandfathers in voter registration cards filed prior to certain dates.
- 9 **Public information lists.** Provides that the secretary must withhold from public information lists, voter information on those under court-ordered protection.
- 10 **Copy of list to registered voter.** Allows provision of public information lists in electronic formats. Stricken language is moved to section 11.
- 11 **Restricted data.** No list provided for jury selection or law enforcement may include the date of birth of the voter or any part of the drivers’ license, state ID card or Social Security numbers.
- 12 **Entry of registration information.** Election day registrations must be entered within 42 days after election, unless the county auditor notifies the secretary of state of need for extension. Verification of name, date of birth, and drivers’ license or state ID card against the Department of Public Safety (DPS) system must occur within ten days of entry. A weekly report of voters not verified by the system will be provided to the county auditor. The auditor will compile a list of unmatched voters. Notice of incomplete registration will be sent to those voters with instructions on how to provide identification under section 4.
- 13 **Commissioner of health; reports of deceased residents.** Commissioner to report deaths to the secretary of state by electronic means.
- 14 **District judge; report guardianships and commitments.** Judges and court administrators to report to the secretary of state by electronic means both individuals adjudicated unable to vote and those restored to capacity.
- 15 **Report on felony convictions.** Amends reporting requirements of crimes affecting voter registration records. Adds “pursuant to HAVA” and requires electronic reporting.
- 16 **Drivers’ license and ID card applications.** Voter registration information obtained through driver license applications to be transmitted at least weekly to the secretary of state.
- 17 **Information sharing; use of social security number.** Requires the secretary to enter an agreement with DPS to match information and verify the accuracy of voter registration applications. Requires the commissioner of DPS to enter an agreement with the Social Security Administration to use the last four digits of the SSN to verify voter registration and to assure confidentiality of information.
- 18 **Posting voting history, failure to vote, registration removed.** Provides for list maintenance by the secretary of state. Provides for eliminating duplicate names. Prohibits removing a voter unless the voter is not eligible to vote or is not registered.

Section

- 19** **Uniform procedures for counties.** Amends the statute on uniform voter registration procedures. Adds that the registration system must conform to applicable federal laws and rules.
- 20** **Procedures for polling place rosters.** Allows secretary of state to add items to the roster on an experimental basis, but requires legislative approval to retain the items for more than one election cycle.
- 21** **Registration check.** Terminology change.
- 22** **Procedures on receipt of ballots.** Requires the auditor or municipal clerk to deliver to election judges on election day all ballots received as of the last U.S. mail delivery that day. Allows town clerk to designate the polling place as the place of mail delivery for absentee ballots on election day.
- 23** **Examination of return envelopes.** Terminology change.
- 24** **Designation of office.** Specifies that the secretary is responsible for information about voter registration and absentee ballot procedures for military and overseas voters.
- 25** **Application for ballot.** Makes an absentee ballot application by a military or overseas voter valid for all primaries, general elections, and special primaries and elections held during the same time period as the next two general elections for federal offices. Previously, such a ballot application was valid throughout the calendar year in which it is received.
- Requires these voters to use the oath specified in federal law.
- 26** **Recording applications.** Requires the auditor to enter a military or overseas voter's ballot application in the statewide registration system. Requires the auditor to keep a record for six years rather than the prior four years. Requires notifying persons whose applications are rejected (1) that the application was rejected, and (2) why.
- By 60 days after the general election, the auditors must notify the secretary of the total absentee ballots sent to military and overseas voters and the combined number of ballots returned and cast by these voters. Lets the secretary require reporting by (1) category of voter (military, spouse, temporarily abroad, permanently abroad), or (2) precinct. By 90 days after the general election, requires the secretary to report to the federal election assistance commission the number of absentee ballots transmitted to military and overseas voters.
- 27** **Voting more than once.** Requires election judges to record whether an absentee ballot was accepted for each applicant whose name is recorded. Requires election judges to return this record to the municipal clerk or county auditor with the election materials.
- 28** **Separate record.** Requires the content of the record of absentee ballots kept in each precinct to be as prescribed by the secretary.
- 29** **Alternative election procedures.** Amends a statute that authorizes alternate election procedures if necessary because of a court order. Authorizes procedures for voting and handling ballots cast after 8:00 PM because of a court or other order extending the time for closing the polls.
- 30** **Voter's bill of rights.** Enacts a voter's bill of rights under current law and requires its posting in each polling place.
- 31** **Permanent registration; verification of registration.** Adds oath to the roster voters sign and modifies law to reflect the 2003 guardianship provisions.
- 32** **Voting system for disabled voters.** Provides that after December 31, 2005, each polling place must have a voting system that provides privacy and independence for visually impaired voters.

Section

- 33 Required certification.** Adds to the law on certifying voting systems. Requires additional certification by an independent testing authority approved by the secretary. Requires the system to conform to standards issued by the Federal Election Commission.
- 34 Electronic voting systems; experimental use.** Terminology change.
- 35 Agreements.** Requires the secretary to enter an agreement with (1) the commissioner of health for electronic transfer of death records, (2) the state court administrator for electronic transfer of guardianship and felony conviction records, and (3) the commissioner of public safety for electronic transfer of drivers' license records.
- 36 Report.** The secretary of state must provide the chair and ranking member of the appropriate finance committees with the report required by HAVA covering expenditure of Title III funds.
- 37 Failure to verify voter information.** Provides that no voter will be required to show identification unless and until the proper agreements have been entered into with the commissioners of public safety and social security and the voter registration system properly matches drivers' license or state ID card numbers or SSN numbers.
- 38 Voter registration system availability.** The existing voter registration system will be maintained for view-only access until the end of calendar 2004. A new voter system is scheduled to be implemented during the summer of 2004.
- 39 Rules.** The office of the secretary of state is found to have good cause for rulemaking under section 14.388 to conform to this act and HAVA.
- 40 Maintenance of effort.** Local units of government as well as the state must maintain their elections effort at the level required by HAVA (based on the last fiscal year prior to 2000 elections).
- 41 Effective date.** This article is effective retroactive to January 1, 2004.

Article 2: Election Administration Technical Changes

- 1 Legislative manual.** Amends the law on the legislative manual contents. Strikes postmasters from the list of included offices. Reduces from 15,000 to 10,000 the number of copies that will be produced. Reduces from 25 to 20 the number of copies to be provided each legislator. Provides for giving each county recorder and county attorney a copy. The manual is also available on the web at www.sos.state.mn.us.
- 2 Collection of data.** Amends a provision of the statutes concerning appointments to multi-member agencies. Requires the agencies to give the secretary of state (secretary) agency information in electronic format and to provide e-mail addresses of members.
- 3 Publication of agency data.** Requires the secretary to place on the web information about multi-member agencies specified in current law. The information now appears in the state register. Requires the information to be provided to the governor and legislature electronically.
- 4 Notice of vacancies.** Amends the open appointment law to require covered agencies to give the secretary electronic notice of vacancies and requires the secretary to put the vacancies on the web.
- 5 Nominations for vacancies.** Allows the secretary to require applications under the open appointment law to include the applicant's e-mail address. Allows the secretary to forward the applications electronically to the appointing authority. Provides for the application form to include whether the applicant was convicted of a felony.
- 6 Appointments.** Changes from "in writing" to "by electronic means" the method by which

Section

an agency must notify the secretary when it has decided who it will appoint.

- 7 **Report.** Provides for electronic filing of the secretary's report to the governor and legislature under the open appointments law.
- 8 **Registration; information required.** Requires a newly established agency to give the secretary its e-mail address and the e-mail addresses of its members.
- 9 **Drivers' license and identification card applications.** Requires driver license and identification card application forms to contain all the information that is on voter registration cards prescribed by the secretary.
- 10 **Forms.** Provides that school districts will make voter registration applications available to eligible students attending schools operated by the district, each May and September.
- 11 **Posting voting history.** Requires voters who have been classified "inactive" (because of not voting for four years) to register before voting again.
- 12 **Notice.** Requires the parties to notify the city clerk of the date, time, and places of precinct caucuses. Requires the county auditor to make this information available on request at least ten days before the caucuses.
- 13 **County auditor and municipal clerk's offices to remain open.** Requires a municipal clerk's office that is administering absentee balloting to be open the same hours as the county auditor's office. Specifies that the clerk and auditor's office must be open until 5:00 p.m. the day before a primary or election, unless that day is a Saturday or Sunday.
- 14 **Form of affidavit.** Amends the affidavit of candidacy statute. Clarifies that the law does not apply to presidential and vice-presidential candidates, who are not required to file an affidavit.
- 15 **Petitions for presidential electors.** Rearranges language.
- 16 **Candidates in state and county general elections.** Clarifying cross-reference.
- 17 **Write-in candidates.** Amends the law that requires a write-in candidate to file a written request to have votes for him or her counted. Requires filing the request by the fifth day before the election. Prior law allowed filing the day before the election.
- 18 **Designation effective until changed.** Clarifies that polling places for school district elections and referenda must be designated on the same time frames as polling places in other elections: 90 days before the election.
- 19 **Individuals qualified to be election judges.** Allows an individual to serve as an election judge if he or she is eligible to vote in this state. Prior law required judges to live in the precinct where they serve; or if not enough judges are available, then in the municipality or school district; and if still not enough, then in the county.
- 20 **High school students.** Amends the statute allowing high school students to act as trainee election judges. Adds home-schooled students.

Strikes the prior requirement that a student must have finished or be taking a government class in order to serve as a trainee judge.

- 21 **Election judge trainees not counted.** Provides that trainee judges cannot be counted toward satisfying the minimum required number of election judges.
- 22 **Judicial elections.** Requires the judicial ballot to print the names of the respective courts before the list of candidates for each court instead of appearing with each office.
- 23 **Vacancy in nomination; changing ballots.** Amends the law on vacancy in nomination due to death or catastrophic illness. Requires new absentee ballots to be provided to voters who request them. Requires the appropriate ballots (the regular ballot with the changed office stricken, plus a supplemental ballot showing the new candidates) to be delivered to health

Section

care facilities in the manner required by the health care facility absentee voting law.

- 24 Access for news media.** Lets a municipal or school clerk or county auditor give news media written authorization to enter polling places for up to 15 minutes during voting hours to observe the process. Puts restrictions on reporters as follows: cannot approach within six feet of an election judge or voter, talk to or interview a voter in the polling place, or make a list of persons voting or not voting.
- 25 Excess ballots.** Provides that if the number of ballots does not exceed the number to be counted, the absence of one or both sets of election judges' initials does not by itself disqualify the vote and is not the basis for a challenge in a recount.
- 26 County canvass.** Amends the statute on the county canvassing board reports. Requires that they include the votes received by state or federal write-in candidates who have requested that votes for them be counted.
- 27 Scope of recount.** Amends the state primary and general election automatic recount provisions to state that the scope of the recount is limited to recounting the votes validly cast.
- 28 Scope of recount.** Amends the local recount statute to provide that it is limited to determining the number of votes validly cast for the office being recounted. Allows considering only the ballots cast in the election and the summary statements certified by the election judges.
- 29 Rules for recounts.** Over-rides a recount rule by stating that the requirement that ballots be segregated by precinct is satisfied if ballots for different precincts are recounted in physically separate locations within one room.
- 30 Postelection security and certification review.** Provides that after each state general election, the secretary of state must randomly select 80 precincts across the state, ten in each congressional district, for a postelection review. Provides that a variety of large and small precincts be reviewed. County election officials will conduct hand tallies and machine counts of the ballots cast in the general election and compare the results. Sets accuracy standard as within one half of one percent. Failure to meet that standard triggers additional review in the jurisdiction where the discrepancy occurs. Requires recertification of machine if a discrepancy occurs. Other election procedures will be reviewed by the office of the secretary of state. Sets standard at no substantive errors and minimal technical errors. Costs of initial machine review borne by county, other costs by secretary of state.

This section expires January 1, 2008.

- 31 Uncontested judicial offices.** Provides that uncontested judicial offices appear after all other judicial offices on the ballot.
- 32 Example supplemental ballot.** Amends the law on the supplemental ballot when there is a vacancy in nomination. Requires the secretary of state to give the auditors a sample supplemental ballot at least three days before the election, if there will be a supplemental ballot. Requires the auditors to give local election officials a copy of the example. Allows anyone to report to the county attorney if the official ballot does not match the example ballot.
- 33 Certificate of legislative election.** Provides for legislative certificates of election in special elections to be issued by the secretary of state rather than the county auditor. Conforms to general election practice.
- 34 More than one seat to be filled at any election.** Amends a provision on candidates for town supervisor to require that when more than one seat is being filled at an election, a candidate must designate which seat he or she seeks.

Section

- 35** **Notice to auditor.** Changes from 49 to 53 days before the election: the deadline for the municipal clerk to notify the auditor of municipal offices, ballot questions, and the date of the election.
- 36** **Notice to secretary.** At least 46 days before a municipal election; when the auditor gets an election notice from the municipal clerk, the notice must be passed on to the secretary.
- 37** **Election, conduct.** Requires a municipal election to be held in the manner provided by state law “except as expressly provided by law.” Prior law was “so far as practicable.”
- 38** **Canvass of returns.** Amends the municipal canvass law to provide that the governing body canvasses special municipal elections and acts as the canvassing board.
- 39** **Election law applicable.** Amends the school election law. Requires a school election to be held in the manner provided by state law “except as expressly provided by law.” Prior law was “so far as practicable.”
- 40** **Notice to auditor.** Changes from 49 to 53 days before the election: the deadline for the school clerk to notify the auditor of school offices, ballot questions, and the date of the election.
- 41** **Notice to secretary.** At least 46 days before a school election, when the auditor gets notice from the school clerk, the notice must be passed on to the secretary.
- 42** **Ballots.** Requires the front of optical scan ballots to include “Official Ballot,” the election date, and lines for election judges’ initials.
- 43** **Electronic reporting.** Amends the local campaign reporting requirements in chapter 211A. Allows reports to be filed electronically with the approval of the filing officer.
- 44** **Withdrawal or resignation.** Amends the statute on resignation from public office. Provides that a resignation submitted under that law may only be withdrawn before it is accepted by (1) resolution of the body or board or (2) written acceptance by the officer authorized to receive the resignation.
- 45** **Officers; other business.** Specifies that ballot questions may be considered at the annual town meeting.
- 46** **Deputy clerk.** Specifies that if a town clerk has not appointed a deputy, the town treasurer performs clerk duties regarding candidate filings when the clerk is absent.
- 47** **Initiating the proceeding.** Clarifies a signature requirement for initiating a municipal proceeding. A petition must be signed by a “number of residents eligible to vote equivalent to” five percent of the resident voters of a municipality.
- 48** **Election notices.** Requires the hospital district clerk to provide a notice of the date and the offices and questions to be voted on in the hospital district 53 days before the hospital district election to the auditor of every county in which the hospital district is located.
- 49** **Candidates; ballots; certifying election.** Same filing period for hospital district candidates as applies to municipal and school district candidates.
- 50** **Effective date.** This article is effective the day following final enactment.

Article 3: Campaign Material Disclaimers

- 1** Amends the definition of “campaign material” to focus on the purpose of the person disseminating it rather than on the effect it may have on the election.
- 2** Expands the exemption from the disclaimer requirement to include not only individuals, but also associations who act independently of a candidate, a candidate’s committee, a political committee, or a political fund. It also increases the dollar amount of the exemption from materials costing \$300 to materials costing \$500. Finally, it shortens the time when the

Section

exemption does not apply from the last 14 days before an election to the last seven days before the election.

3 **Effective date.** Makes the act effective the day following final enactment.