

HOUSE RESEARCH

Bill Summary

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Overview

This bill makes a number of changes to the laws related to election administration, including requiring photo identification in the polling place, eliminating the use of vouching as a mechanism for voter registration in most cases, instituting a system of provisional balloting, specifying reconciliation procedures, permitting use of electronic polling place rosters, and codifying certain recount procedures in statute. A brief description of the changes in the DE5 amendment compared to the first engrossment of the bill is contained in the header prior to each article.

Article 1: Voter Registration, Photo Identification, and Provisional Balloting

Major substantive changes from the first engrossment:

- (1) adds a classification of data related to voter identification cards (section 1)
- (2) modifies certain procedures related to the issuance of voter identification cards (section 2)
- (3) changes various canvassing dates to conform to the provisional balloting verification period (sections 12-19)
- (4) requires a state contract for a public educational campaign related to voter identification (section 20)

- 1 Data classifications.** Provides that data on applicants for a Minnesota voter identification card is classified as private data, except that the data may be released to a government entity or court as necessary to carry out functions of the government entity or court.
- 2 Voter identification cards.** Requires the Department of Public Safety to provide a free voter identification card to eligible voters who do not possess a Minnesota driver's license or state identification card

A voter identification card would be valid only for purposes related to voting in Minnesota. The format and content requirements for the card are provided in the bill.

- 3 Expiration.** Enacts a conforming change related to the establishment of voter identification cards in section 2 of this article.
- 4 Improved security.** Enacts a conforming change related to the establishment of voter identification cards in section 2 of this article.
- 5 Documentation of identity and residence.** Establishes a list of identification documents that may be presented by a voter to prove identity and residence. Consistent with modifications made later in the bill, a voter would be required to present proof of identity and residence using this list of approved documents when registering to vote in a polling place on election day, or when seeking to have a provisional ballot counted in the certified results of the election.

Documents that would be accepted include a current, valid Minnesota driver's license or identification card, certain tribal identification cards, or a receipt for a Minnesota driver's license or identification card along with one of several listed photo identification documents. To prove residence and identity, a student would also be permitted to present a driver's license or identification card of their home state, along with a student fee statement listing their valid address of residence in Minnesota.

This section would also permit a resident of a shelter for battered women to be vouched for by an employee of the shelter as a means to prove identity and residence, within certain standards.

- 6 State-subsidized voter identification card account.** Establishes a state-subsidized voter identification card account in the special revenue fund. Funds in the account would be used to issue voter identification cards, as provided in section 2. The commissioner of public safety is required to make a report to the legislature at least monthly on expenditures from the account.
- 7 Election day registration.** Eliminates vouching as a mechanism for election day registrants to prove residency in the precinct.

This section also eliminates the existing list of identification documents that may be used for election day registration, and instead references the new proof of residency and identity section established earlier in the bill (many of the documents that appear to be eliminated here were moved to the new section). The secretary of state would no longer be permitted to approve additional documents as identification beyond those contained in statute.

An existing authorization for local units of government to require election judges to initial voter registration applications is made mandatory, and a signature is required instead of the election judge's initials.

- 8 Procedures for polling place rosters.** Provides that a polling place roster must include a voter's address of residence, unless the voter is a judge, law enforcement, or corrections officer who has requested that an alternate mailing address be printed on the roster.
- 9 Verification of registration; Photo ID requirement.** Requires voters to present photo identification to the election judge prior to signing the polling place roster. Confirmation of the voter's name, address, and date of birth is also required.

Acceptable photo identification would include a (1) valid Minnesota driver's license or identification card with the voter's current address; (2) an original receipt for a Minnesota driver's license or identification card along with a license or identification card that is expired, invalidated, or does not contain the voter's current address; or (3) an identification card issued by a recognized tribal government that contains the same items of data as are included on a Minnesota identification card. Alternatively, a resident of a shelter for battered women would be permitted to be vouched for by an employee of the shelter.

If a voter is unable to produce an acceptable form of photo identification, the voter is permitted to cast a provisional ballot, following procedures established later in the bill.

- 10 Challenged voters; determination of residence.** Permits a voter whose eligibility to vote is challenged in the polling place to cast a provisional ballot, if the challenge is not withdrawn after the voter is questioned by an election judge regarding the voter's eligibility and residence. A challenged voter is not permitted to cast a ballot other than a provisional ballot, following new procedures established later in the bill.
- This section also eliminates an obsolete reference to "unopened" ballots.
- 11 Provisional ballots.** Establishes a new system of provisional balloting, to be used for pre-registered voters who are unable to provide sufficient photo identification in the polling place, and voters whose eligibility to vote or residency is challenged either in the statewide voter registration system, or by another person in the polling place.
- Casting of provisional ballots.* Voters casting a provisional ballot are required to complete a color-coded provisional ballot envelope, containing basic identifying information and an oath that the voter is eligible, has not voted previously in the same election, and meets the criteria for voting in the precinct. Provisional ballots are the same as "live" ballots cast in the polling place on election day, except that they must be sealed in the provisional ballot envelope and segregated in a separate ballot box.
- Counting of provisional ballots.* A provisional ballot must be counted if the voter who cast the ballot appears before the appropriate county auditor or municipal clerk within seven calendar days of the election and presents sufficient proof of residence and identity, as permitted by the new list of documentation established earlier in the bill, and the voter's record in the statewide registration system is not listed as challenged (if challenged, the voter must also present proof of eligibility to vote). If the provisional voter does not appear within this timeline, or does not satisfy the documentation requirements, the provisional ballot must not be counted. The county auditor or municipal clerk is required to send written notice to provisional voters whose ballots were not counted because of their failure to comply with these requirements.
- Reconciliation.* This section also requires the county auditor to reconcile the number of signatures contained on the provisional ballot roster with the number of provisional ballots cast in the precinct prior to counting any provisional ballots from that precinct, including the random removal of excess ballots, if necessary.
- 12 Unlawful voting; penalty.** Adds intentional misrepresentation of an individual's identity in requesting a provisional ballot or requesting that a provisional ballot be counted to the existing statutory list of felony unlawful voting offenses.
- 13 Canvassing dates; state primary.** Modifies the meeting dates of the state and county canvassing boards to conform to the new provisional ballot verification period established earlier in the bill.
- 14 Canvassing dates; county canvass of general election.** Modifies the meeting date of each county canvassing board after a state general election to conform to the new provisional ballot verification period established earlier in the bill.
- 15 County canvassing; reports.** Modifies certain timelines for providing canvassing reports to the secretary of state, to conform to the new provisional ballot verification period established earlier in the bill.
- 16 Canvassing dates; municipal primary.** Modifies the meeting date of the municipal canvassing board after a municipal primary election, to conform to the new provisional ballot verification period

established earlier in the bill.

- 17 Canvassing dates; municipal general election.** Modifies the meeting date of the municipal canvassing board after a municipal general election, to conform to the new provisional ballot verification period established earlier in the bill.
- 18 Canvassing dates; school district primary.** Modifies the meeting date of the school district canvassing board after a school district primary election, to conform to the new provisional ballot verification period established earlier in the bill.
- 19 Canvassing dates; school district general election.** Modifies the meeting date of the school district canvassing board after a school district general election, to conform to the new provisional ballot verification period established earlier in the bill.
- 20 Public education campaign.** Requires the commissioner of administration to enter into a state contract for production of a public educational campaign related to voter identification requirements.
- The secretary of state, the secretary's staff, and any other documents or materials promoting the office of the secretary of state are prohibited from appearing in the campaign.
- 21 Appropriation.** Appropriates funds for FY 2012 and 2013 to be used for providing state-subsidized identification cards to qualifying eligible voters.
- 22 Effective Date.** Provides that this article is effective June 1, 2012, and applies to elections held on or after that date.

Article 2: Election Administration and Integrity

Major substantive changes from the first engrossment:

- (1) Adds sections related to distribution of information on voting to Safe at Home program participants and residents of shelters for battered women (sections 1 and 31)
 - (2) Eliminates a section that amended the existing law related to providing physical assistance to a voter in completing the voter's ballot
 - (3) Eliminates the repeal of all administrative rules related to elections adopted by the secretary of state (meaning the rules remain in effect) and the repeal of a subdivision of law regulating the placement of "incumbent" on the ballot in judicial races (meaning the incumbent designation will remain in place)
- 1 Safe at home program; absentee voting.** Requires the secretary of state to include on the secretary's website information on casting an absentee ballot by participants in the Safe at Home program. The Safe at Home program helps survivors of domestic violence, sexual assault, stalking, or others who fear for their safety establish a confidential address. The program is coordinated by the secretary of state.
- 2 Student residential housing lists.** Requires postsecondary institutions that submit residential housing lists for election day registration purposes to submit the list in an electronic format, approved by the secretary of state.
- 3 Administrative rules; legislative approval.** Requires any administrative rule adopted pursuant to an authorization in Minnesota election law to be approved by the legislature before the rule may take effect.

The legislative approval requirement would apply to new rules adopted after enactment of the bill. Existing rules would sunset on May 21, 2012, consistent with the repealers contained later in this article.

- 4 Statewide voter registration system (SVRS).** Requires the voter identification number assigned to each voter in the statewide registration system to be permanently assigned to that voter.
- 5 Establishment; SVRS.** Adds a conforming reference to the statutory requirement that voter identification numbers be permanently assigned to each voter, as provided earlier in the bill.
- 6 Election day registration.** When registering an individual to vote on election day, requires the election judge to review a list of individuals believed to be ineligible to vote, consistent with a new list established in section 13 of this article.
- 7 Record of attempted registrations.** Requires election judges to keep a record of the number of individuals who attempt to register in the polling place on election day, but fail to do so because of an inability to provide proof of residence. Current law requires election judges to "attempt to" keep this record.
- 8 Deficient registrations.** Provides that a voter registration application may be deemed deficient if the voter fails to check the box indicating the voter certifies the contents of the application to be true.
- This section also requires the county or municipality to request a date of birth from voters who were registered prior to August 1, 1983 (prior to this date, birth dates were not required as part of the voter registration process). A registration may be deemed deficient if the voter does not provide a date of birth upon request.
- A conforming change related to voter identification cards, as enacted in article 1 of this bill, is also included.
- 9 Registration files; retention of records.** Expands the length of time election officials are required to keep paper voter registration applications from 22 months to 36 months after the date the information is entered into the computerized statewide voter registration system.
- 10 Entry of voter registration information into SVRS.** Requires voter registration applications completed by voters on election day to be entered into the SVRS within 42 days of the election, without exception.
- Current law allows the county auditor to notify the secretary of state if the deadline will not be met.
- 11 Postelection sampling; postcard verification.** Establishes a deadline of January 1 of the year following the election for county auditors to conduct existing post-election registration verification procedures.
- 12 Voting history; late or rejected ballots.** Provides that a late or rejected absentee or mail ballot does not count as voting history. Current law provides that a late or rejected absentee or mail ballot is voting history, except for purposes of inclusion on public information lists.
- 13 Challenged eligibility list.** Requires the secretary of state to maintain a database of individuals who are not registered and believed to be ineligible to vote. The secretary is required to populate the list based on data received from various government entities already, in addition to other data the secretary deems appropriate.
- An individual seeking to register to vote whose name appears on the list may submit an application, but the individual's registration status must be listed as "challenged."
- 14 Polling place rosters; retention of records.** Expands the length of time election officials are required to keep polling place rosters from 22 months to 36 months following the election.

- 15 Absentee ballot applications; identification number verification.** Requires an application for an absentee ballot to contain the applicant's driver's license or state identification card number and the last four digits of the applicant's social security number (or a statement that the applicant does not have a social security number).
- Prior to approving the application, the county auditor or municipal clerk would be required to verify the validity of the driver's license or identification card number submitted, including verification that it is a number assigned to the person making the application for absentee ballots. Verification that the applicant is not included on a list of known ineligible voters is also required.
- 16 Absentee voting; health care patients.** Prohibits a voter in a health care facility from applying for an absentee ballot from the election judges delivering ballots to that facility on election day.
- 17 Absentee ballot applications; retention of records.** Expands the length of time election officials are required to keep absentee ballot applications from 22 months to 36 months following the election.
- 18 Ballot board; meeting requirements.** Establishes meeting and notice-of-meeting requirements for absentee ballot boards.
- An absentee ballot board would be required publicly post a schedule of meetings at least 14 days prior to the first meeting of the board for any given election. Meetings must be conducted every business day, and any day the county or municipal offices are open for election business prior to election day. The ballot board may not meet except for regularly-scheduled meetings posted consistent with the requirements of this section.
- 19 Election materials; retention of records; inspection.** Expands the length of time election officials are required to keep election materials from 22 months to 36 months following the election or election contest, whichever is later.
- This section also eliminates a prohibition on inspecting polling place rosters or voter registration applications until the data has been posted or entered into the statewide voter registration system.
- 20 Determination of proper number of ballots; reconciliation.** Eliminates obsolete language related to "election registers" and requires election judges to determine the proper number of ballots to be counted in a precinct by counting the number of original signatures contained on the polling place roster. Voter's receipts may not be counted in place of signatures, unless an electronic roster that meets specified requirements is used in the precinct.
- 21 Excess ballots; Election judge initials on ballot.** Permits the absence of initials on a ballot from two election judges to be used as the basis of a ballot challenge during a recount. Current law prohibits this discrepancy from being the basis of a ballot challenge.
- 22 Excess ballots.** Requires ballots determined to be excess ballots, following procedures existing in current law, to be clearly marked "excess" and returned in an envelope sealed with election judge signatures.
- This section also requires that while excess ballots are removed from a ballot box by election judges in the precinct, tabulation of updated precinct vote totals must be completed by the appropriate canvassing board.
- 23 Excess ballots; applicability.** Specifies that procedures related to removal of excess ballots apply to all precincts, regardless of the voting system used in the precinct.
- 24 Spoiled, defective, and duplicated ballots.** Provides additional labeling requirements for ballots that are spoiled or defective, and provides a cross-reference to existing procedures related to

handling of damaged and defective ballots.

- 25 Precinct summary statements; information requirements.** Requires the summary statement from each precinct to include: the number of ballots cast; the number of signatures contained on the polling place roster (or voter's receipts, if an electronic roster is used); and the number of excess ballots removed from the ballot box by the election judges.
- 26 Determination of proper number of ballots; reconciliation.** In a section related to the use of optical-scan voting systems, eliminates obsolete language related to "ballot cards," "election registers" and "registration files" and requires election judges to determine the proper number of ballots to be counted in a precinct by counting the number of original signatures contained on the polling place roster. Voter's receipts may not be counted in place of signatures, unless an electronic roster that meets specified requirements is used in the precinct.
- 27 Excess ballots; transportation.** Adds a reference to excess ballots to existing law related to transportation of ballots, if a counting center is used and eliminates an obsolete reference to "ballot cards."
- 28 Election contests; time for filing.** Extends the period for filing an election contest, if data or documents necessary to determine grounds for a contest are not available to a candidate or the public due to nonfeasance, malfeasance, or failure to perform duties by an election official.
- 29 Election contests; inspection of records.** Permits a party to an election contest to inspect all materials related to the election in preparation for trial. Current law only permits inspection of ballots in preparation for trial.
- 30 Soliciting near polling places.** Specifies that political badges, buttons, or insignia are only prohibited in the polling place if the badge, button, or insignia is designed to influence voting for or against a specific candidate, question, or political party on the ballot at the election.
- This section also includes a conforming reference to voter's receipts, consistent with the electronic roster provisions contained in article 3 of the bill.
- 31 Duties of grantees.** Requires facilities that provide emergency shelter and support services to battered women that are funded through a government grant to provide information to all battered women about the Safe at Home address confidentiality program administered by the secretary of state, including information on the right of individuals to vote by absentee ballot.
- 32 Repealer.** Repeals a requirement that absentee ballot applications be delivered by election judges to individuals upon request, when the election judges are delivering previously-requested absentee ballots to individuals in a health care facility.

Article 3: Electronic Rosters

Major substantive changes from the first engrossment:

- (1) Electronic rosters are made permissive, rather than mandatory (section 3), though certain additional standards for alternative rosters are provided;
- (2) language related to electronic roster systems has been updated and corrected;
- (3) review and approval of security plans by the secretary of state is no longer required;
- (4) a Legislative Task Force on Electronic Roster Implementation is established; and
- (5) an appropriation of funds from the Help America Vote Act account is also provided.

- 1 **Polling place rosters.** Establishes a general definition for the term "polling place roster" to include the lists of pre-registered voters and voters registering on election day.

This section also defines "polling place roster" to include either a document in printed or electronic format.
- 2 **Procedures for polling place rosters.** Requires electronic polling place rosters to provide for a printed voter's receipt that meets standards established later in the bill.
- 3 **Electronic rosters; standards.**

 Subd. 1. Requirement. Permits precincts to have secure electronic access to the statewide voter registration system, to serve as the precinct's polling place roster. If a precinct is unable to acquire the live electronic connection, the precinct may use two interconnected computers that are pre-loaded with that precinct's roster.

 An electronic roster may only be used if the secretary of state certifies that the connection to the statewide voter registration system is sufficient to prevent a voter from voting more than once and to prevent access to the system by unauthorized individuals.

 Subd. 2. Standards. Minimum standards for the functionality of an electronic roster are specified.

 Subd. 3. Use of alternative roster. Require precincts that do not use an electronic roster use an alternative roster that meets certain verification requirements and functionality as provided for electronic rosters.
- 4 **Separate precincts.** [appears erroneously in the bill; there is no change to existing law in this section].
- 5 **Permanent registration; verification.** Updates language to reflect the use of electronic polling place rosters; requires voters to sign a voter's receipt printed from the roster, rather than the roster itself, unless the precinct uses a paper roster.

 This section also expands the time voter's receipts must be maintained, from the time for filing an election contest to 36 months following the date of the election.
- 6 **Refusal to answer questions or sign roster.** Updates language to reflect the use of electronic polling place rosters.

- 7 **Voter registration.** Updates language to reflect the use of electronic polling place rosters; eliminates language referring to the printing of rosters and replaces it with a requirement that the secretary of state secure the rosters.
- 8 **Technology standards; applicability.** Establishes a new chapter of law related to electronic roster technology.
- 9 **Definitions.** Defines certain terms to be used in the new chapter of statute related to electronic roster technology.
- 10 **Minimum contingency and security procedures.** Requires the designated election official to establish written procedures related to the electronic transfer of voting information to and from precincts using electronic rosters. Minimum standards for inclusion in the written procedures are provided in the bill, including contingency procedures to address a power or system failure
- 11 **Minimum standards for data encryption.** Requires the designated election official to submit evidence to the secretary of state that the electronic roster connections in the official's jurisdiction are sufficiently secure and encrypted. Minimum standards for encryption are provided in the bill.
- 12 **Minimum standards for electronic roster transactions.** Requires an electronic roster system connection to contain sufficient bandwidth to process voting transactions quickly. Maximum time standards for transactions are provided.
- 13 **Electronic roster testing; pre-election.** Requires new electronic roster technology to be tested prior to being used in a live election. Minimum documentation requirements and standards for the testing are provided.
- 14 **Minimum number of computers required in a precinct.** Specifies the number of computers required for a precinct using electronic rosters. A minimum of two computers must be allocated, regardless of the size of the precinct.
- 15 **Legislative Task Force on Electronic Roster Implementation.** Establishes a new task force to facilitate implementation of the electronic roster provisions of this article.
- Duties of the task force are specified, including studying technology and recommending to the legislature any additional changes to the law that may be necessary to implement electronic rosters.
- The task force consists of 16 members, including four legislators, four head election judges, and election administrator representatives of large, average, and small sized counties and townships as well as a city elections administrator. The secretary of state, or a designee, and certain staff of the secretary of state are also members, as well as the state's chief information officer, or a designee. The appointment process and certain additional qualifications are included.
- A task force report is required to be submitted to the legislature by December 1, 2011.
- The task force is subject to the requirements of the open meetings law, with some exceptions. The director of the legislative coordinating commission is required to convene the first meeting of the task force and provide staff support, as necessary.
- 16 **Appropriation.** Appropriates funds from the state Help America Vote Act account to purchase equipment and update the statewide voter registration system as necessary to implement electronic rosters.
- The appropriation is effective the day following final enactment of the bill.
- 17 **Effective date.** Provides that this article is effective August 14, 2012, and applies to elections held

on or after that date, except where otherwise provided.

Article 4: Recounts

There are no changes to this article from the first engrossment.

- 1** **Correction of errors.** Updates cross-references to reflect the recodification of recount law into a new chapter of statute, chapter 204E.
- 2** **Applicability.** Establishes a new chapter of statute to govern automatic and discretionary recounts provided for in law.

This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0200.
- 3** **Recount officials.** Designates certain individuals as "recount officials" and defines "legal adviser" for purposes of a recount.

This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0200.
- 4** **Scope of recounts.** Specifies the scope of a recount and ballots that may be considered.

This section is a recodification of existing statute related to recounts, section 204C.35, subd. 3.
- 5** **Federal, state, and judicial races.** Specifies the thresholds for a recount in federal, state, and judicial elections.

This section is a recodification of existing statute related to recounts, section 204C.35, subsd. 1-2, except that language prohibiting a recount from delaying a canvass is eliminated and an updated cross-reference related to filing of election contests is added.
- 6** **County, school district, and municipal elections.** Specifies the thresholds for a recount in local elections.

This section is a recodification of existing statute related to recounts, section 204C.36, subsd. 1-5, except that an updated cross-reference related to filing of election contests is added.
- 7** **Notice.** Specifies procedures for notifying a candidate of a recount.

This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0300.
- 8** **Securing ballots and materials.** Specifies procedures for securing ballots and election materials in a recount, and permits a candidate for an office to be recounted to inspect the ballots and materials prior to certification of the recount results.

This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0400, with the exception of the new allowance for a candidate to inspect ballots and election materials prior to certification of the results.
- 9** **Facilities and equipment.** Specifies procedures for use of facilities and public accessibility in a recount.

This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0600.

- 10 General procedures.** Provides general procedures to be used in conducting a recount, including an allowance for a candidate representatives, handling of materials, and access by members of the public.
- This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0700.
- 11 Counting and challenging ballots.** Provides procedures for ballot handling and sorting during a recount, including ballot challenges by a candidate.
- This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.0800, except that a definition of "frivolous challenge" is eliminated and a new requirement specifying that only the canvassing board may deem a ballot challenge to be "frivolous" is added.
- 12 Results of recount.** Specifies procedures for certifying the result of a recount by the appropriate canvassing board, and includes a provision related to tie votes.
- This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.1100, and a recodification of statute related to tie votes, section 204C34.
- 13 Security deposit.** Specifies requirements for payment of a security deposit for recount expenses, where required by law.
- This section is a codification of existing administrative rule related to recounts, Minn. Rule 8235.1200.
- 14 Revisor's instruction.** Instructs the revisor to update cross-references associated with the codification of rules and recodification of the recount statutes contained in this article.
- 15 Repealer.** Repeals existing statutes related to recount process (all of which are recodified in this article as new chapter 204E, except that an authorization for the secretary of state to adopt administrative rules related to recounts is eliminated).
- 16 Effective date.** Provides that this article is effective June 1, 2011, and applies to elections held on or after that date.