

1.1 A bill for an act

1.2 relating to elections; changing certain recount and election contest provisions;
1.3 providing for runoff elections; amending Minnesota Statutes 2008, sections
1.4 204C.35; 204C.36, subdivision 2; proposing coding for new law in Minnesota
1.5 Statutes, chapters 204C; 204D; 209.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. **[204C.345] DEFINITIONS.**

1.8 Subdivision 1. **Scope.** The definitions in this section apply to sections 204C.35
1.9 and 204C.36.

1.10 Subd. 2. **Election contest.** "Election contest" means a procedure governed by
1.11 chapter 209.

1.12 Subd. 3. **Recount.** "Recount" means a recount using electronic voting systems of all
1.13 ballots that were counted during the original count of votes cast at an election, except that
1.14 ballots cast at precincts where electronic voting systems were not in use during the election
1.15 must be recounted using the method of ballot counting used during the original count.

1.16 Sec. 2. Minnesota Statutes 2008, section 204C.35, is amended to read:

1.17 **204C.35 FEDERAL, STATE, AND JUDICIAL RACES.**

1.18 Subdivision 1. **Automatic recounts.** (a) In a state primary when the difference
1.19 between the votes cast for the candidates for nomination to a statewide federal office,
1.20 state constitutional office, statewide judicial office, congressional office, state legislative
1.21 office, or district judicial office:

1.22 (1) is less than one-half of one percent of the total number of votes counted for
1.23 that nomination; or

2.1 (2) is ten votes or less and the total number of votes cast for the nomination is 400
2.2 votes or less;

2.3 and the difference determines the nomination, the canvassing board with responsibility for
2.4 declaring the results for that office shall ~~manually~~ recount the vote.

2.5 (b) In a state general election when the difference between the votes of a candidate
2.6 who would otherwise be declared elected to a statewide federal office, state constitutional
2.7 office, statewide judicial office, congressional office, state legislative office, or district
2.8 judicial office and the votes of any other candidate for that office:

2.9 (1) is less than one-half of one percent of the total number of votes counted for
2.10 that office; or

2.11 (2) is ten votes or less if the total number of votes cast for the office is 400 votes or
2.12 less,

2.13 the canvassing board shall ~~manually~~ recount the votes.

2.14 (c) A recount must not delay any other part of the canvass. The results of the recount
2.15 must be certified by the canvassing board as soon as possible.

2.16 (d) Time for notice of a contest for an office which is recounted pursuant to this
2.17 section shall begin to run upon certification of the results of the recount by the canvassing
2.18 board.

2.19 (e) A losing candidate may waive a recount required pursuant to this section by
2.20 filing a written notice of waiver with the canvassing board.

2.21 Subd. 2. **Discretionary candidate recount.** (a) A losing candidate whose name was
2.22 on the ballot for nomination or election to a statewide federal office, state constitutional
2.23 office, statewide judicial office, congressional office, state legislative office, or district
2.24 judicial office may request a recount in a manner provided in this section at the candidate's
2.25 own expense when the vote difference is greater than the difference required by this
2.26 section. The votes shall be ~~manually~~ recounted as provided in this section if the candidate
2.27 files a request during the time for filing notice of contest of the primary or election for
2.28 which a recount is sought.

2.29 (b) The requesting candidate shall file with the filing officer a bond, cash, or surety
2.30 in an amount set by the filing officer for the payment of the recount expenses. The
2.31 requesting candidate is responsible for the following expenses: the compensation of the
2.32 secretary of state, or designees, and any election judge, municipal clerk, county auditor,
2.33 administrator, or other personnel who participate in the recount; the costs of computer
2.34 operation, preparation of ballot counting equipment, necessary supplies and travel
2.35 related to the recount; the compensation of the appropriate canvassing board and costs of

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3.1 preparing for the canvass of recount results; and any attorney fees incurred in connection
3.2 with the recount by the governing body responsible for the recount.

3.3 (c) The requesting candidate may provide the filing officer with a list of up to three
3.4 precincts that are to be recounted first and may waive the balance of the recount after these
3.5 precincts have been counted. If the candidate provides a list, the recount official must
3.6 determine the expenses for those precincts in the manner provided by paragraph (b).

3.7 (d) If the winner of the race is changed by the optional recount, the cost of the
3.8 recount must be paid by the jurisdiction conducting the recount.

3.9 (e) If a result of the vote counting in the ~~manual~~ recount is different from the result
3.10 of the vote counting reported on election day by a margin greater than the standard for
3.11 acceptable performance of voting systems provided in section 206.89, subdivision 4, the
3.12 cost of the recount must be paid by the jurisdiction conducting the recount.

3.13 Subd. 3. **Scope of recount.** A recount conducted as provided in this section is
3.14 limited in scope to the determination of the number of votes validly cast and counted
3.15 on election day for the office to be recounted. Only the ballots cast and counted in the
3.16 election and the summary statements certified by the election judges may be considered in
3.17 the recount process.

3.18 Sec. 3. Minnesota Statutes 2008, section 204C.36, subdivision 2, is amended to read:

3.19 Subd. 2. **Discretionary candidate recounts.** (a) A losing candidate for nomination
3.20 or election to a county, municipal, or school district office may request a recount in the
3.21 manner provided in this section at the candidate's own expense when the vote difference is
3.22 greater than the difference required by subdivision 1, clauses (a) to (e). The votes shall
3.23 be ~~manually~~ recounted as provided in this section if the requesting candidate files with
3.24 the county auditor, municipal clerk, or school district clerk a bond, cash, or surety in an
3.25 amount set by the governing body of the jurisdiction or the school board of the school
3.26 district for the payment of the recount expenses.

3.27 (b) The requesting candidate may provide the filing officer with a list of up to three
3.28 precincts that are to be recounted first and may waive the balance of the recount after these
3.29 precincts have been counted. If the candidate provides a list, the recount official must
3.30 determine the expenses for those precincts in the manner provided by paragraph (b).

3.31 (c) If the winner of the race is changed by the optional recount, the cost of the
3.32 recount must be paid by the jurisdiction conducting the recount.

3.33 (d) If a result of the vote counting in the ~~manual~~ recount is different from the result
3.34 of the vote counting reported on election day by a margin greater than the standard for

4.1 acceptable performance of voting systems provided in section 206.89, subdivision 4, the
4.2 cost of the recount must be paid by the jurisdiction conducting the recount.

4.3 Sec. 4. **[204D.30] RUNOFF ELECTION.**

4.4 Subdivision 1. **General provisions.** If a runoff election is called for under section
4.5 209.15, an election must be held pursuant to this section between the two candidates
4.6 who received the most votes in the election that was the subject of a recount. Minnesota
4.7 Election Law governs the runoff election as far as practicable.

4.8 Subd. 2. **Writ of election.** Within five days of the conclusion of a recount or recount
4.9 and contest that results in a required runoff election under section 209.15, the governor
4.10 shall issue a writ calling for a runoff election. The runoff election must be held as soon as
4.11 possible, consistent with notice requirements, but in no event more than 30 days after the
4.12 issuance of the writ. The filing, posting, and notice requirements for special elections in
4.13 section 204D.22 apply to runoff elections under this section.

4.14 Subd. 3. **Election administration; voter registration.** The provisions of section
4.15 204D.24 governing special elections also apply to a runoff election under this section. The
4.16 county auditor of the county involved in a runoff election or the secretary of state in a
4.17 runoff election covering more than one county shall prepare appropriate runoff election
4.18 ballots listing the two candidates involved in the runoff and appropriate instructions to
4.19 voters. Each county auditor involved and the secretary of state, in case of multicounty
4.20 runoff elections, shall post a sample ballot in that official's office at least four days before
4.21 the runoff election.

4.22 Subd. 4. **Election returns.** The provisions of section 204D.27 covering county and
4.23 state canvassing and election returns for a special election also apply, as appropriate,
4.24 to runoff elections under this section. If the results of a runoff election are such that a
4.25 recount would be automatic under section 204C.35, there must be no recount. The losing
4.26 candidate may proceed immediately to a contest under chapter 209.

4.27 Sec. 5. **[209.066] PREVIOUSLY UNCOUNTED VOTES OR BALLOTS.**

4.28 If, as part of contest proceedings under this chapter, the court determines that certain
4.29 votes or ballots that were not part of the original vote count or any recount must be
4.30 reviewed or counted, those votes or ballots and all other votes or ballots of that kind cast
4.31 in the election must be reviewed or counted using the same standards, as specified by the
4.32 court. If possible, all the additional votes or ballots being reviewed or counted must be
4.33 reviewed or counted by the same individuals using the same methods.

5.1 Sec. 6. [209.15] RUNOFF ELECTION.

5.2 If, after a recount or after a recount and election contest, the winner of an election
5.3 changes from the winner originally announced before the recount, and the victory margin
5.4 is less than the percentage in section 204C.35 or 204C.36, as applicable, that would require
5.5 an automatic recount, a runoff election under section 204D.30 must be held for that office.