

Senator Jungbauer introduced--
S.F. No. 960: Referred to the Committee on Elections.

1 A bill for an act

2 relating to elections; fair campaign practices;
3 amending Minnesota Statutes 2004, section 211B.13,
4 subdivision 1.

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

6 Section 1. Minnesota Statutes 2004, section 211B.13,
7 subdivision 1, is amended to read:

8 Subdivision 1. [BRIBERY, ADVANCING MONEY, AND TREATING
9 PROHIBITED.] A person who willfully, directly or indirectly,
10 advances, pays, gives, promises, or lends any money, food,
11 liquor, clothing, entertainment, or other thing of monetary
12 value, or who offers, promises, or endeavors to obtain any
13 money, position, appointment, employment, or other valuable
14 consideration, to or for a person, in order to induce a voter to
15 refrain from voting, or to vote in a particular way, at an
16 election, is guilty of a felony. This section does not prevent
17 a candidate from stating publicly preference for or support of
18 another candidate to be voted for at the same primary or
19 election. Refreshments of food or nonalcoholic beverages of
20 nominal value consumed on the premises at a private gathering or
21 public meeting or distributed at a public parade are not
22 prohibited under this section.

COMMITTEE REPORT - WITH AMENDMENTS

Committee on Elections

S.F. No. 960

Resolution

Re-referred (from another committee)

Amendments:

Page 1, after line 22 insert:

"Sec. 2 [EFFECTIVE DATE].

This act is effective the day following
final enactment."

Committee recommendation:

And when so amended the bill do pass.

And when so amended the bill do pass and be placed on the Consent Calendar.

And when so amended the bill do pass and be re-referred to the Committee on _____

No recommendation: And when so amended the bill be _____ (re-referred to the Committee on _____)

OR _____ (reported to the Senate).

March 7, 2005 (date of committee recommendation)

Senators Kleis, Pariseau, Wiger, Scheid and Fischbach introduced--
S.F. No. 1315: Referred to the Committee on Elections.

1 A bill for an act

2 relating to elections; changing requirements for
3 precinct summary statements; amending Minnesota
4 Statutes 2004, section 204C.24, subdivision 1.

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

6 Section 1. Minnesota Statutes 2004, section 204C.24,
7 subdivision 1, is amended to read:

8 Subdivision 1. [INFORMATION REQUIREMENTS.] Precinct
9 summary statements shall be submitted by the election judges in
10 every precinct. For state all elections, the election judges
11 shall complete three or more copies of the summary statements,
12 and each copy shall contain the following information for each
13 kind of ballot:

14 (a) the number of votes each candidate received or the
15 number of yes and no votes on each question, the number of
16 undervotes or partially blank ballots, and the number of
17 overvotes or partially defective ballots with respect to each
18 office or question;

19 (b) the number of totally blank ballots, the number of
20 totally defective ballots, the number of spoiled ballots, and
21 the number of unused ballots;

22 (c) the number of individuals who voted at the election in
23 the precinct;

24 (d) the number of voters registering on election day in
25 that precinct; and

1 (e) the signatures of the election judges who counted the
2 ballots certifying that all of the ballots cast were properly
3 piled, checked, and counted; and that the numbers entered by the
4 election judges on the summary statements correctly show the
5 number of votes cast for each candidate and for and against each
6 question.

7 At least two copies of the summary statement must be
8 prepared for elections not held on the same day as the state
9 elections.

COMMITTEE REPORT - NO AMENDMENTS

Committee on Elections

S. F. No. 1315

Resolution

Re-referred (from another committee)

Committee recommendation:

do pass.

OR

do pass and be placed on the Consent Calendar.

OR

do pass and be re-referred to the Committee on

No recommendation:

(be re-referred to the Committee on _____)

OR

(be reported to the Senate) .

March 7, 2005 (date of committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

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S.F. No. 1316 - Polling Place Requirements

Author: Senator Dave Kleis

Prepared by: Peter S. Wattson, Senate Counsel (651/296-3812) *PSW*

Date: March 7, 2005

S.F. No. 1316 imposes various requirements on polling places relating to their area, number of voting booths, number of election judges, and signage.

Section 1 requires that each polling place have at least a certain area, depending on the number of voters who voted in the most recent similar election.

Section 2 requires that each polling place have at least a certain number of booths, depending on the number of registered voters.

Section 3 requires each polling place to have at least one additional election judge, over the minimum, for each 200 votes cast in the most recent similar election.

Section 4 requires each polling place to post "Vote Here" signs at least two feet high by four feet wide at the entrance to the polling place and at each intersection for a distance of three intersections in all directions from the polling place, plus signs within the building directing voters to the polling place.

Section 5 repeals the subdivision of current law that sets a separate requirement for the number of election judges in precincts using paper ballots. They would now be governed by the requirement in **section 3**.

PSW:ph

cc: Kelly Wolfe ✓

Senators Kleis, Pariseau, Wiger and Scheid introduced--
S.F. No. 1316: Referred to the Committee on Elections.

1 A bill for an act

2 relating to elections; specifying a minimum polling
3 place size and number of voting booths; requiring
4 certain signs at polling places; requiring certain
5 additional election judges; amending Minnesota
6 Statutes 2004, sections 204B.16, subdivision 1;
7 204B.18, subdivision 1; 204B.22, subdivision 3;
8 204C.08, subdivision 1; repealing Minnesota Statutes
9 2004, section 204B.22, subdivision 2.

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

11 Section 1. Minnesota Statutes 2004, section 204B.16,
12 subdivision 1, is amended to read:

13 Subdivision 1. [AUTHORITY; LOCATION.] (a) The governing
14 body of each municipality and of each county with precincts in
15 unorganized territory shall designate by ordinance or resolution
16 a polling place for each election precinct. Polling places must
17 be designated and ballots must be distributed so that no one is
18 required to go to more than one polling place to vote in a
19 school district and municipal election held on the same day.
20 The polling place for a precinct in a city or in a school
21 district located in whole or in part in the metropolitan area
22 defined by section 473.121 shall be located within the
23 boundaries of the precinct or within 3,000 feet of one of those
24 boundaries unless a single polling place is designated for a
25 city pursuant to section 204B.14, subdivision 2, or a school
26 district pursuant to section 205A.11. The polling place for a
27 precinct in unorganized territory may be located outside the

1 precinct at a place which is convenient to the voters of the
2 precinct. If no suitable place is available within a town or
3 within a school district located outside the metropolitan area
4 defined by section 473.121, then the polling place for a town or
5 school district may be located outside the town or school
6 district within five miles of one of the boundaries of the town
7 or school district.

8 (b) Each polling place serving precincts in which, in
9 aggregate, there were more than 100 voters in the most recent
10 similar election, must be at least 750 square feet, with an
11 additional 60 square feet for each 150 voters in excess of 400
12 that voted in the most recent similar election.

13 Sec. 2. Minnesota Statutes 2004, section 204B.18,
14 subdivision 1, is amended to read:

15 Subdivision 1. [BOOTHES.] Each polling place must contain a
16 ~~number-of-voting-booths-in-proportion-to-the-number-of~~
17 ~~individuals-eligible-to-vote-in-the-precinct~~ at least two voting
18 booths plus one additional voting booth for each 150 voters
19 registered in the precinct in excess of 200. Each booth must be
20 at least six feet high, three feet deep and two feet wide with a
21 shelf at least two feet long and one foot wide placed at a
22 convenient height for writing. The booth shall be provided with
23 a door or curtains. Each accessible polling place must have at
24 least one accessible voting booth or other accessible voting
25 station and one voting system that conforms to the requirements
26 of section 301(a)(3)(B) of the Help America Vote Act, Public Law
27 107-252. All booths or stations must be constructed so that a
28 voter is free from observation while marking ballots. In all
29 other polling places every effort must be made to provide at
30 least one accessible voting booth or other accessible voting
31 station. During the hours of voting, the booths or stations
32 must have instructions, a pencil, and other supplies needed to
33 mark the ballots. If needed, a chair must be provided for
34 elderly and handicapped voters to use while voting. All ballot
35 boxes, voting booths, voting stations, and election judges must
36 be in open public view in the polling place.

1 Sec. 3. Minnesota Statutes 2004, section 204B.22,
2 subdivision 3, is amended to read:

3 Subd. 3. [~~MINIMUM NUMBER REQUIRED IN CERTAIN PRECINCTS OF~~
4 ELECTION JUDGES.] At each ~~state primary or state general~~
5 ~~election in precincts using an electronic voting system with~~
6 ~~marking devices and~~ in which more than 400 votes were cast at
7 the last similar election, the minimum number of election judges
8 is three plus one judge to demonstrate the use of the voting
9 machine or device, and the number of additional election judges
10 to be appointed is one for every 200 votes cast in that precinct
11 in the most recent similar general election.

12 Sec. 4. Minnesota Statutes 2004, section 204C.08,
13 subdivision 1, is amended to read:

14 Subdivision 1. [~~DISPLAY OF FLAG; "VOTE HERE" SIGN.~~] (a)
15 Upon their arrival at the polling place on the day of election,
16 the election judges shall cause the national flag to be
17 displayed on a suitable staff at the entrance to the polling
18 place. The flag shall be displayed continuously during the
19 hours of voting and the election judges shall attest to that
20 fact by signing the flag certification statement on the precinct
21 summary statement. The election judges shall receive no
22 compensation for any time during which they intentionally fail
23 to display the flag as required by this subdivision.

24 (b) The election judges shall, immediately after displaying
25 the flag pursuant to paragraph (a), post the following:

26 (1) a "Vote Here" sign conspicuously near the flag, which
27 must be of a size not less than two feet high by four feet wide,
28 with letters printed in red in a font size of no less than
29 576-point type, against a white background;

30 (2) a sign of the same size and design at one corner of
31 each intersection for a distance of three intersections in all
32 directions from the polling place, with each sign including an
33 arrow pointing in the direction of the polling place; and

34 (3) within the building, if the polling place has more than
35 one room, signs indicating by arrows the direction in which to
36 proceed in order to reach the room containing the polling place.

1 Sec. 5. [REPEALER.]
2 Minnesota Statutes 2004, section 204B.22, subdivision 2, is
3 repealed.

APPENDIX
Repealed Minnesota Statutes for 05-0941

204B.22 ELECTION JUDGES; NUMBER REQUIRED.

Subd. 2. Additional election judges in paper ballot precincts. In precincts using paper ballots, one election judge shall be appointed for each 150 votes cast in that precinct at the last similar election. At each state primary or state general election in precincts using paper ballots and in which more than 300 votes were cast at the last similar election, additional election judges shall be appointed to count the ballots and complete the returns in place of the election board that served while voting was taking place.

1 Senator moves to amend S.F. No. 1316 as follows:

2 Page 2, line 12, after the period, insert "The secretary of
3 state, upon written request from the municipal clerk in charge
4 of a specific precinct and for good cause shown, may provide a
5 waiver for that precinct from the minimum square footage
6 requirements of this paragraph."

7 Page 2, line 18, delete "150" and insert "175"

8 Page 3, line 27, delete "two feet high by four feet" and
9 insert "18 inches high by 24 inches"

10 Page 3, delete lines 30 to 33 and insert:

11 "(2) a sign of the same size and design at each entrance to
12 the building; and"

**Senate Counsel, Research,
and Fiscal Analysis**

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S.F. No. 1317 - Standing or Soliciting Near a Polling Place

Author: Senator Dave Kleis

Prepared by: Peter S. Wattson, Senate Counsel (651/296-3812) *PSW*

Date: March 4, 2005

S.F. No. 1317 expands the zone around a polling place within which a person is prohibited from standing or soliciting from 100 feet to 500 feet. It also changes the point of measurement from the entrance to the polling place to the property line around the building where the polling place is located.

Section 1 expands the area around a polling place within which an individual may not stand from 100 feet to 500 feet and changes the point of measurement from the entrance to the polling place to the property line around the building where the polling place is located.

Section 2 expands the area around a polling place within which an individual may not display campaign material or solicit voters from 100 feet to 500 feet and changes the point of measurement from the building where the polling place is located to the property line around the building. It also prohibits a person from keeping a record of individuals arriving or departing from the polling place or asking, within 500 feet of the polling place, whether an individual has voted.

PSW:ph

cc: Kelly Wolfe ✓

Senators Kleis, Pariseau, Wiger and Scheid introduced--
S.F. No. 1317: Referred to the Committee on Elections.

1 A bill for an act

2 relating to elections; changing provisions governing
3 certain conduct in or near polling places; changing
4 certain election day prohibitions; amending Minnesota
5 Statutes 2004, sections 204C.06, subdivision 1;
6 211B.11, subdivision 1.

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

8 Section 1. Minnesota Statutes 2004, section 204C.06,
9 subdivision 1, is amended to read:

10 Subdivision 1. [LINGERING NEAR POLLING PLACE.] An
11 individual shall be allowed to go to and from the polling place
12 for the purpose of voting without unlawful interference. No one
13 except an election official or an individual who is waiting to
14 register or to vote shall stand on any private or public parcel
15 of property on which a building containing a polling place is
16 located, or inside that building, or within 500 feet of
17 the property line of any private or public parcel of property on
18 which a building containing a polling place is located, or
19 within a building 500 feet in any direction from the entrance to
20 a polling place. The entrance to a polling place is the doorway
21 or point of entry leading into the room or area where voting is
22 occurring.

23 Sec. 2. Minnesota Statutes 2004, section 211B.11,
24 subdivision 1, is amended to read:

25 Subdivision 1. [SOLICITING NEAR POLLING PLACES.] A person
26 may not display campaign material, post signs, ask, solicit, or

1 in any manner try to induce or persuade a voter:

2 (1) within a polling place or within 100 feet of the
3 building in which a polling place is situated, or;

4 (2) within the building in which the polling place is
5 located;

6 (3) anywhere on the public or private parcel of property on
7 which a building containing a polling place is situated; or

8 (4) within 500 feet in any direction horizontally or
9 vertically of the property line of a public or private parcel of
10 property on which a building containing a polling place is
11 situated,

12 on primary or any election day to vote for or refrain from
13 voting for a candidate or ballot question or to otherwise
14 conduct any activity related to the election.

15 A person may not keep a record of individuals arriving at
16 or departing from the polling place or, within 500 feet of the
17 polling place, ask whether an individual has voted in the
18 election. A person may not provide political badges, political
19 buttons, or other political insignia to be worn at or about the
20 polling place on the day of a primary or election. A political
21 badge, political button, or other political insignia may not be
22 worn at or about the polling place on primary or election day.
23 This section applies to areas established by the county auditor
24 or municipal clerk for absentee voting as provided in chapter
25 203B.

26 The secretary of state, county auditor, municipal clerk, or
27 school district clerk may provide stickers which contain the
28 words "I VOTED" and nothing more. Election judges may offer a
29 sticker of this type to each voter who has signed the polling
30 place roster.

1 Senator moves to amend S.F. No. 1317 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 204C.06,
4 subdivision 1, is amended to read:

5 Subdivision 1. [LINGERING NEAR POLLING PLACE.] An
6 individual shall be allowed to go to and from the polling place
7 for the purpose of voting without unlawful interference. Except
8 as otherwise provided in this section, no one except an election
9 official or an individual who is waiting to register or to vote
10 shall stand within ~~100~~ 200 feet of the entrance to a polling
11 place. The entrance to a polling place is the doorway or point
12 of entry leading into the room or area where voting is occurring.

13 Sec. 2. Minnesota Statutes 2004, section 211B.11,
14 subdivision 1, is amended to read:

15 Subdivision 1. [SOLICITING NEAR POLLING PLACES.] A person
16 may not display campaign material, post signs, ask, solicit, or
17 in any manner try to induce or persuade a voter within a polling
18 place or within ~~100~~ 200 feet of the building in which a polling
19 place is situated, or anywhere on the public property on which a
20 polling place is situated, on primary or election day to vote
21 for or refrain from voting for a candidate or ballot question.

22 A person may not keep a record of individuals arriving at
23 or departing from the polling place or, within 200 feet of the
24 polling place, ask whether an individual has voted in the
25 election. A person may not provide political badges, political
26 buttons, or other political insignia to be worn at or about the
27 polling place on the day of a primary or election. A political
28 badge, political button, or other political insignia may not be
29 worn at or about the polling place on primary or election day.
30 This section applies to areas established by the county auditor
31 or municipal clerk for absentee voting as provided in chapter
32 203B.

33 The secretary of state, county auditor, municipal clerk, or
34 school district clerk may provide stickers which contain the
35 words "I VOTED" and nothing more. Election judges may offer a
36 sticker of this type to each voter who has signed the polling

1 place roster."



March 7, 2005

Minnesota Senate Elections Committee

STATEMENT OF CHARLES SAMUELSON RE: SF1317

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The ACLUA OF Minnesota is the statewide affiliate of the American Civil Liberties Union and our mission is to protect the constitutional rights of all Minnesotans, including the First Amendment right of free speech. I wish to express my concern regarding the impact that Senate File 1317 will have on that right.

Senate File 1317 would amend Minnesota Statute 211.B11, relating to election day prohibitions, to prohibit the exercise of free speech on election matters within 500 feet of any polling place. Specifically, the proposed legislation would create a 250,000 square foot buffer zone around all properties that hold polling places in the state and would prohibit persons, other than election officials and those who are voting, waiting to vote or register to vote from standing within this vast buffer zone – regardless of whether the individual is standing on private or public property. The bill also prohibits the display of material, asking, soliciting, or in any manner trying to induce or persuade a voter, or conducting any other election related activity.

The ACLU OF Minnesota believes that the speech restrictions contained in SF1317 are inconsistent with the notion of a 'permissible' zone of restriction allowed by the Supreme Court of the United States; and, therefore, would impose unconstitutional conditions on the exercise of free speech guaranteed by the First Amendment.

In *Burson v. Freeman*, the Supreme Court addressed, for the first time, the constitutionality of speech restrictions in designated zones surrounding polling places. 504 U.S. 191, 112 S.Ct 1846 (1992). The Court found that though there exists a "substantial and long-lived consensus among the 50 states that *some* restricted zone around polling places is necessary to serve the interest in protection the right to vote freely and effectively," the question is "how large a restricted zone is permissible." *Burson*, 504 U.S. at 209.

To answer such a question, *Burson* requires the application of exacting scrutiny to content-based restrictions on political speech surrounding polling places. That is, to survive constitutional review, the statute must serve a compelling state interest and be narrowly drawn to achieve that end.

The two compelling state issues specifically addressed in *Burson* were voter intimidation and election fraud, leading the court to a thorough analysis of the history and impact in elections across the nation since the founding. While the *Burson* Court rejected the idea of requiring the state's regulations to be perfectly tailored to address the interests at stake, where constitutional conflicts are present, the state must demonstrate that its response is "reasonable and does not *significantly impinge* on constitutionally protected rights." *Id.*, 504 U.S. at 209.

There is no "litmus paper test" to determine when any particular restriction has significantly impinged on the constitutionally protected right of free speech, as noted in *Burson*. The difference between 100-foot boundaries, which were upheld, and the 25-foot boundary that the lower court had recommended in *Burson* was a difference only of degree. But the Court noted that at some "some measurable point," the regulation of electoral activity could effectively burden constitutionally protected speech. *Id.*, 504 U.S. at 210.

Thus, in any State wishing to restrict political speech in a zone around polling places, the state regulation must be both narrowly-tailored and avoid significantly impinging on rights guaranteed by the First Amendment.

The Sixth Circuit Court of Appeals addressed the issue of whether a 500-foot "campaign-free" zones met the constitutional requirements imposed by the Supreme Court in *Anderson v. Spear*, 356 F.3d 651 (6th Cir. 2004). Their answer, ultimately, was that it does not. The court noted that, "the buffer zone, unless it is interrupted by private property, covers an area 25 times larger than the area at issue in *Burson*. The regulation has the potential to silence constitutionally protected speech for 18 acres around a voting booth, and guarantees that those wishing to express their opinions about the election are prohibited from coming within the length of 1 and 2/3 football fields of the polling place." 356 F.3d at 661. Unlike the Kentucky statute at issue in *Anderson*, Senate File 1317 prohibits speech upon private parcels of land as well.

The Court in *Anderson* found that a 500-foot buffer zone was too expansive and was justified by "glaringly thin" evidence regarding the need for such a zone. As such, the zone was not narrowly tailored to

serve the state's compelling interest in preventing voter intimidation and election fraud.

Similarly in *Calhera v. Procarione*, 805 F. Supp. 716 (E.D. Wis. 1992), a federal district Court found that the State of Wisconsin could not justify the sweeping provisions of their 500-foot election-day buffer zone. The court found that state's interests could not justify the sweeping provisions of the statute which encroached upon not only public, but private property.

Minnesota certainly has an interest in preventing voter harassment intimidation; however, the state already has a 100-foot election-day buffer zone. Significantly expanding that zone appears to be a solution in search of a problem. By most accounts, Minnesota's elections have run smoothly with scarce reports of voters being intimidated or harassed as they enter the polling place. In contrast, this bill would do nothing to address the use of aggressive challenges to voter eligibility inside the polling place. Finally, this increased buffer-zone would seriously diminish the ability of individuals to provide voters with assistance in the form of information about their right to vote.

Because SF1317 would impose sweeping restrictions on election-day speech in violation of the right to free speech under the U.S. and Minnesota Constitutions. I respectfully urge you to vote against it. As Justice O'Connor wrote in *Burson*, "Even under the most sanguine scenario of participatory democracy, it is difficult to imagine voter turnout so complete as to require the clearing of hundreds of thousands of square feet simply to ensure that the path to the polling place door remains opens."

Senate Elections Committee

*Thank you for your participation!
Please sign in!*

Name	Organization	Address	Phone	Testifying Bill #
Tony Kallunki	SOS		651-401-1350	1316 } 1317 }
Dorothy McClung	Ramsey Co			

March 7, 2005

