

Posted on Fri, Jan. 20, 2006

Voting machines spur argument

County likes current elections equipment, but state won't approve it

BY ALEX FRIEDRICH
Pioneer Press

Washington County election officials are wrangling with the state over which ballot-marking machines to buy to assist blind and disabled voters. On Tuesday, they will hear public comment about what they should do.

The county needs to approve a purchase plan Tuesday even though it's still at odds with Minnesota Secretary of State Mary Kiffmeyer, who has rejected the machines Washington County wants to use.

Like three other east-metro counties, Washington bought high-tech voting equipment a few years ago — and is now chafing under state orders to change brands. County officials say they have perfectly good equipment and a switch would waste hundreds of thousands of taxpayer dollars.

"This is bull," said County Board Chairman Bill Pulkrabek. "This is why I hate government" at times.

The disagreement is over how counties must comply with the federal Help America Vote Act of 2002. It states that machines used in the 2006 elections must offer blind and disabled voters more privacy and independence.

In December, the state approved Automark ballot-marking machines — which are manufactured by Election Systems and Software — for the disabled. So far, 83 Minnesota counties have agreed to use them.

But Washington — like Anoka, Dakota and Ramsey counties — already had spent more than half a million dollars on machines manufactured by a different company, Diebold, when the county automated its voting process in 1999.

The problem? Washington's Diebold equipment isn't compatible with the Automark machines the state has chosen.

Kiffmeyer won't certify those machines because they don't meet state election standards. She said Minnesota needs to be able to prove it has a system that offers voters "equal treatment" in all counties.

But that treatment isn't necessarily better, county elections director Kevin Corbid suggested — just different. He said the Diebold equipment is federally certified and used in a number of states. It operates almost identically to the Automark machines, he said, but creates a different type of paper ballot. The difference between the two systems, he suggested, is a minor technical one.

"The important thing is the Diebold disability machine works with our current vote-counting equipment, which has served the voters of Washington County very well," Corbid said.

Operating the \$5,200 state-approved Automark machines would be twice as expensive as running a Diebold-brand device for disabled voters, he said. And converting the ballots from one machine to another, he said, would be so time-consuming as to be impractical.

To make matters worse, he said, the fact that Washington County already has new equipment puts it lower on the government funding list for new election equipment.

If Washington County is forced to convert its entire system to all Election Systems equipment — a likely scenario — it will have to spend an extra \$300,000 in county tax money on new machines, he said.

"It's like we're being punished for being on the ball ahead of time," Pulkrabek said.

Kiffmeyer said she sympathizes but warned that saving money up front may lead to costly legal battles if the state is sued for any voting discrepancies.

"It's not a minor thing," she said. "Minor points become big during recounts. ... If we start making exceptions, it may be something that we'll regret later on."

Corbid seemed resigned to the state's decision, though he and some of his counterparts from the other counties are still lobbying Kiffmeyer to allow the Diebold machines. He hopes they'll persuade her by March, when his board will have to make the purchase.

"The county did the right thing back in 1999," Corbid said. "We're just trying to protect our taxpayers' investment."

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Testimony to Senate Elections Committee
Tuesday, January 24, 2006

Thank you for the opportunity to testify this afternoon. I will touch on the situation facing Washington County, but also talk about where we are as counties in creating our election plans and preparing to purchase equipment.

Just as a reminder, the Federal Help America Vote Act passed in 2002 requires each polling place to utilize an assistive voting machine for all federal elections after January 1, 2006. Then last year, MN passed its funding bill that extended the requirements to state and local elections and also created the standards for what assistive voting machines needed to be able to do to be certified for use in Minnesota.

The assistive voting devices need to allow voters with disabilities the ability to privately and independently cast their ballots in a similar manner to all other voters.

First, let me be clear that I believe the Legislature in 2005 passed a good funding bill. However, we were facing a significant challenge at the time. We were attempting to define in the equipment funding bill what types of equipment would be allowed in Minnesota and we did not know exactly what the equipment vendors were creating.

To make this task related to equipment even more difficult was the federal government's delay in creating equipment standards. The draft standards were only released this fall, only months prior to the January 1, 2006 equipment deadline. Final standards are to be published later this year.

So, where are we today?

As of today only one piece of assistive voting equipment has been certified for use in Minnesota. That piece of equipment is the Automark Ballot Marking Device manufactured by Election Systems and Software.

The funding bill also was written to allow the use of a combination assistive voting machine and optical scan counter being manufactured by Diebold Elections. However, we have been told by this vendor that development of this machine has not been completed and it will not be ready for use in the 2006 elections.

The fact that there is only one certified piece of equipment is not a problem for most counties. In fact, 83 counties are completing their election plans and will be utilizing the Automark and vote counting equipment from Election Systems and Software that is compatible with the Automark. These 83 counties are those that currently utilize ES & S vote counters or are buying equipment for the first time.

However, Counties that in the past purchased vote counters from Diebold are in a difficult position. We are facing the potential of purchasing Automark ballot markers for our assistive voting devices, but they are not compatible with our vote counting equipment. This means we need to either replace our entire voting systems, basically wasting the investment in our current equipment or use the two incompatible pieces of equipment. It can be done, and we will do this if needed, but we think we need to explore all other better options.

These four counties (Washington, Dakota, Ramsey and Anoka) have met a number of times with the ES & S Company to talk about how our equipment may work together. What we have found out is it would require a substantial amount of manual programming at a time in the election cycle when we just do not have that time. This system would also require double the programming and operating costs in these counties.

In an attempt to identify a solution that meets our accessibility requirements and also allows for efficient programming, these counties requested that a machine made by Diebold be certified for use. The Secretary of State's office denied certification.

This piece of equipment was not part of our conversations in 2005, however I think it may be a good solution in Minnesota. We have brought this piece of equipment with us today.

However, in order to make this option available in Minnesota it may require a state law change. Currently our law in Chapter 206.80 requires ballot markers to create an optical scan ballot to be tabulated. This machine while it creates a paper record of the votes cast, does not create an optical scan ballot.

We hope you will consider making a change in the state requirements. We believe it meets the public policy you have set that all systems be paper based and provide a paper record that can be utilized in a recount or audit.

I would suggest this desire for alternate equipment is not based just on finances. This option provides a very similar experience for voters to that of the Automark, it just makes more sense in the Diebold counties because of our previous investments.

We are also considering a request to the State Auditor's Office under the newly created mandate reform legislation you passed last year. This bill allows the Auditor's Office to temporarily waive procedural state laws that have been mandated upon local governments. The request would outline how we would still meet the state and federal goals, but relax a couple of the procedural requirements currently in our voting system laws.

Secondly, I would like to raise one issue related to the interpretation of the funding provisions in the 2005 bill. The bill creates two pots of funding. The first grant account totaled \$29 million and is being shared equally by all counties based on the number of precincts in each county.

The second grant included \$6 million to provide funding to counties that need to replace its vote counting equipment or buy equipment for the first time.

The Secretary's Office is interpreting the law to allow that office to fund these eligible counties in the following priority.

First to those counties who have not purchased equipment in the past.

Second, to counties who currently utilized central count equipment.

And then finally, if any money remains, to those counties who need to replace vote counters that are incompatible with the assistive voting devices.

My fear is that if a compatible alternative is not allowed for the four Diebold counties that have roughly 500 precincts between them, this second grant account will not be able to fund all eligible counties at the \$3000 per precinct as stated in the law. If there are more requests than funding, some counties that are currently at the end of the Secretary's priority list will not be funded.

I do not believe this prioritization was the intent of the 2005 language.

If this priority system is used, it will punish those counties that have already made one purchase with local tax dollars. This will most likely lead those same counties to use local dollars to fund the replacement as well, while those who have not bought any equipment previously are allowed to use federal funds. This is not an equitable solution and I do not believe it was the intent of the bill passed in 2005.

Let me say the timing of this is very difficult. Even if the Legislature is interested in relaxing the state requirements to allow additional vendors into the Minnesota marketplace, the timing is very tight. But we think an attempt is certainly worth the effort.

Finally, I see your agenda includes a discussion on 2006 election legislation. While we will certainly implement anything that is passed, we would request you make very few if any changes to election administration laws. Counties will have our hands full implementing new equipment and training election officials and judges. We are also still in training on the administrative changes created in 2004 and 2005 related to the federal HAVA law. We have not identified any changes that are absolutely necessary for us to administer a successful 2006 election. So, again we would encourage you to make few changes in 2006, giving us a chance to implement all the changes occurring already this year.

Thank you for this opportunity and I will try to answer any questions the committee has.

Survey of Local Election Employees

Conducted by the following members
of the Voting Rights Coalition:

Disability Law Center
Education Minnesota
Minnesota AFL-CIO
Minnesota Alliance for Progressive Action
SEIU Local 26

Analysis provided by
Minnesota Alliance for Progressive Action

1821 University Avenue, #S-307
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Why this is needed

Many changes have been made to Minnesota election law in the last several years. Some were made to implement the federal Help America Vote Act. Others were made at the urging of the Voting Rights Coalition, an ad hoc collection of civic organizations, disability advocates, organizations of people of color, labor unions and progressive organizations. The purpose of the Voting Rights Coalition bill was to prevent voter intimidation and remove remaining barriers to voting so that everyone with the right to vote in Minnesota gets to exercise that right easily and without impediment. Although the Secretary of State is the chief elections official in the state, elections are primarily administered by local election officials. As such, we surveyed them to get a sense of how the changes are being implemented.

Goals

The goals of the survey were to see:

- if local elections officials are getting the information they need,
- how they are implementing the new law, and
- how the new law is working so far.

Methodology

Between Wednesday, October 12th and Tuesday, October 25th, we called the office of each of Minnesota's 87 county auditors as well as 6 cities that had elections this fall. We asked to speak with someone involved with running elections. The survey was also emailed to county elections employees around the state. A total of 48 local elections officials made up of respondents from 45 counties and three cities completed the survey.

Major Findings

1. Counties/cities with elections this fall are more familiar with the new laws

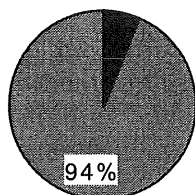
The elections employees in counties and cities that have elections this fall tend to be familiar with the new voting rights laws and are implementing them accordingly. This is not as true of elections employees in counties and cities that do not have elections this fall. Many of them reported that they do not plan on looking into these issues until next year when they have an election.

2. Respondents were not as familiar with the new law as they had thought

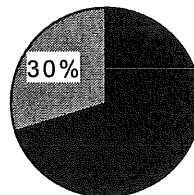
There were two questions on the survey related to whether or not they had received enough information about the new laws. The first summarized the changes to the law and asked whether they had received information about them. Ninety-four percent (45) of the respondents said that they had received all of the information that they needed about the new laws.

The rest of the survey asked more specific questions about how provisions in the new laws are being implemented. We ended the survey by asking if respondents had learned anything about the new law in the course of answering the survey questions. At this point 30% (13) of the respondents who said that they had enough information about the new law said that they had learned something by taking the survey.

**Knew enough about the new law
before the survey**



**Thought they understood the law,
but learned something by taking the survey**



3. Many do not understand the new Tribal ID regulations

New regulations allow Tribal IDs that meet certain requirements to be used for same day registration by Native Americans whether they live on- or off-reservation. When asked about this issue, several counties that do not have elections this fall offered that this new regulation did not apply to them because there are not reservations in their jurisdiction.

4. Few residential facilities are submitting lists of employees

According to the new law, residential facilities are required to submit certified lists of their employees to the counties at least 20 days before an election. Of the respondents who had elections this fall, only three of the twelve had received any of these lists. The three jurisdictions that had gotten lists received over 50 between them. We asked those who do not have elections this fall if they have had conversations with residential facilities in their jurisdiction about the new requirement. None of them have.

5. The new vouching limits and multiple vouching forms are burdensome

When asked about the new limit on vouching and how to improve the process for tracking this information, the majority of respondents indicated that they thought that the limit was overly burdensome and that it should be repealed. Their stated reasons included:

“There is too much paperwork.”

“We don’t ask our judges to police in any other case, why should we in this case?”

“It will never be a problem anyway.”

“Where does all of this information go? Does anyone want it? I know I don’t.”

The Office of the Secretary of State has designed a form for use in tracking this information. It is separate from the form in which the voter vouches for an individual. It has the voucher’s name on it and provides space for a list of individuals for whom they vouched that day. Election judges would need to find the form each time that an individual returns to vouch for another person.

The OSS designed two other forms to be used when employees at residential facilities vouch that residents live in the precinct -- one on which they vouch and one to track the individuals for whom they vouch.

Many respondents worried that the process for tracking the people for whom a voter has vouched and using multiple vouching forms would be confusing and time consuming for election judges.

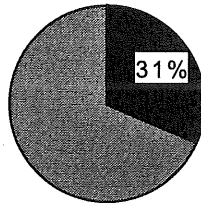
One county developed an all-inclusive vouching form that is flexible enough to be used in any of these situations. The individual filling out the form checks boxes to indicate whether they are an employee of a residential facility or a registered voter in the precinct and that they have not vouched for more than 15 people that day. Counties that were familiar with this form praised it and recommended its use statewide.

6. Many are not distributing registration cards with the new language

The new law amends the language used on Voter Registration Applications and the Voters Bill of Rights. Since July 1st when it went into effect, public entities have been required to distribute registration cards with this new language. When we asked about this issue, nearly one third of the respondents (31% or 15) reported that they are still distributing voter registration cards with the old language. Fortunately, all but one of the counties and cities that have elections this fall are distributing new registration cards.

At least one of the respondents was unaware that the registration applications they were distributing are out-of-date. She said that she always purchases her cards along with the Secretary of State’s bulk order; since there has not been an opportunity to purchase new registration applications jointly since sometime in 2004, she hadn’t realized that new cards were required.

Not Distributing New Voter Registration Cards



7. The option to have one's name removed from the public information list is not being used broadly

The new law allows anyone who signs a statement swearing that they fear for their own or their family's safety to have their name removed from the public information list. We asked whether this option had been used in the respondent's jurisdiction yet. So far it has only been used in two counties, by one family in one county and by 25 people involved in law enforcement in the other.

Conclusion

As the chief elections official in the state, the Secretary of State has the responsibility to make sure that every aspect of elections are run in accordance with the law and in a consistent manner across the state. The survey results indicate that she has not yet done enough to ensure that those who carry out the elections at a local level have complete information about the new laws and are implementing them accordingly.

It was troubling to find that many local elections workers mistakenly believed that they were fully informed about the new law. Nearly one-third of the respondents who thought they understood the new laws in their entirety learned something about them from the survey. It raises questions about how many other local elections workers are unaware that they're not fully informed and whether there other issues about which local elections workers have not received enough information.

It makes sense that jurisdictions that do not have elections this year are waiting to figure out how to comply with the new law. Nevertheless, there are some aspects of it, including distributing new voter registration cards, which they have a legal obligation to implement as of the effective date. The question is why one third of the respondents are out of compliance. At least one of the respondents didn't realize that the registration cards they were distributing were out of date. Several others said that they planned to use up the old voter registration cards before ordering new ones. Are these respondents ignoring the law's new requirements or are they unaware that they are legally obligated to make the changes?

A memo distributed by the Secretary of State's Office dated July 8, 2005 may have created some confusion about what is required. It states that counties must still accept voter registration cards with the old language, that the legislative intent was to allow the use of cards already in circulation, and that the OSS will be redesigning the cards

before the end of the year. It also referenced a previously distributed memo in which the OSS explained the counties' obligation and gave suggestions for updating old cards. However, the OSS did not clearly restate that the counties were legally prohibited from continuing to distribute voter registration cards with the old language. The responsibility for making this statutory requirement clear to the counties lies with the Secretary of State's Office. The OSS needs to do much more to make sure that all local elections officials know that changes have been made, especially when they are placing the burden on the local officials to come into compliance. The survey results show that the methods of communication that the OSS has used to date are inadequate.

The same is true of the new Tribal ID regulations. The Secretary of State's communications on the issue have not given those overseeing the elections at the local level a clear understanding of them. Many do not seem to know that the new Tribal ID regulations affect same day voter registration everywhere in Minnesota, even in jurisdictions without sizable Native American populations.

These two examples point to a need for the Secretary of State's Office to re-examine how they are communicating critical information to local elections officials. The OSS should work with the counties to evaluate the methods of communication that they have been using to date. They should solicit input from the counties as to what would be more effective. Developing a communications plan that works for everyone involved will be especially important as we approach the 2006 general election.

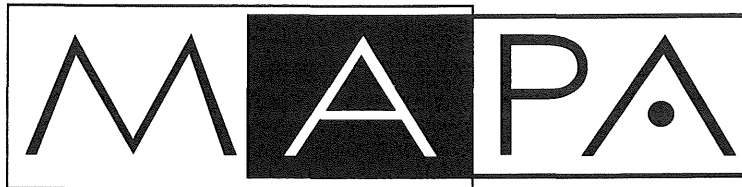
We were disappointed to find that few counties had received lists of residential facilities' employees as well as few letters from individuals exercising the option to have their name removed from the public information list because they fear for their safety. It is telling, however, to see that counties that did receive lists and letters received many of them. These occurred in jurisdictions in which a nonprofit organization held a campaign to make sure the residential facilities were aware of the requirement. It shows that when the affected communities are educated they will take advantage of these new options. The Secretary of State's Office will need to partner with advocates who work in these communities to make sure that this education happens before next fall's elections.

Finally, the Secretary of State's Office should re-examine the procedures that they are suggesting local elections officials use to implement the new vouching regulations. Asking election judges to use four different forms, two of which they may need to find repeatedly throughout the day, is certainly burdensome. It may not have caused a large problem this year, but it will be sure to do so next year when most federal and all of the state offices are on the ballot.

The OSS should consider adopting an all-inclusive vouching form similar to that designed by one of the counties. It would be much easier for election judges to administer without losing any of the information that the statute requires be kept. The form requires the voucher to attest that they have not vouched for more than 15 people that day, which is how we handle nearly every other aspect of eligibility. (Individuals do not have to prove that they are over 18, a citizen or that they have lived in Minnesota over 20 days; they simply have to swear that this is the case.) The form could still be attached to the voter registration card of the person who was vouched for,

and notes could be made on their record and the record of the person who vouched for them, when their registration is entered into the system. As the records are entered, it would become clear whether an individual had vouched for more than 15 people and, if so, they could be prosecuted for making a false statement. A form like this one would go a long way toward making the new regulations more workable.

Overall, the survey results show that the Secretary of State's communications to local elections officials are not having the effect required by the state elections laws. Her office has the ultimate responsibility to make sure that elections are run in accordance with the law and needs to take that responsibility seriously even in years in which there are not state-level elections. The OSS must effectively educate those who run elections at a local level, and make sure that they understand the law and are implementing it as they should. The OSS should work with the local officials to develop a communications plan, as well as procedures and forms that comply with the statute and are as easy as possible for Election Judges to administer. The OSS should work with advocates to make sure that the new residential facilities law succeeds at enfranchising residents of these facilities and that the expanded option to remove one's name from the public information list removes fear as a barrier to voting. There is much left to be done to ensure that the '06 elections meet the high standards that Minnesotans have come to expect.



MINNESOTA ALLIANCE FOR PROGRESSIVE ACTION

Dear Secretary of State Kiffmeyer,

Thank you for responding to my request for public data with the documents sent to me by Bert Black. I have reviewed them and want to bring several inaccuracies to your attention.

In passing the Voting Rights Bill, the legislature made changes to election law that required most election-related documents published by the Office of the Secretary of State (OSS) to be updated. Unfortunately, it appears that this job was not done accurately in time for the 2005 elections. There are significant errors in many documents related to the use of Tribal IDs, to the procedures for challenging a voter's eligibility, and to employees of residential facilities vouching for residents. There are also less serious inaccuracies related to a variety of other issues.

The use of Tribal IDs for same day registration in the 2004 elections was governed by a Temporary Restraining Order in November 2004. The legislature codified half of the court's decision in the State Government Finance Bill that passed in May. The other half of the November 2004 decision was put in place for the 2005 elections by another court order in September 2005. Many of the publications published by the OSS for use in the 2005 elections contain inaccuracies regarding the use of **Tribal IDs** for same day registration. These inaccuracies could have led Native Americans and Election Judges to believe that they were not eligible to register to vote, when in actuality they were.

- Two of the posters distributed to the counties for use in polling places inaccurately described the requirements that a Tribal ID must meet in order to be used in combination with a utility bill. The posters titled "IDENTIFICATION: Acceptable Forms of Identification for New Minnesota Voters Who Registered by Mail" and "IDENTIFICATION: Forms of Identification Accepted for Election Day Registration" state that one can use a "Tribal ID with your current address with utility bill." However, the courts have ruled that Tribal IDs may have a previous address or no address at all when used in combination with utility bills.
- There are significant inaccuracies related to the use of Tribal IDs in the Election Judge Guide, July 2005 Edition, which is an Election Judge's primary reference. Although the Guide states that the statute and the Rules are the final authority, Election Judges should be able to rely on the accuracy of the Guide provided to them to avoid confusion and save these public servants time. In the section on "Tribal Band Identification" (page 18,

section 6.5.4), the final sentence states that “Your clerk can check with the county auditor to see if this applies in your polling place.” This statement implies that Tribal IDs are only valid for same day registration in certain parts of the state, whereas the primary intent of the court order was to ensure that Tribal IDs could be used by American Indians, regardless of whether they live on or off their reservation. It is especially strange that there would be any confusion in the Guide related to Tribal IDs that have an individual’s current address on them, since this issue was resolved by the legislature before they adjourned in May.

The second to last sentence of this same paragraph says that “Tribal identification cards may also be coupled with a current utility bill.” However, the Guide does not make clear that in this case Tribal IDs may contain a former address or no address at all. Even though this issue was not resolved for the 2005 elections until after the Guide was published, the OSS could have included this description, since it mirrors the Temporary Restraining Order that governed the 2004 election.

As a follow-up to the September 12, 2005 Consent Decree, Mike McCarthy distributed a memo from your office to county auditors / election directors and association representatives on October 25, 2005. This memo did a good job summarizing the implications of the new statute and the court order. However, it was not clear enough about what the recipients were to do with this information. A sentence toward the end of the memo “recommend[ed] placing a note informing election judges of this order addressed to the head election judge within the polling place supplies to be picked-up by that judge prior to Election Day.” However, given the confusing language in the Election Judge Guide, the OSS should have given the counties a directive to inform election judges of the court order, not a recommendation. In addition, more should have been done to draw county auditors’ attention to the need to do this.

- A final statement in the Election Judge Guide inaccurately describes the information that must be included on a Tribal ID for it to be used alone for same day registration. In this case, on page 18, section 6.5.4, “Tribal Band Identification,” it states that Tribal IDs must include a street address. However, the statute was amended so that it now requires that they include an address, but not a street address. The word “street” should be deleted from this paragraph. This same change needs to be made in the document “Minnesota Elections Conducted by Mail, Procedures Review, July 2005 Edition” on page 24, in Appendix D, step 3, paragraph F.
- Another update needs to be made to “Minnesota Elections Conducted by Mail.” In the same paragraph referenced above (page 24, in Appendix D, step 3, paragraph F), the final sentence of this paragraph should be deleted, because the statute no longer requires county auditors to maintain a record of the number of voters who registered using Tribal IDs.

Many of the documents produced by the OSS also have errors related to the procedures surrounding **challenges** of a voter's eligibility. These inaccuracies may allow challenges to be brought on grounds less solid than the legislature intended or stop challenged individuals from voting, even if they procedurally should be allowed to do so.

- In the Election Judge Guide, for example, the third paragraph in the section on Challengers and Challenge Procedures (page 9, section 3.3) states that a "challenge must be based on knowledge or reasonable suspicion that the person is not qualified." This does not reflect the changes made to the statute. According to M.S. 204C.12, subd. 2, an individual bringing a challenge must sign a statement swearing that "the challenge is based upon the challenger's personal knowledge..." As such, the Election Judge Guide should mirror the statute's language and state that "challenges must be based on personal knowledge." Any reference to "reasonable suspicion" should be deleted.
- The steps for administering challenges in the polling place are out-of-order as laid out on page 24 of the Election Judge Guide, section 10.2 "Challenged-Voter Procedures" paragraphs 1 and 1a. It has a challenged voter swear an oath before the Oath of Challenge to Voters Eligibility has even been filled out. Obviously the challenge needs to be made before the challenged voter should be required to take an oath to respond to it.

In addition, these paragraphs in the Guide say that the challenged voter has to complete the Oath of Challenge to Voters Eligibility. Clearly, the person bringing the challenge should fill out this form. The Guide should be changed to reflect this on both in this section and on page 47, in the section on Challenge Procedure.

Finally, paragraph 3 of this section states that "If the voter's answers indicated the voter is eligible to vote in your precinct, you may allow him or her to vote." The word "may" is permissive, but should be directive. It is not up to the whim of the Election Judge to decide whether or not to allow a challenged voter to vote; they are required to do so. According to M.S. 204C.12, subd. 3, challenged voters whose answers to the questions indicate that they are eligible and who take the oath must be allowed to vote, even if the challenge is not withdrawn. In this sentence of the Election Judge Guide "may" should be changed to "must". A similar change needs to be made in paragraph 4 on page 47, in the section on Challenge Procedure.

- Furthermore, the description of what a challenger can and cannot do should be described more clearly in the Challengers and Challenge Procedures section of the Election Judge Guide (page 9, section 3.3). The third paragraph has not been changed from the 2004 edition of the Guide. It could easily be replaced by the updated language that appears in on page 29 of the Minnesota Township Clerk Election Guide, July 2005 Edition. The Township Clerk's Guide clearly states the basis for legitimate

challenges, the circumstances under which challengers may speak with voters, and that the Election Judge resolves the dispute once the challenge has been made. Since it is already written and more clearly describes the appropriate process, this text should be inserted in the Election Judge Guide and the City Clerk Election Guide.

- Lastly, there are two circumstances under which the Election Judge Guide implies that a challenged voter does not have any redress. In the section “Roster Notations”(page 15, section 5.3), there are two challenge notations for which the Guide does not direct the Election Judge to use the challenge procedure to resolve the issue. They are “Challenged - Name and Address” and “Challenged - Address.” Neither the statute nor the Rules make any distinction between types of challenges and whether a voter has the right to resolve the issue. In fact, the instructions included in the Minnesota City Clerk Election Guide, July 2005 Edition related to absentee ballots instruct city clerks to send any voter whose eligibility has been challenged a notice to this effect along with a voter registration card. Prohibiting voters with either of these challenge notations from resolving the issue would seem to be a violation of a voter’s right to equal protection. The OSS should modify the Guide to direct Election Judges to follow the challenge procedure under these circumstances. A similar change needs to be made on page 46, in the section on Roster Judge Duties.

Several of the documents I reviewed had not been updated to include complete information about the new option for **vouching by employees of residential facilities**. This information needs to be added to the poster “IDENTIFICATION: Forms of Identification Accepted for Election Day Registration, ” to the section on Registration Judge Duties on page 48 of the Election Judge Guide, and to Minnesota Elections Conducted by Mail, Procedures Review, July 2005 Edition on page 24, in Appendix D, step 3.

In addition to the inaccuracies in the previous three categories, there were a variety of other problems with the documents I received.

- The posters titled “IDENTIFICATION: Acceptable Forms of Identification for New Minnesota Voters Who Registered by Mail” and “IDENTIFICATION: Forms of Identification Accepted for Election Day Registration”, for example, both have been modified since the legislature passed the Voting Rights provisions, but not in a way that is clear. They say that one can use “Minnesota driver’s license, learner’s permit, identification card, Tribal ID, or receipt for one, with your current address.” However, one does not receive a receipt for a Tribal ID. The reference to a receipt should be moved before “Tribal ID.”
- The section of the Election Judge Guide on Interpreters and Assistance by Persons Other Than Election Judges (page 10, section 3.5.2) states that “No person can provide this assistance to more than three voters at one election.” This statement is only true as it applies to individuals helping more than three voters in the voting booth or marking

their ballots. Individuals who provide assistance outside of the voting booth, in translating instructions from an Election Judge, for example, are not limited in the number of voters they can assist. The instructions in the Election Judge Guide should be clarified to avoid any confusion about when limits apply to individuals providing assistance to voters.

- In the Election Judge Guide section on Help by Election Judges (page 10, section, 3.5.1), paragraph 2 states that “A voter may use a mark or stamp facsimile if unable to sign the roster or a registration card. An election judge certifies the voter’s mark by writing the voter’s name next to the mark.” This direction conflicts with the statement on the Voters Bill of Rights, which says, “If you are unable to sign your name, you have the right to orally confirm your identity with an election judge and to direct another person to sign your name for you.” For consistency, the Election Judge Guide should be changed to reflect the language on the Voters Bill of Rights. A similar change needs to be made on page 13, in section 5.1, Signing in Preregistered Voters. If your office believes that this is not possible given the statutory definition of “signature,” then you should work with the legislature to change the language on the Voters Bill of Rights during the 2006 legislative session.
- Paragraph 5 of the section on Voter Registration Application in the Election Judge Guide (page 17, section 6.4) has not been updated to reflect the current statute. It needs to be changed to make clear one no longer has to have a court order for protection to have their address kept confidential. This option is now available to any voter who signs a statement saying that they fear for their or their family’s safety.
- Finally, the definition of “Healthcare facility” in Election Judge Guide’s Glossary (page 41) is inaccurate. Terms from the definition of “residential facility”, from which employees are allowed to vouch, have been added to it. The term “healthcare facility” is in the glossary because election judges go to healthcare facilities to administer voting. This is not the case for all of the residential facilities from which employees can vouch. As such, the definition of “healthcare facility” should be restored to the 2004 language, and a definition of “residential facility” should be added to the Glossary.

Although I was not sent accurate links to the OSS website as part of the response to my request for public information, I did sort through the material there to ensure that it had been updated accurately. The OSS website should be a primary source of reliable information for voters and local election officials. Unfortunately I found that in many cases it was not.

As of November 15th, there are several places in which the website has not been accurately updated or not updated at all:

- The webpage that provides the election law has not been updated to reflect the changes made by the 2005 legislature. Although there is a notice to readers that the information

is not up-to-date, there is no excuse for failing to provide current information. The revisor's office has had these documents available on their website since November 3rd; it would have been appropriate for the OSS to provide this updated information on their website prior to the 2005 general election.

- The posters for use in polling places found on the website are from the 2004 election; they have not been updated to reflect the 2005 legislation.
- The FAQ section of the website has not been updated. It has outdated language regarding ex-felons voting rights and voting eligibility for people under guardianship. In addition, it does not include residential facility employee vouching as an option for same-day registration.
- The pamphlet titled "Elections 101" has information about the 2006 elections, but has not been updated to reflect several of the changes in law. In the section "Registering to Vote," a bullet needs to be added to include vouching by employees of residential facilities as an option for same day registration. Even if this is not an option that will be employed by many students (the targeted audience for this publication), this pamphlet may be shared with others to whom this would apply.

In addition, a bullet should be added to indicate that one can use prior registration at a different address in the same precinct as one's proof of residency. This is an option often used by students.

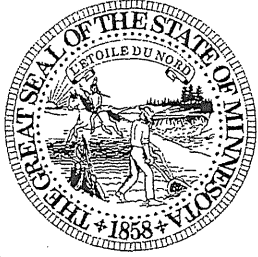
These are not simply harmless clerical errors or oversights, because their real impact may have been to disenfranchise voters in the elections held this fall. They need to be corrected immediately, so that local elections officials and election judges have accurate information for the upcoming special elections and township elections this spring. In addition, much closer attention needs to be paid by the OSS staff when making updates to election-related materials in the future.

I would like to receive updated copies of the documents when this has been completed.

Thank you for your time and attention to this matter.

Warmly,

Beth Fraser
Public Policy Director



Oath of Vouching to Voter's Eligibility

Attention: Pursuant to Minn. Stat. § 201.061, an individual may prove residence for purposes of registering to vote by having a voter who is registered to vote in the precinct but who was not vouched for on election day, sign an oath in the presence of the election judge, vouching that the voter personally knows that the individual is a resident of the precinct. A voter who is registered to vote in the precinct may only sign up to 15 proof-of-residence oaths on any election day.

I, _____ swear or affirm that
(Print name as listed on roster or voter-registration-application)

(check one)

- I am a pre-registered voter in this precinct; or
 I registered to vote in this precinct today and I was not vouched for,

and that I personally know that _____
(Print name as listed on voter-registration-application)

is a resident of (Precinct) _____

(City/Township) _____ (County) _____

Signature of person vouching

I reside at: _____ in _____
Street Address or Route No. City or Township

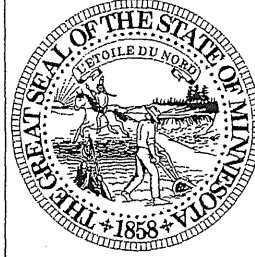
I receive mail at: _____
Street Address or Route No. City or Township

State _____ Zip _____ Daytime Phone: (____) _____

Subscribed and sworn before me on ____/____/____
(Date)

Signature of Election Judge

The above oath shall be attached to the voter registration card.



Oath of Vouching to Voter's Eligibility

Attention: Pursuant to Minn. Stat. § 201.061, an individual may prove residence for purposes of registering to vote by having a voter who is registered to vote in the precinct but who was not vouched for on election day, sign an oath in the presence of the election judge vouching that the voter personally knows that the individual is a resident of the precinct. A voter who is registered to vote in the precinct may only sign up to 15 proof-of-residence oaths on any election day.

I, _____ swear or affirm that
(Print name as listed on voter-registration-application)

(check one)

- I am a pre-registered voter in this precinct; or
 I registered to vote in this precinct today and I was not vouched for,

and that I personally know that _____
(Print name as listed on voter-registration-application)

is a resident of (Precinct) _____

(City/Township) _____ (County) _____

Signature of person vouching

I reside at: _____ in _____
Street Address or Route No. City or Township

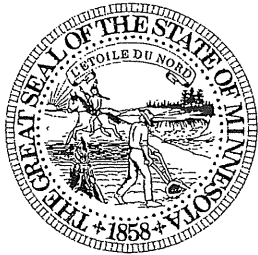
I receive mail at: _____
Street Address or Route No. City or Township

State _____ Zip _____ Daytime Phone: (____) _____

Subscribed and sworn before me on ____/____/____
(Date)

Signature of Election Judge

The above oath shall be attached to the voter registration card.



Precinct List of Persons Vouched For

For election judges to use in recording the number of individuals for whom a voter signs proof-of-residence oaths (vouches for) on Election Day.

ATTENTION: Pursuant to Minn. Stat. § 201.061, a voter who is registered to vote in the precinct may only sign up to 15 proof-of-residence oaths on any election day.

To the Auditor of _____ County, Minnesota.

_____, is a registered voter in _____ (Ward) _____ (Precinct),
(Print exact name as registered of person vouching)

and has vouched for the following voters.

Plainly print the name and street or rural route address of each person vouched for below, as listed on the voter-registration-application (VRA) card.

- | | |
|---|---|
| 1. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 2. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 3. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 4. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 5. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 6. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 7. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 8. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 9. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 10. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 11. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 12. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 13. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 14. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |
| 15. _____
(Print name of person vouched for as listed on VRA Card) | _____ (Print street or rural route address of person vouched for) |

Signature of Election Judges _____

Date: ____ / ____ / ____



Residential Facility Oath of Vouching to Voter's Eligibility

Attention: Pursuant to Minn. Stat. § 201.061, a resident of a residential facility may prove residence for purposes of registering to vote by having an employee of a residential facility (as defined by statute) in the precinct, who has been certified to the county auditor by the operator of the facility, sign an oath in the presence of the election judge vouching that the employee personally knows that the individual is a resident of the precinct.

I, _____ swear or affirm that
(Print name of person vouching as listed on Residential Facility List)

my name appears on the certified list of employees of a residential facility in this precinct and I am vouching for a resident of that facility and that I personally know that _____ is a resident of
(Print name of person as listed on voter-registration-application)

(Precinct) _____ (City/Township) _____

(County) _____

Signature of person vouching _____

I reside at: _____ in _____
Street Address or Route No. City or Township

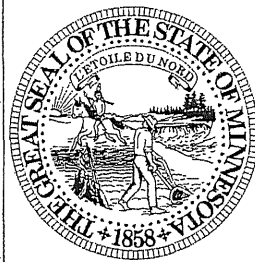
I receive mail at: _____
Street Address or Route No. City or Township

State _____ Zip _____ Daytime Phone: (_____) _____

Subscribed and sworn before me on ____/____/____
(Date)

Signature of Election Judge _____

The above oath shall be attached to the voter registration card.



Residential Facility Oath of Vouching to Voter's Eligibility

Attention: Pursuant to Minn. Stat. § 201.061, a resident of a residential facility may prove residence for purposes of registering to vote by having an employee of a residential facility (as defined by statute) in the precinct, who has been certified to the county auditor by the operator of the facility, sign an oath in the presence of the election judge vouching that the employee personally knows that the individual is a resident of the precinct.

I, _____ swear or affirm that
(Print name of person vouching as listed on Residential Facility List)

my name appears on the certified list of employees of a residential facility in this precinct and I am vouching for a resident of that facility and that I personally know that _____ is a resident of
(Print name of person as listed on voter-registration-application)

(Precinct) _____ (City/Township) _____

(County) _____

Signature of person vouching _____

I reside at: _____ in _____
Street Address or Route No. City or Township

I receive mail at: _____
Street Address or Route No. City or Township

State _____ Zip _____ Daytime Phone: (_____) _____

Subscribed and sworn before me on ____/____/____
(Date)

Signature of Election Judge _____

The above oath shall be attached to the voter registration card.

PROOF OF RESIDENCE - OATH

(For new registration only – using witness box on registration application.)

I, _____, residing at _____
Name of Voucher Address of voucher

swear/or affirm that:

Check one:

I am a registered voter in this precinct and have not vouched for more than 15 voters. (Voter ID # _____ from master list.)

I registered in this precinct today. I did not have another person vouch for me and have not vouched for more than 15 voters.

I am an employee of _____ residential facility,
Name of facility

located at _____
Address of facility

I personally know that _____ is a resident of this precinct.
Name of new registrant

Signature of Registered Voter

Subscribed and sworn to before me:

Signature of Election Judge

____/____/____
Date

_ Paper clip to the newly completed registration card.