

**A PROPOSED BILL TO REVISE MINNESOTA POLITICAL PARTY DEFINITIONS  
AND PETITIONING CRITERIA FOR BALLOT ACCESS INCLUSIVENESS**

Presented to

Minnesota State Senator Scott Jensen of District 47

November 29, 2018

*(based on the original document "A Proposed Bill To Revise Candidate Petitioning And Ballot Requirements" by the Libertarian Party of Minnesota, presented to Steve Simon, Secretary of State of Minnesota, on August 25, 2015)*

\* \* \*

**SYNOPSIS**

This is a comprehensive set of proposals to modernize Minnesota's statutory definitions of Major and Minor political parties, which encompass a revision of arbitrary petitioning requirements, percentages, and timelines that as currently written, sustain exclusivity to ballot access.

Goals are to bring Minnesota's prohibitive standards in-line with neighboring states and to eliminate unconstitutional and outdated requirements while harmonizing the various statutes. This will also allow political parties and candidates the ability to opt out of partisan designations.

\* \* \*

**TABLE OF CONTENTS**

1. Revise the petitioning threshold for major party status as based on statewide election results.
2. Eliminate minor party status altogether.
3. Detach petitioning period from the state primary. Move and expand petitioning periods.
4. Revise the petitioning thresholds for state, county, and municipal candidates.
5. Allow petitions to be on common size 8-1/2x11 letter size paper.
6. Modify oath to remove prohibition on petition signers voting in primaries, as well as the prohibition on signing for multiple candidates.
7. Add option of party approval of designation for partisan candidates.
8. Revise requirements for special elections.

## PROPOSAL 1

Revise the petitioning threshold for major party status as based on statewide election results.

### BACKGROUND:

- The current direct petitioning threshold of 5% of statewide vote is so difficult that no party has ever become ballot-qualified using this statute (200.02.subd.7.c) since it was enacted in 1913.
- Only two states have direct petitioning requirements as difficult as or more difficult than Minnesota's to become a ballot-qualified party: Maine (5%) and California (10%).
- Minnesota's 5% statewide vote threshold appears to be unconstitutional.

In the case of *McLain v Meier*, 637 F 2d 1159 (1980), the 8th Circuit Court of Appeals struck down North Dakota's threshold of 15,000 signatures (3.3% of the eligible petition signers at the time) due to its difficulty, it having been used only one time (in 1976) since its enactment in 1939. Minnesota's 5% threshold, which has never been met, is higher than North Dakota's 3.3% threshold, which had only been met once. Minnesota is within the 8th Circuit Court's jurisdiction.

More recently, in February 2018 US District Court Judge Lawrence Piersol ruled that South Dakota ballot access laws were unconstitutional, violating the First and Fourteenth Amendments, by imposing unreasonable restrictions on new political parties seeking to participate in elections, creating disadvantage. This was centered on a pre-primary required petition to be signed by 2.5% of South Dakotans who previously voted. The result was HB 1286 that now allows recognized alternative parties to elect candidates to ballot at their state convention and establishes 1% as the revised threshold to be a recognized political party.

- Minnesota is a clear outlier compared to neighboring states. Minnesota requires 10 times the number of petition signatures required by any other state. Accounting for population (per capita), Minnesota requires 2 times the petition signatures of the highest neighboring state.

State	Major (or Recognized) Party by votes in election	Major (Recognized) Party by direct petitioning	Number of signatures	Per Capita signatures	Population of state
Minnesota (current)	5% of statewide race	5% of last state wide vote	130,000	2.3%	5,577,000
Minnesota (proposed)	1% of statewide race	20,000 signatures (or 1% of last vote)	20,000 (or 26,000)	0.4%	
Wisconsin	1% of Governor or President	10,000 signatures	10,000 (<.0.1%)	0.2%	5,795,000
Iowa	2% of Governor or President	n/a	n/a 2%=26,420	n/a 2%=0.8%	3,146,000
South Dakota	1% of Governor or President (was 2.5% prior to 2018)	1% of last state wide vote (was 2.5% prior to 2018)	3392	0.4%	869,000
North Dakota	5% of Secretary of State vote	7000 signatures	7000	0.9%	755,000

STATUTORY REVISION:

Revise the statute (200.02.Subd.7) to redefine a Major political party by reducing the number of votes needed by a statewide candidate from 5% to 1% and revise the number of petition signatures needed via direct petitioning from 5% of the statewide vote to a flat 20,000 signatures (or an acceptable equivalent of 1%) for any party to become ballot-qualified

Link to statute: <https://www.revisor.mn.gov/statutes/?id=200.02>

**200.02 DEFINITIONS.**

§ Subd. 7. Major political party. (a) "Major political party" means a political party that maintains a party organization in the state, political division or precinct in question and that has presented at least one candidate for election to the office of:

(1) governor and lieutenant governor, secretary of state, state auditor, or attorney general at the last preceding state general election for those offices; or

(2) presidential elector or U.S. senator at the last preceding state general election for presidential electors; and

whose candidate received votes in each county in that election and received votes from not less than ~~five~~ **ONE** percent of the total number of individuals who voted in that election.

(b) "Major political party" also means a political party that maintains a party organization in the state, political subdivision, or precinct in question and that has presented at least 45 candidates for election to the office of state representative, 23 candidates for election to the office of state senator, four candidates for election to the office of representative in Congress, and one candidate for election to each of the following offices: governor and lieutenant governor, attorney general, secretary of state, and state auditor, at the last preceding state general election for those offices.

(c) "Major political party" also means a political party that maintains a party organization in the state, political subdivision, or precinct in question and whose members present to the secretary of state at any time before the close of filing for the state partisan primary ballot a petition for a place on the state partisan primary ballot, which petition contains signatures of ~~a number of the~~ **20,000 ELIGIBLE VOTERS** party members ~~equal to at least five~~ **ONE** percent of the total number of individuals who voted in the ~~preceding state general election.~~

## PROPOSAL 2

Eliminate minor party status altogether.

### BACKGROUND:

- In concurrence with a lowered threshold for achieving major party status, the current minor party status should be eliminated.
- Only Minnesota divides political parties into a 1<sup>st</sup> class of major parties and a 2<sup>nd</sup> class of minor parties (with a 3<sup>rd</sup> class of under 1% parties). The goal of all parties is to achieve major party status and ballot-qualification for their candidates. No other states have this 'in-between' classification. You are either recognized or you are not. Thresholds for that were in the chart on page 2.
- Minor party status conveys little advantage to a political party, and actually degrades the reputation of the party with a label of inferiority. The primary advantages exist in eligibility to use the Political Contribution Refund (PCR) program as well as eligibility for the \$5 state income tax check-off fund. These funds are undependable as they were eliminated and then restarted in recent years. Even when in effect, these sources provide little to no ability for a minor party to rise to major party status to gain ballot access. In contrast, they merely create more ways for major parties to access public money.

### STATUTORY REVISION:

Dependent on adoption of Proposal 1 to allow major (recognized) party status at a new threshold of 1%, eliminate the minor party statute (200.02.Sub.23).

Link to statute: <https://www.revisor.mn.gov/statutes/?id=200.02>

### **200.02 DEFINITIONS.**

~~§ Subd. 23. Minor political party. (a) "Minor political party" means a political party that has adopted a state constitution, designated a state party chair, held a state convention in the last two years, filed with the secretary of state no later than December 31 following the most recent state general election a certification that the party has met the foregoing requirements, and met the requirements of paragraph (b) or (c), as applicable.~~

~~(b) To be considered a minor party in all elections statewide, the political party must have presented at least one candidate:~~

~~(1) for election to the office of governor and lieutenant governor, secretary of state, state auditor, or attorney general, at the last preceding state general election for those offices; or~~

~~(2) for election to the office of presidential elector or U.S. senator at the preceding state general election for presidential electors; and~~

~~(3) who received votes in each county that in the aggregate equal at least one percent of the total number of individuals who voted in the election, or its members must have presented to the secretary of state at any time before the close of filing for the state partisan primary ballot a nominating petition in a form prescribed by the secretary of state containing the valid signatures of party members in a number equal to at least one percent of the total number of individuals who voted in the preceding state general election. A signature is valid only if signed no more than one year prior to the date the petition was filed.~~

~~(c) A political party whose candidate receives a sufficient number of votes at a state general election described in paragraph (b) becomes a minor political party as of January 1 following that election and retains its minor party status for at least two state general elections even if the party fails to present a candidate who receives the number and percentage of votes required under paragraph (b) at subsequent state general elections.~~

~~(d) A minor political party whose candidates fail to receive the number and percentage of votes required under paragraph (b) at each of two consecutive state general elections described by paragraph (b) loses minor party status as of December 31 following the later of the two consecutive state general elections.~~

~~(e) A minor party that qualifies to be a major party loses its status as a minor party at the time it becomes a major party. Votes received by the candidates of a major party must be counted in determining whether the party received sufficient votes to qualify as a minor party, notwithstanding that the party does not receive sufficient votes to retain its major party status. To be considered a minor party in an election in a legislative district, the political party must have presented at least one candidate for a legislative office in that district who received votes from at least ten percent of the total number of individuals who voted for that office, or its members must have presented to the secretary of state a nominating petition in a form prescribed by the secretary of state containing the valid signatures of party members in a number equal to at least ten percent of the total number of individuals who voted in the preceding state general election for that legislative office. A signature is valid only if signed no more than one year prior to the date the petition was filed.~~

### PROPOSAL 3

Detach petitioning period from the August state primary elections. Move and expand petitioning periods.

#### BACKGROUND:

- The presidential candidate filings (by nominating petition) for minor parties are tied to the general election; however all other office filings (by nominating petition) for minor parties have become tied to the primary election. Only the major political parties are allowed into the primary election system.
- Minnesota is switching to an early presidential primary in 2020, expected to be held on the first Tuesday in March. Major party nominees must be filed 63 days prior to that to be on the presidential primary ballot. Those winners become the major party candidates placed on the November general election ballot.
- Pursuant to statute 208.03 minor party candidates for president (nominated by petition) are to file by 71 days prior to the November general election.
- All other candidates, whether major party or minor party, for all other federal, state, and county offices are supposed to continue to file as written in statute 204B.09, which is during a time frame specified prior to the August state primary. The time frame written is 70-84 days prior. This 'filing window' is traditionally the last nine days of May thru the first five days of June (approximately).
- As currently written then those 14 days of the 'filing window' become the only allowable days to collect signatures on nominating petitions to gain ballot access if you're a minor party in Minnesota.
- Minnesota currently has the narrowest petitioning period that can be found, especially when compared to neighboring states. Wisconsin allows 2-1/2 months. North Dakota allows 3 months. South Dakota allows 4 months. Iowa doesn't even have a limit. Minnesota restricts petition circulation to 2 weeks.

#### STATUTORY REVISION 1 OF 2:

Detach the minor party petitioning period from the major party primary. Expand the petitioning period from two weeks to twelve weeks, to include non-increment weather months.

Link to statute: <https://www.revisor.mn.gov/statutes/?id=204B.09>

#### **204B.09 TIME AND PLACE OF FILING AFFIDAVITS AND PETITIONS.**

**§ Subdivision 1. Candidates in state and county general elections.** (a) Except as otherwise provided by this subdivision, affidavits of candidacy and nominating petitions for county, state, and federal offices filled at the state general election shall be filed not more than 84 days nor less than 70 days before the state primary **FOR CANDIDATES WHO ARE TO APPEAR ON THE PRIMARY BALLOT.**

**FOR CANDIDATES OF POLITICAL PARTIES WHO DO NOT QUALIFY TO APPEAR ON THE PRIMARY BALLOT, AFFIDAVITS OF CANDIDACY AND NOMINATING PETITIONS FOR COUNTY, STATE, AND FEDERAL OFFICES FILLED AT THE STATE GENERAL ELECTION SHALL BE FILED NOT MORE THAN 99 DAYS NOR LESS THAN 71 DAYS BEFORE THE STATE GENERAL ELECTION.** The affidavit **OF CANDIDACY AND NOMINATIONING PETITION** may be prepared and signed at any time between 60 days before the filing period opens and the last day of the filing period.

(b) Notwithstanding other law to the contrary, the affidavit of candidacy must be signed in the presence of a notarial officer or an individual authorized to administer oaths under section [358.10](#).

(c) This provision does not apply to candidates for presidential elector nominated by major political parties. Major party candidates for presidential elector are certified under section [208.03](#). Other candidates for presidential electors may file petitions at least ~~77~~ **71** days before the general election day pursuant to section [204B.07](#). Nominating petitions to fill vacancies in nominations shall be filed as provided in section [204B.13](#). No affidavit or petition shall be accepted later than 5:00 p.m. on the last day for filing.

(d) Affidavits and petitions for county offices must be filed with the county auditor of that county. Affidavits and petitions for federal offices must be filed with the secretary of state. Affidavits and petitions for state offices must be filed with the secretary of state or with the county auditor of the county in which the candidate resides.

(e) Affidavits other than those filed pursuant to subdivision 1a must be submitted by mail or by hand, notwithstanding chapter 325L, or any other law to the contrary and must be received by 5:00 p.m. on the last day for filing.

#### STATUTORY REVISION 2 OF 2:

Harmonize municipal section of statutes. Detach the petitioning period from the primary. Expand the petitioning period from two weeks to twelve weeks, to include non-inclement weather months.

#### **205.13 CANDIDATES, FILING.**

##### **§ Subd. 1a..Filing period.**

In a city nominating candidates at a primary, an affidavit of candidacy for a city office voted on in November must be filed no more than 84 days nor less than 70 days before the city primary **FOR CANDIDATES WHO ARE TO APPEAR ON THE PRIMARY BALLOT. FOR CANDIDATES OF POLITICAL PARTIES WHO DO NOT QUALIFY TO APPEAR ON THE PRIMARY BALLOT, AFFIDAVITS OF CANDIDACY AND NOMINATING PETITIONS FOR SUCH OFFICES SHALL BE FILED NOT MORE THAN 99 DAYS NOR LESS THAN 71 DAYS BEFORE THE STATE GENERAL ELECTION.** In municipalities that do not hold a primary, an affidavit of candidacy must be filed no more than 70 days and not less than 56 days before the municipal general election held in March in any year, or a special election not held in conjunction with another election, and no more than 98 days nor less than 84 days before the municipal general election held in November of any year. The municipal clerk's office must be open for filing from 1:00 p.m. to 5:00 p.m. on the last day of the filing period. **THE AFFIDAVIT OF CANDIDACY AND NOMINATION PETITION MAY BE PREPARED AND SIGNED AT ANY TIME BETWEEN 60 DAYS BEFORE THE FILING PERIOD OPENS AND THE LAST DAY OF THE FILING PERIOD.**

## PROPOSAL 4

Revise the petitioning thresholds for state, county, and municipal candidates.

### BACKGROUND:

- Petitioning thresholds based on preceding election percentages are subject to the waxing or waning voter turnouts of presidential election years vs. midterm elections. With percentage values being higher, flat numerical requirements have typically been utilized as allowed by law.
- The geographic area of each State House district is about half that of the State Senate districts, therefore House petitioning thresholds should be half as well.
- Despite the lower petitioning thresholds, petitioning for ballot access for State House and State Senate candidates are significantly more difficult than for statewide candidates, because all signers must reside in that specific district. Wisconsin petition thresholds are 400 for State Senate and 200 for State Assembly (House). In Iowa it is 100 for State Senate and 50 for State Rep. In North Dakota it is 300 and in South Dakota it is 50 signatures for any state legislative races.
- Municipal elections have smaller geographic areas than state legislative districts. Ballot access signature requirements vary on percentage up to 500, however many of these races will accept a monetary filing fee in lieu of signatures. This proposal would cap signature requirements at 200 for municipal ballot access.
- This fixes the current discrepancy between 204B.08.Sub.3.(e) calling for 10% and 205.13.Subd.5. calling for 2% of voter signatures to be a municipal candidate, harmonizing both to 2% or 200.

### STATUTORY REVISION 1 of 2:

Eliminate percentage-based thresholds for offices, adjust State Senate threshold from 500 to 400, adjust State House threshold from 500 to 200, and set county & municipal petitioning to a maximum of 200.

Link to statute: <https://www.revisor.mn.gov/statutes/?id=204B.08>

### **204B.08 SIGNING PETITIONS.**

#### **§ Subd. 3. Number of signatures.**

The number of signatures required on a nominating petition shall be as follows:

- (a) for a federal or state office voted on statewide, ~~one percent of the total number of individuals voting in the state at the last preceding state general election,~~ or **2,000**, whichever is less;
- (b) for a congressional office, ~~five percent of the total number of individuals voting in the district at the last preceding state general election,~~ or **1,000**, whichever is less;
- (c) for a ~~county or~~ legislative state senate office, ~~ten percent of the total number of individuals voting in the county or legislative district at the last preceding state or county general election,~~ or **500**, whichever is less **400**;
- (d) FOR A COUNTY OR STATE HOUSE OF REPRESENTATIVES OFFICE, 200;**
- ~~(e)~~**(e)** for a municipal office in a city of the first class, the number specified in section 205.121; and
- ~~(e)~~**(f)** for any other municipal or school district office, ~~ten~~ **TWO** percent of the total number of individuals voting in the municipality, ward, school district, or other election district at the last preceding municipal, or school district if applicable, general election, or ~~500~~ **200**, whichever is less.



STATUTORY REVISION 2 of 2:

Eliminate percentage-based thresholds for offices, adjust State Senate threshold from 500 to 400, adjust State House threshold from 500 to 200, and set county & municipal petitioning to a maximum of 200.

**205.13 CANDIDATES, FILING.**

**§ Subd. 5. Nominating petition; cities of the first class:**

A nominating petition filed on behalf of a candidate for municipal office in a city of the first class shall be signed by eligible voters who reside in the election district from which the candidate is to be elected. The number of signers shall be at least ~~500~~, **200** or two percent of the total number of individuals who voted in the municipality, ward, or other election district at the last preceding municipal general election, whichever is ~~greater~~ **LESS**.

## PROPOSAL 5

Allow petitions to be on common size 8-1/2x11 letter size paper.

### BACKGROUND:

- An obsolete requirement mandates that petition forms must be submitted on 8-1/2x14 legal size paper. Many individuals have printers at home. Few have or use legal size paper. This requirement forces petitioning to be transmitted manually via mailing blank forms and traveling for in-person distribution.
- In other states, petitioning is successfully conducted with common 8-1/2x11 letter size paper. In this digital age, all political parties desire to use modern methods to distribute their petition forms, such as by downloading from a website or by email attachment as a PDF file.
- No requirement for 8-1/2x14 legal size paper can be found in the statutes. Thus, this legal size paper requirement is likely a policy issued by the Secretary of State who has the authority to determine how petition forms are created as stated here (<https://www.revisor.mn.gov/statutes/?id=204B.071>) and as further described here (<http://www.sos.state.mn.us/index.aspx?page=896>). If the Secretary of State is willing to revise the policy to allow 8-1/2x11 paper, this proposal for a statutory change can be dropped.

### STATUTORY REVISION:

Require petitions to be on common 8-1/2x11 letter size paper.

Link to statute: <https://www.revisor.mn.gov/statutes/?id=204B.07>

### **204B.07 NOMINATING PETITIONS.**

§ Subdivision 1. Form of petition. A nominating petition may consist of one or more separate pages, **EACH IN LETTER SIZE (8.5" x 11") OR LEGAL SIZE (8.5" x 14")**, and each of which shall state:

- (a) the office sought;
- (b) the candidate's name and residence address, including street and number if any; and
- (c) the candidate's political party or political principle expressed in not more than three words. No candidate who files for a partisan office by nominating petition shall use the term "nonpartisan" as a statement of political principle or the name of the candidate's political party. No part of the name of a major political party may be used to designate the political party or principle of a candidate who files for a partisan office by nominating petition, except that the word "independent" may be used to designate the party or principle. A candidate who files an affidavit of candidacy to fill a vacancy in nomination for a nonpartisan office pursuant to section 204B.13, shall not state any political principle or the name of any political party on the petition.

## PROPOSAL 6

Modify oath to remove prohibition on petition signers can not vote in primaries, as well as the prohibition on signing for multiple candidates.

### BACKGROUND:

- Many voters, even dedicated DFL or GOP supporters, are willing to support having more choices on the ballot even if they may not intend to vote for them. The critical issue is whether a potential petition signer believes the candidate deserves to be on the ballot, not whether they intend to vote for them.
- The current “oath” restrictions against signing a ballot access nominating petition for a candidate is irrelevant to the signer voting in another party's primary. To date Minnesota has used an open system that does not require party identification to the state. This will change in 2020 with the new primary and open the floodgates for legal challenges to de-certify petitions.
- Also irrelevant is the wording that signers can not sign for more than one party's candidates, since signers can still only vote for one candidate in the general election.

### STATUTORY REVISION 1 OF 2:

Revise the petition oath to eliminate the prohibition on voting in another party's primary.

Link to statute #1: <https://www.revisor.mn.gov/statutes/?id=204B.07>

### **204B.07 NOMINATING PETITIONS.**

§ Subdivision 1. Form of petition. A nominating petition may consist of one or more separate pages each of which shall state:

(a) the office sought;

(b) the candidate's name and residence address, including street and number if any; and

(c) the candidate's political party or political principle expressed in not more than three words. No candidate who files for a partisan office by nominating petition shall use the term "nonpartisan" as a statement of political principle or the name of the candidate's political party. No part of the name of a major political party may be used to designate the political party or principle of a candidate who files for a partisan office by nominating petition, except that the word "independent" may be used to designate the party or principle. A candidate who files an affidavit of candidacy to fill a vacancy in nomination for a nonpartisan office pursuant to section 204B.13, shall not state any political principle or the name of any political party on the petition.

§ Subd. 2. Petitions for presidential electors. This subdivision does not apply to candidates for presidential elector nominated by major political parties. Major party candidates for presidential elector are certified under section 208.03. Other presidential electors are nominated by petition pursuant to this section. On petitions nominating presidential electors, the names of the candidates for president and vice-president shall be added to the political party or political principle stated on the petition. One petition may be filed to nominate a slate of presidential electors equal in number to the number of electors to which the state is entitled.

§ Subd. 3. Number of candidates nominated. No nominating petition shall contain the name of more than one candidate except a petition jointly nominating individuals for governor and lieutenant governor or nominating a slate of presidential electors.

§ Subd. 4. Oath and address of signer. Following the information required by subdivisions 1 and 2 and before the space for signing, each separate page that is part of the petition shall include an oath in the following form:

"I solemnly swear (or affirm) that I know the contents and purpose of this **NOMINATING** petition, ~~that I do not intend to vote at the primary election for the office for which this nominating petition is made,~~ and that I signed this petition of my own free will."

Notarization or certification of the signatures on a nominating petition is not required. Immediately after the signature, the signer shall write on the petition the signer's residence address including street and number, if any, and mailing address if different from residence address.

§ Subd. 5. Sample forms. An official with whom petitions are filed shall make sample forms for nominating petitions available upon request.

§ Subd. 6. Penalty. An individual who, in signing a nominating petition, makes a false oath is guilty of perjury.

#### STATUTORY REVISION 2 OF 2:

Eliminate the prohibition on signing petitions for more than one party's candidate.

Link to statute #2: <https://www.revisor.mn.gov/statutes/?id=204B.08>

#### **204B.08 SIGNING PETITIONS.**

§ Subdivision 1. Time for signing. Nominating petitions shall be signed during the period when petitions may be filed as provided in section 204B.09.

§ Subd. 2. Qualifications of signers. A nominating petition may be signed only by individuals who are eligible to vote for the candidate who is nominated. ~~No individual may sign more than one nominating petition for candidates for the same office unless more than one candidate is to be elected to that office. If more than one candidate is to be elected to the office, an individual may sign as many petitions as there are candidates to be elected.~~

## PROPOSAL 7

Add option of party approval of designation for partisan candidates.

### BACKGROUND:

- At present, any candidate for partisan office can state a party designation on their affidavit of candidacy, even if they are not members of, do not support the platform of, or have failed to receive the nomination of the party they seek to represent on the ballot.
- Under this proposal, Minnesota's political parties would gain the ability to determine who is authorized to run under their party's banner. Such authorization would occur under the procedures set forth by their party's internal state constitution (bylaws). Every political party would gain the option of submitting a list of their nominated candidates to the Secretary of State prior to printing of any ballots.
- If a party chooses to submit a list that party then has the ability to veto any unauthorized candidates from running under their party's banner. This would also allow candidates to run without a party designation, as is done in most municipal races.
- There are court precedents supporting the ability of political parties to defend their ballot line.

In the case *Curry v Kennelly*, H-80-403 (1980), a US District Court ruled that the state of Connecticut was required to provide a law on that subject in a lawsuit won by independent Presidential candidate John Anderson, who didn't want candidates for Congress and state office using his "Anderson Coalition" label.

In *Baer v Meyer*, 728 F 2d 471 (1984) the 10th District Court agreed that the state of Colorado was obliged to provide protection of party designation, in part citing a similar previous decision by the Colorado Supreme Court from 1912.

### STATUTORY REVISION:

Add a new clause allowing a party's approval of the designation used by partisan candidates.

Link to statute: <https://www.revisor.leg.state.mn.us/statutes/?id=204B.06>

### **204B.06 FILING FOR PRIMARY; AFFIDAVIT OF CANDIDACY.**

§ Subd. 4. Federal offices. Candidates for president or vice president of the United States are not required to file an affidavit of candidacy for office. Candidates who seek nomination for the office of United States senator or representative shall state the following information on the affidavit:

(1) for United States senator, that the candidate will be an inhabitant of this state when elected and will be 30 years of age or older and a citizen of the United States for not less than nine years on the next January 3 or, in the case of an election to fill a vacancy, within 21 days after the special election; and

(2) for United States representative, that the candidate will be an inhabitant of this state when elected and will be 25 years of age or older and a citizen of the United States for not less than seven years on the next January 3 or, in the case of an election to fill a vacancy, within 21 days after the special election.

Subd. 4a. State and local offices. Candidates who seek nomination for the following offices shall state the following additional information on the affidavit:

(1) for governor or lieutenant governor, that on the first Monday of the next January the candidate will be 25 years of age or older and, on the day of the state general election, a resident of Minnesota for not less than one year;

(2) for Supreme Court justice, Court of Appeals judge, or district court judge, that the candidate is learned in the law;

(3) for county, municipal, school district, or special district office, that the candidate meets any other qualifications for that office prescribed by law;

(4) for senator or representative in the legislature, that on the day of the general or special election to fill the office the candidate will have resided not less than one year in the state and not less than six months in the legislative district from which the candidate seeks election.

§ Subd. 5. United States senator; two candidates at same election. When two candidates are to be elected United States senators from this state at the same election, each individual filing for the nomination shall state in the affidavit of candidacy the term for which the individual desires to be a candidate, by stating the date of the expiration of the term.

§ Subd. 6. Judicial candidates; designation of term. An individual who files as a candidate for the office of chief justice or associate justice of the Supreme Court, judge of the Court of Appeals, or judge of the district court shall state in the affidavit of candidacy the office of the particular justice or judge for which the individual is a candidate. The individual shall be a candidate only for the office identified in the affidavit. Each justice of the Supreme Court and each Court of Appeals and district court judge is deemed to hold a separate nonpartisan office.

§ Subd. 7. Governor and lieutenant governor. An individual who files as a candidate for governor or lieutenant governor shall file the affidavit of candidacy jointly with the affidavit of another individual who seeks nomination as a candidate for the other office.

§ Subd. 8. Proof of eligibility. A candidate for judicial office or for the office of county attorney shall submit with the affidavit of candidacy proof that the candidate is licensed to practice law in this state. Proof means providing a copy of a current attorney license.

A candidate for county sheriff shall submit with the affidavit of candidacy proof of licensure as a peace officer in this state. Proof means providing a copy of a current Peace Officer Standards and Training Board license.

**§ Subd. 9. Partisan candidates. A candidate who seeks the nomination of a political party for a partisan office shall fulfill the requirements appearing elsewhere in these statutes. In addition, the party under whose designation the candidate seeks to appear on the ballot shall retain the ability to determine who is authorized to run under its party designation, in accordance with the procedures set forth by that party's state constitution (bylaws).**

**Each party shall retain the option of submitting to the Secretary of State a list of candidates who may appear or who may not appear with its party designation on the ballot, to be submitted no later than 30 days before absentee balloting begins for a primary election or for a general election. If such a list is submitted, regardless of the party affiliation stated on a candidate's affidavit of candidacy, any candidates not authorized by that party shall appear on the ballot without a party designation.**

## PROPOSAL 8

Revise the requirements for special elections.

### BACKGROUND:

- At present, the statutes require only five days for candidate petitioning to participate in a special election. In practice as few as three days have been allowed, under current Subdivision 4 this essentially voids the five day requirement. Thus, Subdivision 4 is proposed to be eliminated.
- Under this proposal, candidates would have a minimum of 14 days to petition to be on the ballot in special elections. The new Subdivision 4 harmonizes this section with the requirements of other statutes as it also proposes to halve the number of signatures for ballot access in special elections due to the short window to do so.

### STATUTORY REVISION:

Expand the number of days allowed for petitioning from 5 to 14 days, eliminate the clause allowing avoidance of that requirement, and harmonize this section with the requirements proposed in 204B.08.

Link to statute: <https://www.revisor.mn.gov/statutes/?id=204D.22>

### **204D.22 WRIT OF ELECTION.**

§ Subdivision 1. Filing with secretary of state. A writ calling for a special election shall state the office to be filled, the opening and closing dates of filing for candidacy, and the dates of the special primary and special election. The writ shall be filed with the secretary of state immediately upon issuance.

§ Subd. 2. Posting of writ. Immediately upon receipt of the writ, the secretary of state shall send a certified copy of the writ by certified mail to the county auditor of each county in which candidates to fill the vacancy are to be voted upon. The county auditor shall post a copy of the writ in the auditor's office at least ~~five~~ **14** days before the close of the time for filing affidavits of candidacy for the special election.

§ Subd. 3. Notice of special election. The county auditor of a county in which a special election is to be held shall direct the clerk of each municipality in which the election is to be held to post a notice of the special primary and special election at least seven days before the special primary and at least 14 days before the special election in the manner provided in sections 204B.33 and 204B.34. If the special primary is to be held 14 days before the special election, a single notice of both elections may be posted seven days before the primary.

When the special primary or special election is to be held on the same day as any other election, notice of the special primary or special election may be included in the notice of the other election, if practicable.

~~§ Subd. 4. Failure of notice. No omission or defect in any notice required to be given by this section shall invalidate a special primary or special election.~~

**§ Subd. 4. Petitioning requirements. The number of signatures required on a nominating petition shall be half of the requirements stated in 204B.08, as appropriate for the office for which the special election is to be held.**