

Sec. 2. Section 504A.100, subsection 13, Code 1995, is amended to read as follows:

13. Corporations existing under chapter 504 shall be subject to this chapter on July 1, 1990, except that the corporations shall be subject to sections 504A.8 and 504A.83 on January 1, ~~1995~~ 1997. A corporate existence of a corporation that is not in compliance on the records of the secretary of state with sections 504A.8 and 504A.83 on June 30, ~~1995~~ 1997, is terminated, effective July 1, ~~1995~~ 1997. A corporation whose existence is terminated pursuant to this subsection may be reinstated. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the termination of its corporate existence as if such termination had never occurred. The secretary of state shall adopt rules governing the reinstatement of a corporation pursuant to this subsection.

Sec. 3. REPEAL. Section 504A.64A is repealed July 1, 2000.

Sec. 4. RETROACTIVE APPLICABILITY. Section 1 of this Act applies retroactively to July 1, 1990.

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 24, 1995

CHAPTER 189

ELECTIONS

H.F. 494

AN ACT relating to the office of secretary of state, the conduct of elections, and the registration of voters in the state and relating to corrective and technical changes to Iowa's election laws.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 43.49, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The votes of all write-in candidates who each received less than two percent of the votes cast for an office reported collectively under the heading "scattering".

Sec. 2. Section 43.53, Code 1995, is amended to read as follows:

43.53 NOMINEES FOR SUBDIVISION OFFICE – WRITE-IN CANDIDATES.

The nominee of each political party for any office to be filled by the voters of any township or other political subdivision within the county shall be the person receiving the highest number of votes cast in the primary election by the voters of that party for the office ~~and that~~. That person shall appear as the party's candidate for the office on the general election ballot. A person whose name is not printed on the official primary ballot shall not be declared nominated as a candidate for such office in the general election unless that person receives ~~the greater of at least five votes or a number of votes equal to at least five percent of the votes cast in the subdivision at the last preceding general election for the party's candidate for president of the United States or for governor, as the case may be.~~ Nomination of a candidate for the office of county supervisor elected from a district within the county shall be governed by section 43.52 and not by this section.

Sec. 3. Section 43.63, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

43.63 CANVASS BY STATE BOARD.

Upon receipt of the abstracts of votes from the counties, the secretary of state shall immediately open the envelopes and canvass the results for all offices. The secretary of state shall invite to attend the canvass one representative from each political party which, at the last preceding general election, cast for its candidate for president of the United States or for governor, as the case may be, at least two percent of the total vote cast for all candidates for that office at that election, as determined by the secretary of state. The secretary of state shall notify the chairperson of each political party of the time of the canvass. However, the presence of a representative from a political party is not necessary for the canvass to proceed.

Not later than the twenty-seventh day after the primary election, the secretary of state shall present to the state board of canvassers abstracts showing the number of ballots cast by each political party for each office and a summary of the results for each office, showing the votes cast in each county. The state board of canvassers shall review the results compiled by the secretary of state and, if the results are accurately tabulated, the state board shall approve the canvass.

Sec. 4. Section 43.88, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Nominations made to fill vacancies at a special election shall be certified to the proper official not less than twenty days prior to the date set for the special election. In the event the special election is to fill a vacancy in the general assembly while it is in session or within forty-five days of the convening of any session, ~~the time limit herein provided~~ nomination shall not apply be certified not less than fourteen days before the date of the special election.

Sec. 5. Section 44.4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Nominations made pursuant to this chapter and chapter 45 which are required to be filed in the office of the state commissioner shall be filed in that office not more than ninety-nine days nor later than five p.m. on the eighty-first day before the date of the general election to be held in November. Nominations made for a special election called pursuant to section 69.14 shall be filed by five p.m. not less than twenty days before the date of an election called upon at least forty days' notice and not less than ~~seven~~ fourteen days before the date of an election called upon at least ~~ten~~ eighteen days' notice. Nominations made for a special election called pursuant to section 69.14A shall be filed by five p.m. not less than twenty days before the date of the election. Nominations made pursuant to this chapter and chapter 45 which are required to be filed in the office of the commissioner shall be filed in that office not more than ninety-two days nor later than five p.m. on the sixty-ninth day before the date of the general election. Nominations made pursuant to this chapter or chapter 45 for city office shall be filed not more than seventy-two days nor later than five p.m. on the forty-seventh day before the city election with the city clerk, who shall process them as provided by law.

Sec. 6. Section 47.8, subsection 1, Code 1995, is amended to read as follows:

1. ~~There is established a~~ A state voter registration commission is established which shall meet at least quarterly to make and review policy, adopt rules, and establish procedures to be followed by the registrar in discharging the duties of that office, and to promote interagency cooperation and planning. The commission shall consist of the state commissioner of elections or the state commissioner's designee, ~~and~~ the state chairpersons of the two political parties whose candidates for president of the United States or governor, as the case may be, received the greatest and next greatest number of votes in

the most recent general election, or their respective designees, ~~who~~ and a county commissioner of registration appointed by the president of the Iowa state association of county auditors, or an employee of the commissioner. The commission membership shall be balanced by political party affiliation pursuant to section 69.16. Members shall serve without additional salary or reimbursement.

The state commissioner of elections, or the state commissioner's designee, shall serve as chairperson of the state voter registration commission.

Sec. 7. Section 47.8, subsection 3, Code 1995, is amended to read as follows:

3. The registrar shall provide staff services to the commission and shall make available to it all information relative to the activities of the registrar's office in connection with ~~the voter registration of voters in this state~~ policy which may be requested by any commission member. The registrar shall also provide to the commission at no charge statistical reports for planning and analyzing voter registration services in the state.

PARAGRAPH DIVIDED. The commission may authorize the registrar to employ such additional staff personnel as it deems necessary to permit the duties of the registrar's office to be adequately and promptly discharged. Such personnel shall be employed pursuant to chapter 19A.

Sec. 8. Section 49.66, Code 1995, is amended to read as follows:

49.66 RESERVE SUPPLY OF BALLOTS.

The commissioner shall provide and retain at the commissioner's office an ample supply of ballots, in addition to those distributed to the several voting precincts, ~~and if.~~ If at any time the ballots furnished to any precinct shall be lost, destroyed, or if the chairperson of the precinct election officials determines that the supply of ballots will be exhausted before the polls are closed, on written application, signed by a majority of the chairperson of the precinct election officials of such the precinct, or signed and sworn to by one of such officials, the shall immediately contact the commissioner by telephone. If no telephone is available, a messenger shall be sent to the commissioner with a written application for additional ballots. The application shall be signed by a majority of the precinct election officials. The commissioner shall keep written records of all requests for additional ballots and shall immediately cause to be delivered to such the officials, at the polling place, such additional supply of ballots as may be required, and sufficient to comply with the provisions of this chapter.

Sec. 9. Section 49.67, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

49.67 FORM OF RESERVE SUPPLY.

The number of reserve ballots for each precinct shall be determined by the commissioner.

If necessary, the commissioner or the commissioner's designee may make photocopies of official ballots to replace or replenish ballot supplies. The commissioner shall keep a record of the number of photocopied ballots made for each precinct, the name of the person who made the photocopies, and the date, time, and location at which the photocopies were made. These records shall be made on forms and following procedures prescribed by the secretary of state by administrative rule.

In any precinct where photocopied ballots are used, each photocopied ballot shall be initialed as required by section 49.82 by two precinct officials immediately before being issued to the voter. In partisan elections the two precinct officials shall be of different political parties.

Sec. 10. Section 50.24, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The county board of supervisors shall meet to canvass the vote on the first Monday or Tuesday after the day of each election to which this chapter is applicable, unless the law

authorizing the election specifies another date for the canvass. If that Monday or Tuesday is a public holiday, section 4.1, subsection 34 controls. Upon convening, the board shall open and canvass the tally lists and shall prepare abstracts stating, in words written at length, the number of votes cast in the county, or in that portion of the county in which the election was held, for each office and on each question on the ballot for the election. The board shall contact the chairperson of the special precinct board before adjourning and include in the canvass any absentee ballots which were received after the polls closed in accordance with section 53.17 and which were canvassed by the special precinct board after election day. The abstract shall further indicate the name of each person who received votes for each office on the ballot, and the number of votes each person named received for that office, and the number of votes for and against each question submitted to the voters at the election. The votes of all write-in candidates who each received less than two percent of the votes cast for an office shall be reported collectively under the heading "scattering".

Sec. 11. Section 50.36, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

50.36 ENVELOPES CONTAINING OTHER ABSTRACTS – CANVASS.

The secretary of state, upon receipt of the envelopes containing the abstracts of votes, shall open and canvass the abstracts for all offices except governor and lieutenant governor.

The secretary of state shall invite to attend the canvass one representative from each political party which, at the last preceding general election, cast for its candidate for president of the United States or for governor, as the case may be, at least two percent of the total vote cast for all candidates for that office at that election, as determined by the secretary of state. The secretary of state shall notify the chairperson of each political party of the time of the canvass. However, the presence of a representative from a political party is not necessary for the canvass to proceed.

Sec. 12. Section 50.37, Code 1995, is amended to read as follows:

50.37 STATE CANVASSING BOARD.

The executive council shall constitute a board of canvassers of all abstracts of votes required to be filed with the state commissioner, except for the offices of governor and lieutenant governor. ~~No member of such board shall take part in canvassing the votes for an office for which the member is a candidate.~~ Any clerical error found by the secretary of state or state board of canvassers shall be corrected by the county commissioner in a letter addressed to the state board of canvassers.

Sec. 13. Section 50.38, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

50.38 TIME OF STATE CANVASS.

Not later than twenty-seven days after the day of the election, the secretary of state shall present to the board of state canvassers abstracts of votes cast at the election showing the number of ballots cast for each office and a summary of the results for each office, showing the votes cast in each county. The state board of canvassers shall review the results compiled by the secretary of state and, if the results are accurately tabulated, the state board shall approve the canvass.

Sec. 14. NEW SECTION. **50.49 RECOUNTS FOR PUBLIC MEASURES.**

A recount for any public measure shall be ordered by the board of canvassers if a petition requesting a recount is filed with the county commissioner not later than three days after the completion of the canvass of votes for the election at which the question appeared on the ballot. The petition shall be signed by the greater of not less than ten eligible electors or a number of eligible electors equaling one percent of the total number of votes cast upon the public measure. Each petitioner must be a person who was entitled to vote on the public measure in question or would have been so entitled if registered to vote.

The recount shall be conducted by a board which shall consist of:

1. A designee named in the petition requesting the recount.
2. A designee named by the commissioner at or before the time the board is required to convene.
3. A person chosen jointly by the members designated under subsections 1 and 2.

The commissioner shall convene the persons designated under subsections 1 and 2 not later than nine a.m. on the seventh day following the canvass of the election in question. If those two members cannot agree on the third member by eight a.m. on the ninth day following the canvass, they shall immediately notify the chief judge of the judicial district in which the canvass is occurring, who shall appoint the third member not later than five p.m. on the eleventh day following the canvass.

The petitioners requesting the recount shall post a bond as required by section 50.48, subsection 2. The amount of the bond shall be one thousand dollars for a public measure appearing on the ballot statewide or one hundred dollars for any other public measure. If the difference between the affirmative and negative votes cast on the public measure is less than the greater of fifty votes or one percent of the total number of votes cast for and against the question, a bond is not required.

The procedure for the recount shall follow the provisions of section 50.48, subsections 4 through 7, as far as possible.

Sec. 15. Section 53.2, unnumbered paragraph 4, Code 1995, is amended to read as follows:

~~If the An application is for a primary election ballot and the request is for a ballot of which specifies a party different from that recorded on the registered voter's voter registration record, the requested ballot shall be mailed or given to the applicant together with a "Change or Declaration of Party Affiliation" form as prescribed in section 43.42, to be completed by the registered voter at the time of voting. Upon receipt of the properly completed form, the shall be accepted as a change or declaration of party affiliation. The commissioner shall approve the change or declaration and enter a notation of the change on the registration records. A notice shall be sent with the ballot requested informing the voter that the voter's registration record will be changed to show that the voter is now affiliated with the party whose ballot the voter requested.~~

Sec. 16. Section 53.23, subsection 4, Code 1995, is amended to read as follows:

4. The room where members of the special precinct election board are engaged in counting absentee ballots during the hours the polls are open shall be policed so as to prevent any person other than those whose presence is authorized by this subsection from obtaining information about the progress of the count. The only persons who may be admitted to that room are the members of the board, one challenger representing each political party, one observer representing any nonparty political organization or any candidate nominated by petition pursuant to chapter 45 or any other nonpartisan candidate in a city or school election appearing on the ballot of the election in progress, one observer representing persons supporting a public measure appearing on the ballot and one observer representing persons opposed to such measure, and the commissioner or the commissioner's designee. It shall be unlawful for any of these persons to communicate or attempt to communicate, directly or indirectly, information regarding the progress of the count at any time before the polls are closed.

Sec. 17. Section 69.14, Code 1995, is amended to read as follows:

69.14 SPECIAL ELECTION TO FILL VACANCIES.

A special election to fill a vacancy shall be held for a representative in Congress, or senator or representative in the general assembly, when the body in which such vacancy exists is in session, or will convene prior to the next general election, and the governor shall order, not later than five days from the date the vacancy exists, a special election,

giving not less than forty days' notice of such election. In the event the special election is to fill a vacancy in the general assembly while it is in session or within forty-five days of the convening of any session, the time limit herein provided in this section shall not apply and the governor shall order such special election at the earliest practical time, giving at least ten eighteen days' notice thereof of the special election. Any special election called under this section must be held on a Tuesday and shall not be held on the same day as a school election within the district.

Sec. 18. Section 275.23A, subsection 1, Code 1995, is amended to read as follows:

1. School districts which have directors who represent director districts as provided in section 275.12, subsection 2, paragraphs "b", "c", "d", and "e", shall be divided into director districts according to the following standards:

a. All director district boundaries shall follow the ~~precinct~~ boundaries of areas for which official population figures are available from the most recent federal decennial census and, wherever possible, shall follow precinct boundaries.

b. To the extent possible in order to comply with paragraph "a", all director districts shall be as nearly equal as practicable to the ideal population for the districts as determined by dividing the number of districts to be established into the population of the school district.

c. All districts shall be composed of contiguous territory as compact as practicable unless the school district is composed of marginally adjacent territory. A school district which is composed of marginally adjacent territory shall have director districts composed of contiguous territory to the extent practicable.

d. Consideration shall not be given to the addresses of incumbent officeholders, political affiliations of registered voters, previous election results, or demographic information other than population head counts, except as required by the Constitution and the laws of the United States.

e. Cities shall not be divided into two or more districts unless the population of the city is greater than the ideal size of a director district. Cities shall be divided into the smallest number of director districts possible.

Sec. 19. Section 277.4, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Each candidate shall be nominated by petition. If the candidate is running for an at-large seat in the district, the petition must be signed by at least ten eligible electors, or a number of eligible electors equal in number to not less than one percent of the ~~qualified electors registered voters~~ of the school district ~~or one hundred eligible electors of the district, whichever is less~~. If the candidate is running for a seat in which is voted for only by the voters of a director district, the petition must be signed by at least ten eligible electors of the director district or a number of eligible electors equal in number to not less than one percent of the ~~qualified electors registered voters~~ in the director district ~~or one hundred eligible electors in the district, whichever is less~~. A petition filed under this section shall not be required to have more than one hundred signatures. Signers of nomination petitions shall include their addresses and the date of signing, and must reside in the same director district as the candidate if directors are elected by the voters of a director district, rather than at large. A person may sign nomination petitions for more than one candidate for the same office, and the signature is not invalid solely because the person signed nomination petitions for one or more other candidates for the office. The petition shall be filed with the affidavit of the candidate being nominated, stating the candidate's name, place of residence, that such person is a candidate and is eligible for the office the candidate seeks, and that if elected the candidate will qualify for the office. The affidavit shall also state that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted, and never pardoned, of a felony or other infamous crime.

Sec. 20. Section 296.2, Code 1995, is amended to read as follows:
296.2 PETITION FOR ELECTION.

Before indebtedness can be contracted in excess of one and one-quarter percent of the assessed value of the taxable property, a petition signed by ~~a number~~ eligible electors equal in number to twenty-five percent of those voting at the last election of school officials shall be filed with the president of the board of directors, asking that an election be called, stating the amount of bonds proposed to be issued and the purpose or purposes for which the indebtedness is to be created, and that the purpose or purposes cannot be accomplished within the limit of one and one-quarter percent of the valuation. The petition may request the calling of an election on one or more propositions and a proposition may include one or more purposes.

Sec. 21. Section 384.12, subsection 20, paragraph a, Code 1995, is amended to read as follows:

a. The election may be held as specified ~~herein in this subsection~~ if notice is given by the city council, not later than ~~February 15~~ thirty-two days before the second Tuesday in March, to the county commissioner of elections that the election is to be held.

Approved May 24, 1995

CHAPTER 190

PERSONS WITH MENTAL RETARDATION – PAYMENT OF EXPENSES

H.F. 505

AN ACT relating to payment of expenses for persons with mental retardation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 222.60, Code 1995, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Prior to a county of legal settlement approving the payment of expenses for a person under this section, the county may require that the person be diagnosed to determine if the person has mental retardation or that the person be evaluated to determine the appropriate level of services required to meet the person's needs relating to mental retardation. The diagnosis and the evaluation may be performed concurrently and shall be performed by an individual or individuals approved by the county who are qualified to perform the diagnosis or the evaluation. Following the initial approval for payment of expenses, the county of legal settlement may require that an evaluation be performed at reasonable time periods. The cost of a county-required diagnosis and an evaluation is at the county's expense. In the case of a person without legal settlement or whose legal settlement is unknown, the state may apply the diagnosis and evaluation provisions of this paragraph at the state's expense. A diagnosis or an evaluation under this section may be part of a county's single entry point process under section 331.440, provided that a diagnosis is performed only by an individual qualified as provided in this section.

NEW UNNUMBERED PARAGRAPH. A diagnosis of mental retardation under this section shall be made only when the onset of the person's condition was prior to the age of eighteen years and shall be based on an assessment of the person's intellectual functioning and level of adaptive skills. The diagnosis shall be made by an individual who is a psychologist or psychiatrist who is professionally trained to administer the tests required to assess intellectual functioning and to evaluate a person's adaptive skills.

NEW UNNUMBERED PARAGRAPH. A diagnosis of mental retardation shall be made in accordance with the criteria provided in the diagnostic and statistical manual of mental disorders, fourth edition, published by the American psychiatric association.