

REPRINTED

MAR 2 1998

Place On Calendar

HOUSE FILE 2495  
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HF 2397)

Passed House, <sup>(p. 814)</sup> Date 3/19/98 Passed Senate, <sup>(p. 1000)</sup> Date 4/1/98  
 Vote: Ayes 82 Nays 15 Vote: Ayes 45 Nays 4  
 Approved 4/17/98

A BILL FOR

1 An Act relating to the conduct of elections in the state.  
 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2495

1 Section 1. Section 39.2, subsection 1, unnumbered  
2 paragraph 1, Code 1997, is amended to read as follows:

3 All special elections which are authorized or required by  
4 law, unless the applicable law otherwise requires, shall be  
5 held on Tuesday. A special election shall not be held on the  
6 first, and second, and third Tuesdays preceding and following  
7 the primary and the general elections.

8 Sec. 2. Section 44.4, subsection 3, Code Supplement 1997,  
9 is amended to read as follows:

10 3. Those filed with the city clerk, at least forty-two  
11 days before the ~~municipal~~ regularly scheduled or special city  
12 election. However, for those cities that may be required to  
13 hold a primary election, at least sixty-three days before the  
14 regularly scheduled or special city election.

15 Sec. 3. Section 44.9, subsection 6, Code 1997, is amended  
16 to read as follows:

17 6. In the office of the proper city clerk, at least forty-  
18 two days before the regularly scheduled or special city  
19 election. However, for those cities that may be required to  
20 hold a primary election, at least sixty-three days before a  
21 regularly scheduled or special city election.

22 Sec. 4. Section 49.12, Code 1997, is amended to read as  
23 follows:

24 49.12 ELECTION BOARDS.

25 There shall be appointed in each election precinct an  
26 election board which shall ordinarily consist of three or five  
27 ~~precinct election officials. However, in precincts using only~~  
28 ~~one voting machine at any one time, and in precincts voting by~~  
29 ~~paper ballot where no more than three hundred fifty persons~~  
30 ~~cast ballots in the last preceding similar election, the board~~  
31 ~~shall consist of three precinct election officials, and in~~  
32 ~~precincts using more than two voting machines one additional~~  
33 ~~precinct election official may be appointed for each such~~  
34 ~~additional machine.~~ At the commissioner's discretion,  
35 additional precinct election officials may be appointed to

1 work at any election. Double election boards may be appointed  
2 for any precinct as provided by chapter 51. Not more than a  
3 simple majority of the members of the election board in any  
4 precinct, or of the two combined boards in any precinct for  
5 which a double election board is appointed, shall be members  
6 of the same political party or organization if one or more  
7 registered voters of another party or organization are  
8 qualified and willing to serve on the board.

9 ~~If double counting boards are not appointed for precincts~~  
10 ~~using paper ballots and using only three precinct election~~  
11 ~~officials, a fourth precinct election official shall be~~  
12 ~~appointed from the election board panel to serve beginning at~~  
13 ~~the time the polls close to assist in counting the paper~~  
14 ~~ballots.~~

15 Sec. 5. Section 49.53, unnumbered paragraph 1, Code 1997,  
16 is amended to read as follows:

17 The commissioner shall not less than four nor more than  
18 twenty days before the day of each election, except those for  
19 which different publication requirements are prescribed by  
20 law, publish notice of the election. The notice shall contain  
21 a facsimile of the portion of the ballot containing the first  
22 rotation as prescribed by section 49.31, subsection 2, and  
23 shall show the names of all candidates or nominees and the  
24 office each seeks, and all public questions, to be voted upon  
25 at the election. The sample ballot published as a part of the  
26 notice may at the discretion of the commissioner be reduced in  
27 size relative to the actual ballot but such reduction shall  
28 not cause upper case letters appearing on the published sample  
29 ballot to be less than five thirty-sixths of an inch high in  
30 candidates' names or in summaries of public measures. The  
31 notice shall also state the date of the election, the hours  
32 the polls will be open, the location of each polling place at  
33 which voting is to occur in the election, the location of the  
34 polling places designated as early ballot pick-up sites, and  
35 the names of the precincts voting at each polling place, but

1 the statement need not set forth any fact which is apparent  
2 from the portion of the ballot appearing as a part of the same  
3 notice. The notice shall include the full text of all public  
4 measures to be voted upon at the election. The notice shall  
5 also include notice of testing required pursuant to sections  
6 52.9, 52.35, and 52.38.

7 Sec. 6. Section 49.77, subsection 4, Code 1997, is amended  
8 by adding the following new unnumbered paragraph:

9 NEW UNNUMBERED PARAGRAPH. A person who has been sent an  
10 absentee ballot by mail but for any reason has not received it  
11 shall be permitted to cast a ballot in person pursuant to  
12 section 53.19 and in the manner prescribed by section 49.81.

13 Sec. 7. Section 52.9, unnumbered paragraph 2, Code 1997,  
14 is amended to read as follows:

15 It shall be the duty of the commissioner or the  
16 commissioner's duly authorized agents to examine and test the  
17 voting machines to be used at any election, after the machines  
18 have been prepared for the election and not less than twelve  
19 hours before the opening of the polls on the morning of the  
20 election. The For any election to fill a partisan office, the  
21 county chairperson of each political party referred to in  
22 section 49.13 shall be notified in writing of the time said  
23 machines shall be examined and tested so that they may be  
24 present, or have a representative present. For every  
25 election, the commissioner shall include the notice in the  
26 notice of the election published as required by section 49.53.  
27 Those present for the examination and testing shall sign a  
28 certificate which shall read substantially as follows:

29 Sec. 8. Section 52.9, unnumbered paragraph 3, Code 1997,  
30 is amended to read as follows:

31 The Undersigned Hereby Certify that, having duly qualified,  
32 we were present and witnessed the testing and preparation of  
33 the following voting machines; that we believe the same to be  
34 in proper condition for use in the election of  
35 ..... 19..; that each registering counter of the

1 machine is set at 000; that the public counter is set at 000;  
2 that the seal numbers and the protective counter numbers are  
3 as indicated below.

4 Signed:  
5 .....  
6 Republican (if applicable)  
7 .....  
8 Democrat (if applicable)  
9 .....  
10 .....  
11 Voting machine custodian  
12 Dated.....19...

13 Machine	Protective	Seal
14 Number	Counter	Number
15	Number	
16 .....	.....	.....
17 .....	.....	.....
18 .....	.....	.....
19 .....	.....	.....

20 Sec. 9. Section 52.35, subsections 1 and 2, Code  
21 Supplement 1997, are amended to read as follows:

22 1. The For any election to fill a partisan office, the  
23 county chairperson of each political party shall be notified  
24 in writing of the time the test will be conducted, so that  
25 they may be present or have a representative present. The For  
26 every election, the commissioner ~~may-also~~ shall include such  
27 notice in the notice of the election published as required by  
28 section 49.53. The test shall be open to the public.

29 2. The test shall be conducted by processing a preaudited  
30 group of ballots punched or marked so as to record a  
31 predetermined number of valid votes for each candidate, and on  
32 each public question, on the ballot. The test group shall  
33 include for each office and each question one or more ballots  
34 having votes in excess of the number allowed by law for that  
35 office or question, in order to test the ability of the

1 automatic tabulating equipment to reject such votes. The  
2 ~~county-chairperson-of-a-political-party~~ Any observer may  
3 submit an additional test group of ballots which, if so  
4 submitted, shall also be tested. The state commissioner shall  
5 promulgate administrative rules establishing procedures for  
6 any additional test group of ballots submitted by an observer.  
7 If any error is detected, its cause shall be ascertained and  
8 corrected and an errorless count obtained before the automatic  
9 tabulating equipment is approved. When so approved, a  
10 statement attesting to the fact shall be signed by the  
11 commissioner and kept with the records of the election.

12 Sec. 10. Section 52.38, Code Supplement 1997, is amended  
13 to read as follows:

14 52.38 TESTING PORTABLE TABULATING DEVICES.

15 All portable tabulating devices shall be tested before any  
16 election in which they are to be used following the procedure  
17 in section 52.35, subsection 2. Testing shall be completed  
18 not later than twelve hours before the opening of the polls on  
19 the morning of the election. The For any election to fill a  
20 partisan office, the chairperson of each political party shall  
21 be notified in writing of the time the devices will be tested  
22 so that the chairperson or a representative may be present.  
23 For every election, the commissioner shall include the notice  
24 in the notice of the election published as required by section  
25 49.53. Those present for the test shall sign a certificate  
26 which shall read substantially as follows:

27 The undersigned certify that we were present and witnessed  
28 the testing of the portable tabulating devices in the  
29 following precincts, that we believe the devices are in proper  
30 condition for use in the election of ....., 19...; that  
31 following the test the vote totals were erased from the memory  
32 of each portable tabulating device and a report was produced  
33 showing that all vote totals in the memory were set at 0000;  
34 that the devices were securely locked or sealed; and that the  
35 serial numbers and locations of the devices which were tested

1 are listed below.

2 Signed .....

3 (name and political party affiliation,  
4 if applicable)

5 .....

6 (name and political party affiliation,  
7 if applicable)

8 .....

9 Voting equipment custodian

10 Dated ..... 19..

11 Precinct	Location	Serial Number
12 .....	.....	.....
13 .....	.....	.....
14 .....	.....	.....

15 Sec. 11. Section 53.19, unnumbered paragraph 3, Code  
16 Supplement 1997, is amended to read as follows:

17 However, any registered voter who has received an absentee  
18 ballot and not returned it, may surrender the absentee ballot  
19 to the precinct officials and vote in person at the polls.  
20 The precinct officials shall mark the uncast absentee ballot  
21 "void" and return it to the commissioner. Any registered  
22 voter who has been sent an absentee ballot by mail but for any  
23 reason has not received it may appear at the voter's precinct  
24 polling place on election day and sign an affidavit to that  
25 effect, after which the voter shall be permitted to vote in  
26 person. Such voter shall cast a ballot in accordance with  
27 section 49.81. The form of the affidavit for use in such  
28 cases shall be prescribed by the state commissioner.

29 Sec. 12. Section 275.18, Code 1997, is amended by adding  
30 the following new unnumbered paragraph:

31 NEW UNNUMBERED PARAGRAPH. The area education agency  
32 administrator shall furnish to the commissioner a map of the  
33 proposed reorganized area which must be approved by the  
34 commissioner as suitable for posting. The map shall be  
35 displayed prominently in at least four places within the

1 voting precinct, and inside each voting booth, or on the left-  
2 hand side inside the curtain of each voting machine.

3 Sec. 13. Section 357B.2, Code 1997, is amended to read as  
4 follows:

5 357B.2 BOARD OF TRUSTEES.

6 A benefited fire district shall be governed by a board of  
7 trustees consisting of three members who shall serve  
8 overlapping, three-year terms. Each trustee shall give bond  
9 in an amount to be determined by the board of supervisors, the  
10 premium for which shall be paid by the district of the  
11 trustee. The members of the board of trustees shall be  
12 ~~electd-at-an-election-or, if there are insufficient~~  
13 ~~candidates-for-the-office,~~ appointed by the board of  
14 supervisors from among the qualified electors registered  
15 voters of the district. ~~Notice-of-the-election-shall-be-given~~  
16 ~~by-publication-in-a-newspaper-having-general-circulation~~  
17 ~~within-the-district.--The-notice-shall-contain-the-date, time~~  
18 ~~and-location-of-the-election.--The-elections-shall-be~~  
19 ~~conducted-in-accordance-with-chapter-49-when-such-provisions~~  
20 ~~are-not-in-conflict-with-this-chapter.--The-precinct-election~~  
21 ~~officials-shall-be-appointed-by-the-board-of-supervisors-from~~  
22 ~~among-the-qualified-electors-of-the-district-and-shall-serve~~  
23 ~~without-pay.~~ Any vacancy on the board shall be filled by  
24 appointment of by the board of supervisors for the unexpired  
25 term. If a benefited fire district is located in more than  
26 one county, joint action of the boards of supervisors of the  
27 affected counties is required to appoint the members of the  
28 board of trustees, to determine the amount of bond, or to  
29 dissolve the district as provided in this chapter.

30 Sec. 14. Section 357G.9, Code 1997, is amended to read as  
31 follows:

32 357G.9 TRUSTEES -- TERM AND QUALIFICATION.

33 At the election, the names of up to three candidates for  
34 trustee shall be written in by the voters on blank ballots  
35 without formal nomination and the council shall appoint three



1 from among the five receiving the highest number of votes as  
2 trustees for the district. One trustee shall be appointed to  
3 serve for one year, one for two years, and one for three  
4 years. The trustees and their successors must be residents of  
5 the district and shall give bond in the amount required by the  
6 council, the premium of which shall be paid by the district.  
7 Vacancies shall be filled by ~~election, but if there are no~~  
8 ~~candidates for a trustee office, the vacancy may be filled by~~  
9 appointment by the council. The term of succeeding trustees  
10 shall be three years.

11 Sec. 15. Section 364.2, subsection 4, paragraph a, Code  
12 1997, is amended to read as follows:

13 a. A city may grant to any person a franchise to erect,  
14 maintain, and operate plants and systems for electric light  
15 and power, heating, telephone, telegraph, cable television,  
16 district telegraph and alarm, motor bus, trolley bus, street  
17 railway or other public transit, waterworks, or gasworks,  
18 within the city for a term of not more than twenty-five years.  
19 When considering whether to grant, amend, extend, or renew a  
20 franchise, a city shall hold a public hearing on the question.  
21 Notice of the time and place of the hearing shall be published  
22 as provided in section 362.3. The franchise may be granted,  
23 amended, extended, or renewed only by an ordinance, but no  
24 exclusive franchise shall be granted, amended, extended, or  
25 renewed.

26 Sec. 16. Section 368.19, Code 1997, is amended by adding  
27 the following new unnumbered paragraph after unnumbered  
28 paragraph 1:

29 NEW UNNUMBERED PARAGRAPH. The city shall provide to the  
30 commissioner of elections a map of the area to be  
31 incorporated, discontinued, annexed, severed, or consolidated,  
32 which must be approved by the commissioner as suitable for  
33 posting. The map shall be displayed prominently in at least  
34 four places within the voting precinct, and inside each voting  
35 booth, or on the left-hand side inside the curtain of each

1 voting machine.

2 Sec. 17. Section 39.5, Code Supplement 1997, is repealed.

3 Sec. 18. EFFECTIVE DATE. Section 17 of this Act,  
4 repealing Code section 39.5, being deemed of immediate  
5 importance, takes effect upon enactment.

6

EXPLANATION

7 This bill makes a number of changes relating to the  
8 election laws of Iowa.

9 Code section 39.2 is amended to provide that a special  
10 election may not be held on the first, second, or third  
11 Tuesday preceding and following the primary and general  
12 elections. Currently, the prohibition is on the first and  
13 second Tuesdays preceding those elections.

14 The bill repeals Code section 39.5, which prohibits a local  
15 government from holding an election not authorized by state  
16 law but which specifically does not prohibit all local  
17 elections called pursuant to ordinance. Presently, the Code  
18 otherwise specifies those instances when a local government is  
19 authorized or required to hold an election on a matter within  
20 the jurisdiction of the local government. This section of the  
21 bill is effective upon enactment.

22 Code sections 44.4 and 44.9 are amended to provide that  
23 objections to candidate nominations and withdrawals of  
24 candidacy must be filed at least 63 days before a regular or  
25 special city election if the city is one that may be required  
26 to hold a primary election.

27 Code section 49.12 is amended to allow election boards to  
28 be comprised of three or five precinct election officials.  
29 The section is also amended to remove the requirement that a  
30 fourth precinct election official be appointed to the election  
31 board in those precincts using paper ballots and which have a  
32 three-member election board.

33 Code section 49.53 is amended to require that the notice of  
34 election also contain a notice of the date and time the  
35 commissioner will be conducting testing of voting machines,

1 voting equipment, and tabulating devices.

2 Code sections 49.77 and 53.19 are amended to require that a  
3 voter who was sent an absentee ballot but swears by affidavit  
4 that the absentee ballot was not received shall cast a  
5 challenged ballot.

6 Code sections 52.9, 52.35, and 52.38 are amended to require  
7 that the county commissioner of elections notify a  
8 representative from each political party to attend and witness  
9 the testing of the voting machines, voting equipment, and  
10 tabulating devices by the commissioner for partisan elections  
11 only. Currently, the commissioner is required to notify the  
12 representatives of the political parties of voting machine and  
13 equipment testing for any election to be held. The amendment  
14 to section 52.35 also requires the state commissioner of  
15 elections to promulgate rules establishing for handling test  
16 ballots submitted by observers.

17 Code section 275.18 is amended to require that in an  
18 election for reorganization of a school district, a map of the  
19 reorganized district shall be posted at the precinct polling  
20 place if the commissioner approves it as suitable for posting.  
21 Likewise, Code section 368.19 is amended to require that in  
22 elections for incorporation, discontinuance, annexation,  
23 severance, or consolidation of territory, the city supply the  
24 county commissioner of elections with a map of the territory  
25 involved for posting at the precinct polling place if the  
26 commissioner approves it as suitable for posting.

27 Code section 357B.2 is amended to change the method of  
28 selection of trustees of a benefited fire district from  
29 election by the voters of the fire district to appointment by  
30 the county board of supervisors.

31 Code section 357G.9 is amended to change the method of  
32 selection of trustees of an emergency medical services  
33 district from election by the voters of the district to  
34 appointment by the city council.

35 Code section 364.2 is amended to require that a public

1 hearing on a city franchise be held before adoption of an  
2 ordinance granting, amending, extending, or renewing a  
3 franchise.

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5-2/19/98 *small Gov.*  
5-3/19/98 *without Recommendation*  
5-3/24/98 **UNFINISHED BUSINESS CALENDAR**  
4-1-98 *motion to Rk vote by Gronstal*  
4-1-98 *motion withdrawn*  
HOUSE FILE **2495**  
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO HF 2397)

(As Amended and Passed by the House, March 19, 1998)

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Vote: Ayes 82 Nays 15 Vote: Ayes 45 Nays 4  
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New Language \_\_\_\_\_

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4 law, unless the applicable law otherwise requires, shall be  
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31 ~~shall consist of three precinct election officials, and in~~  
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3 simple majority of the members of the election board in any  
4 precinct, or of the two combined boards in any precinct for  
5 which a double election board is appointed, shall be members  
6 of the same political party or organization if one or more  
7 registered voters of another party or organization are  
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31 notice shall also state the date of the election, the hours  
32 the polls will be open, the location of each polling place at  
33 which voting is to occur in the election, the location of the  
34 polling places designated as early ballot pick-up sites, and  
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21 county chairperson of each political party referred to in  
22 section 49.13 shall be notified in writing of the time said  
23 machines shall be examined and tested so that they may be  
24 present, or have a representative present. For every  
25 election, the commissioner shall include the notice in the  
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32 we were present and witnessed the testing and preparation of  
33 the following voting machines; that we believe the same to be  
34 in proper condition for use in the election of  
35 ..... 19..; that each registering counter of the



1 machine is set at 000; that the public counter is set at 000;  
2 that the seal numbers and the protective counter numbers are  
3 as indicated below.

4 Signed:  
5 .....  
6 Republican (if applicable)  
7 .....  
8 Democrat (if applicable)  
9 .....  
10 .....  
11 Voting machine custodian  
12 Dated.....19...

13 Machine	Protective	Seal
14 Number	Counter	Number
15	Number	
16 .....	.....	.....
17 .....	.....	.....
18 .....	.....	.....
19 .....	.....	.....

20 Sec. 9. Section 52.35, subsections 1 and 2, Code  
21 Supplement 1997, are amended to read as follows:

22 1. The For any election to fill a partisan office, the  
23 county chairperson of each political party shall be notified  
24 in writing of the time the test will be conducted, so that  
25 they may be present or have a representative present. The For  
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27 notice in the notice of the election published as required by  
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29 2. The test shall be conducted by processing a preaudited  
30 group of ballots punched or marked so as to record a  
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32 each public question, on the ballot. The test group shall  
33 include for each office and each question one or more ballots  
34 having votes in excess of the number allowed by law for that  
35 office or question, in order to test the ability of the

1 automatic tabulating equipment to reject such votes. The  
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5 promulgate administrative rules establishing procedures for  
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10 statement attesting to the fact shall be signed by the  
11 commissioner and kept with the records of the election.

12 Sec. 10. Section 52.38, Code Supplement 1997, is amended  
13 to read as follows:

14 52.38 TESTING PORTABLE TABULATING DEVICES.

15 All portable tabulating devices shall be tested before any  
16 election in which they are to be used following the procedure  
17 in section 52.35, subsection 2. Testing shall be completed  
18 not later than twelve hours before the opening of the polls on  
19 the morning of the election. ~~The~~ For any election to fill a  
20 partisan office, the chairperson of each political party shall  
21 be notified in writing of the time the devices will be tested  
22 so that the chairperson or a representative may be present.  
23 For every election, the commissioner shall include the notice  
24 in the notice of the election published as required by section  
25 49.53. Those present for the test shall sign a certificate  
26 which shall read substantially as follows:

27 The undersigned certify that we were present and witnessed  
28 the testing of the portable tabulating devices in the  
29 following precincts, that we believe the devices are in proper  
30 condition for use in the election of ....., 19...; that  
31 following the test the vote totals were erased from the memory  
32 of each portable tabulating device and a report was produced  
33 showing that all vote totals in the memory were set at 0000;  
34 that the devices were securely locked or sealed; and that the  
35 serial numbers and locations of the devices which were tested

1 are listed below.

2 Signed .....

3 (name and political party affiliation,  
4 if applicable)

5 .....

6 (name and political party affiliation,  
7 if applicable)

8 .....

9 Voting equipment custodian

10 Dated ..... 19..

11 Precinct	Location	Serial Number
12 .....	.....	.....
13 .....	.....	.....
14 .....	.....	.....

15 Sec. 11. Section 53.19, unnumbered paragraph 3, Code  
16 Supplement 1997, is amended to read as follows:

17 However, any registered voter who has received an absentee  
18 ballot and not returned it, may surrender the absentee ballot  
19 to the precinct officials and vote in person at the polls.  
20 The precinct officials shall mark the uncast absentee ballot  
21 "void" and return it to the commissioner. Any registered  
22 voter who has been sent an absentee ballot by mail but for any  
23 reason has not received it may appear at the voter's precinct  
24 polling place on election day and sign an affidavit to that  
25 effect, after which the voter shall be permitted to vote in  
26 person. Such voter shall cast a ballot in accordance with  
27 section 49.81. The form of the affidavit for use in such  
28 cases shall be prescribed by the state commissioner.

29 Sec. 12. Section 275.18, Code 1997, is amended by adding  
30 the following new unnumbered paragraph:

31 NEW UNNUMBERED PARAGRAPH. The area education agency  
32 administrator shall furnish to the commissioner a map of the  
33 proposed reorganized area which must be approved by the  
34 commissioner as suitable for posting. The map shall be  
35 displayed prominently in at least four places within the

1 voting precinct, and inside each voting booth, or on the left-  
2 hand side inside the curtain of each voting machine.

3 Sec. 13. Section 357B.2, Code 1997, is amended to read as  
4 follows:

5 357B.2 BOARD OF TRUSTEES.

6 A benefited fire district shall be governed by a board of  
7 trustees consisting of three members who shall serve  
8 overlapping, three-year terms. Each trustee shall give bond  
9 in an amount to be determined by the board of supervisors, the  
10 premium for which shall be paid by the district of the  
11 trustee. The members of the board of trustees shall be  
12 ~~elected-at-an-election-or,-if-there-are-insufficient~~  
13 ~~candidates-for-the-office,~~ appointed by the board of  
14 supervisors from among the qualified-electors registered  
15 voters of the district. ~~Notice-of-the-election-shall-be-given~~  
16 ~~by-publication-in-a-newspaper-having-general-circulation~~  
17 ~~within-the-district.--The-notice-shall-contain-the-date,-time~~  
18 ~~and-location-of-the-election.--The-elections-shall-be~~  
19 ~~conducted-in-accordance-with-chapter-49-when-such-provisions~~  
20 ~~are-not-in-conflict-with-this-chapter.--The-precinct-election~~  
21 ~~officials-shall-be-appointed-by-the-board-of-supervisors-from~~  
22 ~~among-the-qualified-electors-of-the-district-and-shall-serve~~  
23 ~~without-pay.~~ Any vacancy on the board shall be filled by  
24 appointment of by the board of supervisors for the unexpired  
25 term. If a benefited fire district is located in more than  
26 one county, joint action of the boards of supervisors of the  
27 affected counties is required to appoint the members of the  
28 board of trustees, to determine the amount of bond, or to  
29 dissolve the district as provided in this chapter.

30 Sec. 14. Section 357G.9, Code 1997, is amended to read as  
31 follows:

32 357G.9 TRUSTEES -- TERM AND QUALIFICATION.

33 At the election, the names of up to three candidates for  
34 trustee shall be written in by the voters on blank ballots  
35 without formal nomination and the council shall appoint three

1 from among the five receiving the highest number of votes as  
2 trustees for the district. One trustee shall be appointed to  
3 serve for one year, one for two years, and one for three  
4 years. The trustees and their successors must be residents of  
5 the district and shall give bond in the amount required by the  
6 council, the premium of which shall be paid by the district.  
7 ~~Vacancies shall be filled by election, but if there are no~~  
8 ~~candidates for a trustee office, the vacancy may be filled by~~  
9 appointment by the council. The term of succeeding trustees  
10 shall be three years.

11 Sec. 15. Section 364.2, subsection 4, paragraph a, Code  
12 1997, is amended to read as follows:

13 a. A city may grant to any person a franchise to erect,  
14 maintain, and operate plants and systems for electric light  
15 and power, heating, telephone, telegraph, cable television,  
16 district telegraph and alarm, motor bus, trolley bus, street  
17 railway or other public transit, waterworks, or gasworks,  
18 within the city for a term of not more than twenty-five years.  
19 When considering whether to grant, amend, extend, or renew a  
20 franchise, a city shall hold a public hearing on the question.  
21 Notice of the time and place of the hearing shall be published  
22 as provided in section 362.3. The franchise may be granted,  
23 amended, extended, or renewed only by an ordinance, but no  
24 exclusive franchise shall be granted, amended, extended, or  
25 renewed.

26 Sec. 16. Section 368.19, Code 1997, is amended by adding  
27 the following new unnumbered paragraph after unnumbered  
28 paragraph 1:

29 NEW UNNUMBERED PARAGRAPH. The city shall provide to the  
30 commissioner of elections a map of the area to be  
31 incorporated, discontinued, annexed, severed, or consolidated,  
32 which must be approved by the commissioner as suitable for  
33 posting. The map shall be displayed prominently in at least  
34 four places within the voting precinct, and inside each voting  
35 booth, or on the left-hand side inside the curtain of each

1 voting machine.

2 Sec. 17. Section 39.5, Code Supplement 1997, is repealed.

3 Sec. 18. EFFECTIVE DATE. Section 17 of this Act,  
4 repealing Code section 39.5, being deemed of immediate  
5 importance, takes effect upon enactment.

6 Sec. 19. EFFECTIVE DATE. Section 14 of this Act, amending  
7 section 357G.9, being deemed of immediate importance, takes  
8 effect upon enactment.

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## HOUSE FILE 2495

H-8175

- 1 Amend House File 2495 as follows:  
2 1. Page 1, by inserting after line 7, the  
3 following:  
4 "Sec. \_\_\_\_ . Section 39.3, Code 1997, is amended by  
5 adding the following new subsection:  
6 NEW SUBSECTION. 8A. "Mail ballot election" means  
7 an election conducted pursuant to chapter 49B."  
8 2. Page 3, by inserting after line 6, the  
9 following:  
10 "If the election is to be conducted as a mail  
11 ballot election pursuant to chapter 49B, the  
12 commissioner shall, not more than twenty days and not  
13 less than four days before the date that ballots are  
14 to be mailed, publish notice that a mail ballot  
15 election will be conducted. The commissioner is not  
16 required to publish a sample mail ballot. The notice  
17 shall include all of the following information:  
18 a. The date ballots will be mailed.  
19 b. The last day that a voter can request an  
20 absentee ballot.  
21 c. Voter registration deadlines.  
22 d. Location or locations where mail ballots can be  
23 deposited pursuant to section 49B.14.  
24 e. Instructions for obtaining a replacement ballot  
25 if a voter's ballot is destroyed, spoiled, lost, or  
26 not received pursuant to section 49B.10."  
27 3. Page 3, line 12, by inserting after the figure  
28 "49.81." the following: "A person who has been sent a  
29 mail ballot election ballot but for any reason has not  
30 received it shall, in accordance with section 49B.10,  
31 either be mailed another ballot or shall be permitted  
32 to cast a ballot in person at the office of the county  
33 commissioner."  
34 4. Page 3, by inserting after line 12 the  
35 following:  
36 "Sec. \_\_\_\_ . NEW SECTION. 49B.1 MAIL BALLOT  
37 ELECTIONS.  
38 An election shall not be conducted under this  
39 chapter unless all of the following apply:  
40 1. The use of mail ballots for the election is  
41 authorized pursuant to section 49B.5 or section 49B.6.  
42 2. The state commissioner of elections approves a  
43 written plan for conduct of the election, which shall  
44 include a written timetable for the conduct of the  
45 election, submitted by the county commissioner.  
46 3. The election is nonpartisan.  
47 4. The election is not held on the same date as  
48 another election in which registered voters of that  
49 political subdivision are eligible to cast ballots.  
50 5. The election is one at which only the

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1 registered voters of one of the following political  
2 subdivisions are eligible to vote:

- 3 a. Counties.
- 4 b. Cities.
- 5 c. School districts.
- 6 d. Merged areas.
- 7 e. Benefited districts provided in chapters 357  
8 through 357G.

9 Sec. \_\_\_\_ . NEW SECTION. 49B.2 DEFINITIONS.

10 As used in this chapter, unless the context  
11 otherwise requires:

12 1. "Election day" is the date established by law  
13 on which a particular election would be held if that  
14 election were being conducted by means other than a  
15 mail ballot election.

16 2. "Return verification envelope" means an  
17 envelope that contains a secrecy envelope and which is  
18 designed to allow election officials, upon examination  
19 of the outside of the envelope, to determine that the  
20 ballot is being submitted by someone who is in fact a  
21 registered voter and who has not already voted.

22 3. "Secrecy envelope" means an envelope used to  
23 contain the elector's ballot and that is designed to  
24 conceal the voter's vote and to prevent the voter's  
25 ballot from being distinguished from the ballots of  
26 other voters.

27 Sec. \_\_\_\_ . NEW SECTION. 49B.3 MAIL BALLOT  
28 ELECTION PROCEDURE.

29 A mail ballot election shall be conducted  
30 substantially as provided in this chapter. The state  
31 commissioner of elections shall prescribe uniform  
32 procedures and forms to be used in the conduct of mail  
33 ballot elections.

34 Sec. \_\_\_\_ . NEW SECTION. 49B.4 INITIATING A MAIL  
35 BALLOT ELECTION.

36 A proposal to conduct an election under this  
37 chapter may be initiated by either the appropriate  
38 governing body or the county commissioner of elections  
39 as provided in sections 49B.5 and 49B.6.

40 Sec. \_\_\_\_ . NEW SECTION. 49B.5 INITIATION BY  
41 GOVERNING BODY.

42 1. If the governing body of a political  
43 subdivision determines that it is economically and  
44 administratively feasible to conduct an election by  
45 mail and the election meets the requirements of  
46 section 49B.1, the governing body, by resolution, may  
47 require the county commissioner of elections to  
48 conduct the election under this chapter by filing the  
49 resolution with the county commissioner not later than  
50 seventy days before the date of the election.

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1 2. After the resolution is filed, the county  
2 commissioner shall prepare a written plan for conduct  
3 of the election as provided in section 49B.7. At  
4 least sixty days prior to the date set for the  
5 election, the county commissioner shall forward a copy  
6 of the written plan to the governing body concerned.

7 Sec. \_\_\_\_ . NEW SECTION. 49B.6 INITIATION BY  
8 COUNTY COMMISSIONER.

9 1. The county commissioner may conduct an election  
10 which meets the requirements of section 49B.1 as a  
11 mail ballot election if the county commissioner  
12 determines it would be the most economically and  
13 administratively feasible way of conducting the  
14 election.

15 2. If the county commissioner decides to conduct a  
16 mail ballot election pursuant to subsection 1, the  
17 county commissioner shall prepare a written plan for  
18 conduct of the election as provided in section 49B.7.  
19 At least sixty days prior to the date set for the  
20 election, the county commissioner shall forward a copy  
21 of the written plan to the governing body concerned,  
22 together with a written statement informing the  
23 governing body of the decision to conduct the election  
24 by mail ballot and the reasons for the decision.

25 Sec. \_\_\_\_ . NEW SECTION. 49B.7 WRITTEN PLAN FOR  
26 CONDUCT OF ELECTION -- AMENDMENTS -- APPROVAL  
27 PROCEDURE.

28 1. The county commissioner shall prepare a written  
29 plan, including a timetable, for the conduct of a mail  
30 ballot election and shall submit it to the state  
31 commissioner of elections at least sixty days before  
32 the date of the election.

33 2. The plan may be amended by the county  
34 commissioner any time before the fifty-fifth day  
35 before the date of the election by notifying the state  
36 commissioner of elections in writing of any changes.

37 3. Within five days after receiving the plan, and  
38 as soon as possible after receiving any amendments,  
39 the state commissioner of elections shall approve,  
40 disapprove, or recommend changes to the plan or  
41 amendments.

42 4. When the written plan has been approved, the  
43 county commissioner shall proceed to conduct the  
44 election according to the approved plan.

45 Sec. \_\_\_\_ . NEW SECTION. 49B.8 MAILING BALLOTS.

46 1. Official ballots for a mail ballot election  
47 shall be prepared and all other initial procedures for  
48 elections shall be followed as otherwise provided by  
49 law.

50 2. The county commissioner of elections shall mail

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1 an official ballot to every registered voter of the  
2 political subdivision conducting the election on a  
3 date not sooner than the twentieth day before the date  
4 of the election and not later than the tenth day  
5 before the date of the election. An exception shall  
6 be made for those ballots delivered as prescribed in  
7 section 49B.13.

8 3. All ballots shall be mailed by first class  
9 mail.

10 4. Ballots mailed by the county commissioner shall  
11 be addressed to the address of each voter appearing in  
12 the registration records of the political subdivision,  
13 and placed in an envelope which is prominently marked  
14 "Do Not Forward".

15 5. The ballot shall contain the following warning:  
16 "Any person who, by use of violence, threats of  
17 violence, or any means of duress, procures the vote of  
18 a voter for or against any measure or candidate is  
19 subject, upon conviction, to imprisonment or to a  
20 fine, or both."

21 Sec. \_\_\_\_ . NEW SECTION. 49B.9 REGISTRATION.

22 The county commissioner shall not mail a ballot  
23 under this chapter to any voter not registered thirty  
24 days before the date of the election. Voters  
25 registered after thirty days prior to the date of the  
26 election, but prior to the close of registration, may  
27 apply for a ballot under section 49B.10.

28 Sec. \_\_\_\_ . NEW SECTION. 49B.10 REPLACEMENT  
29 BALLOTS.

30 If the mail ballot is destroyed, spoiled, lost, or  
31 not received by the voter, the voter may obtain a  
32 replacement ballot from the county commissioner as  
33 provided in this section. A voter seeking a  
34 replacement ballot shall sign a statement, on a form  
35 prescribed by the state commissioner, that the ballot  
36 was destroyed, spoiled, lost, or not received. The  
37 voter or the voter's designee shall deliver the  
38 statement to the county commissioner before noon on  
39 the date of the election. The voter may mail the  
40 statement to the county commissioner. However, a  
41 county commissioner shall not transmit a ballot by  
42 mail under this section unless the statement is  
43 received before five p.m. on the fourth day before the  
44 date of the election. When a statement is timely  
45 received under this section, the county commissioner  
46 shall give the ballot to the voter if the voter is  
47 present in the office of the county commissioner, or  
48 promptly mail the ballot to the voter at the address  
49 contained in the statement, except when prohibited by  
50 this section. If the voter is present in the county

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1 commissioner's office, the ballot shall be voted at  
2 that time. The county commissioner shall keep a  
3 record of each replacement ballot provided under this  
4 section. If a voter, having received and voted a  
5 replacement ballot as provided under this section,  
6 later finds the lost ballot, the voter shall return  
7 the lost ballot to the county commissioner.

8 Sec. \_\_\_\_ . NEW SECTION. 49B.11 VOTING AND RETURN  
9 OF BALLOT.

10 1. A registered voter, upon receipt of a mail  
11 ballot, shall mark the ballot in such a manner that no  
12 other person will know how the ballot is marked and  
13 shall place it in the secrecy envelope provided with  
14 the ballot and shall securely seal the secrecy  
15 envelope.

16 A voter who is blind, cannot read, or because of a  
17 physical disability is unable to mark the ballot, may  
18 be assisted by any person selected by the voter.

19 2. The voter shall then place the secrecy envelope  
20 containing the ballot in the return verification  
21 envelope and sign and securely seal the return  
22 verification envelope. The sealed return verification  
23 envelope shall be returned to the county commissioner  
24 by one of the following methods:

25 a. The sealed return verification envelope may be  
26 delivered by the registered voter or the voter's  
27 designee to the county commissioner's office or a  
28 place designated by the commissioner no later than the  
29 time the polls close on election day.

30 b. The sealed return verification envelope may be  
31 mailed, postage paid, to the county commissioner. In  
32 order for the ballot to be counted, the return  
33 verification envelope must be clearly postmarked by an  
34 officially authorized postal service not later than  
35 the day before the election and received by the county  
36 commissioner not later than the time established for  
37 the canvass by the board of supervisors for that  
38 election. The county commissioner shall contact the  
39 post office serving the county commissioner's office  
40 at the latest practical hour prior to the canvass by  
41 the board of supervisors for that election, and shall  
42 arrange for return verification envelopes received in  
43 that post office but not yet delivered to the  
44 commissioner's office to be brought to the  
45 commissioner's office prior to the canvass for that  
46 election by the board of supervisors.

47 Sec. \_\_\_\_ . NEW SECTION. 49B.12 ABSENTEE BALLOTS.

48 1. A registered voter who will be absent from the  
49 precinct during the time when the ballots are mailed  
50 may do either of the following:

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1 a. Vote in person in the county commissioner's  
2 office as soon as ballots are available and until noon  
3 the day before the ballots are scheduled to be mailed.

4 b. Make a written request, signed by the voter and  
5 addressed to the county commissioner, that the ballot  
6 be mailed to an address other than that which appears  
7 on the voter's registration record. Written requests  
8 shall be accepted until noon the day before the  
9 ballots are scheduled to be mailed.

10 2. Ballots mailed to voters pursuant to this  
11 section shall be mailed the same day that all other  
12 ballots are mailed.

13 Sec. \_\_\_\_ . NEW SECTION. 49B.13 BALLOTING BY  
14 CONFINED PERSONS.

15 A person who is a resident or patient in a health  
16 care facility or hospital located in the county in  
17 which the election is to be held shall not be mailed a  
18 ballot but shall have a ballot delivered in the manner  
19 prescribed by section 53.22, subsection 1.

20 Sec. \_\_\_\_ . NEW SECTION. 49B.14 PERSONAL DELIVERY  
21 OF MAIL BALLOT -- SATELLITE VOTING STATIONS.

22 Satellite voting stations for the deposit of mail  
23 ballots shall be established throughout the cities and  
24 county at the direction of the county commissioner or  
25 upon receipt of a petition signed by not less than one  
26 hundred eligible electors requesting that a satellite  
27 voting station be established at a location to be  
28 described in the petition. A petition requesting a  
29 satellite voting station must be filed no later than  
30 five p.m. on the eleventh day before the election. A  
31 satellite voting station established at the direction  
32 of the commissioner or by petition shall be open from  
33 eight a.m. until five p.m. on the day of the election.

34 Sec. \_\_\_\_ . NEW SECTION. 49B.15 RECEIPT OF BALLOT  
35 -- SIGNATURE VERIFICATION.

36 When a mail ballot is returned, the county  
37 commissioner, or the county commissioner's designees,  
38 shall first qualify the submitted ballot by examining  
39 the return verification envelope to determine whether  
40 it is submitted by a registered voter who has not  
41 previously voted. A ballot shall be counted only if  
42 it is returned in the return verification envelope,  
43 the envelope is signed by the voter to whom the ballot  
44 is issued, and the signature has been verified as  
45 provided in this section.

46 The county commissioner or the county  
47 commissioner's designees shall verify the signature of  
48 each voter on the return verification envelope with  
49 the signature in the voter's registration records and  
50 may commence verification at any time before election

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1 day. If the county commissioner determines that a  
2 voter to whom a replacement ballot has been issued  
3 under section 49B.10 has voted more than once, the  
4 county commissioner shall not count any ballot cast by  
5 the voter.

6 If the voter's signature is verified and the ballot  
7 is otherwise valid, the county commissioner or the  
8 county commissioner's designees shall then deposit the  
9 ballot unopened in an official ballot box.

10 Sec. \_\_\_\_ . NEW SECTION. 49B.16 PROCEDURE FOR  
11 INVALID BALLOTS.

12 If the county commissioner is not convinced that  
13 the individual who signed the return verification  
14 envelope is the voter whose name appears on the  
15 registration card, the county commissioner shall not  
16 validate the ballot but shall do all of the following:

17 1. Give notice to the voter as follows:

18 a. As soon as possible after receipt of a voter's  
19 ballot, give notice to the voter, either by telephone  
20 or by first class mail, if the county commissioner is  
21 unable to verify the voter's signature.

22 b. Inform the voter that the voter may appear in  
23 person at the county commissioner's office prior to  
24 the close of the polls on election day and verify the  
25 signature.

26 2. Permit any voter appearing pursuant to  
27 subsection 1, paragraph "b", to:

28 a. Verify the voter's signature, after proof of  
29 identification, by affirming that the signature is in  
30 fact the voter's or by completing a new registration  
31 card containing the voter's current signature.

32 b. If necessary, request and receive a replacement  
33 ballot and vote at that time.

34 3. If the discrepancy is not rectified to the  
35 county commissioner's satisfaction, present the  
36 unopened envelope and the registration card to the  
37 special precinct election board for a determination.  
38 If the election board is unable to resolve the issue  
39 to its satisfaction, the ballot shall not be counted.

40 Sec. \_\_\_\_ . NEW SECTION. 49B.17 COUNTING BALLOTS.

41 Mail ballots shall be counted in the manner  
42 prescribed by section 53.23. The county commissioner  
43 shall supervise the procedures for the handling,  
44 counting, and canvassing of ballots to ensure the  
45 safety and confidentiality of all ballots properly  
46 cast.

47 Sec. \_\_\_\_ . NEW SECTION. 49B.18 CHALLENGES.

48 Votes cast pursuant to this chapter can be  
49 challenged in the manner prescribed by sections 49.79  
50 through 49.81, as applicable.

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- 1 Sec. \_\_\_\_ . NEW SECTION. 49B.19 CANVASS OF VOTES.
- 2 The provisions of chapter 50 relating to canvass of
- 3 votes apply to this chapter only to the extent they do
- 4 not conflict with this chapter.
- 5 Sec. \_\_\_\_ . NEW SECTION. 49B.20 OTHER LAWS.
- 6 All laws which apply to elections apply to mail
- 7 ballot elections held under this chapter to the extent
- 8 applicable.
- 9 Sec. \_\_\_\_ . NEW SECTION. 49B.21 RULES.
- 10 The state commissioner of elections shall adopt
- 11 rules pursuant to chapter 17A to govern the procedures
- 12 and forms necessary to implement this chapter. The
- 13 authority of the state commissioner to adopt rules
- 14 under this chapter shall be liberally construed.
- 15 Sec. \_\_\_\_ . NEW SECTION. 49B.22 MISCONDUCT --
- 16 VIOLATIONS -- PENALTIES.
- 17 1. A person who, by use of violence, threats of
- 18 violence, or any means of duress, procures or
- 19 endeavors to procure the vote of a voter for or
- 20 against any measure or candidate commits an aggravated
- 21 misdemeanor.
- 22 2. A person who violates or attempts to violate
- 23 any provision or requirement of this chapter for which
- 24 a penalty is not otherwise provided commits a simple
- 25 misdemeanor."
- 26 5. By renumbering as necessary.

By RICHARDSON of Warren

H-8175 FILED MARCH 3, 1998

(p. 812) 3/19/98 Lost

HOUSE FILE 2495

H-8174

- 1 Amend House File 2495 as follows:
- 2 1. Page 9, by inserting before line 6 the
- 3 following:
- 4 "Sec. \_\_\_\_ . EFFECTIVE DATE. Section 14 of this
- 5 Act, amending section 357G.9, being deemed of
- 6 immediate importance, takes effect upon enactment."
- 7 2. By renumbering as necessary.

By SUKUP of Franklin

H-8174 FILED MARCH 3, 1998

*Adopted*  
*3/19/98*  
*(p. 814)*

## HOUSE FILE 2495

H-8326

- 1 Amend House File 2495 as follows:  
2 1. Page 1, by inserting after line 7 the  
3 following:  
4 "Sec. \_\_\_\_ . Section 39.5, unnumbered paragraph 2,  
5 Code Supplement 1997, is amended to read as follows:  
6 This section does not prohibit the governing body  
7 of a city or county from adopting an ordinance  
8 providing for elections on matters under the  
9 jurisdiction of the governing body. Such elections  
10 shall be of an advisory nature only and shall not be  
11 binding on the governing body submitting the matter to  
12 an election."  
13 2. Page 9, by striking lines 2 through 5.  
14 3. By renumbering as necessary.

By CHURCHILL of Polk  
BERNAU of Story

H-8326 FILED MARCH 11, 1998

(p.813) 3/19/98 LWT

## HOUSE FILE 2495

S-5310

1 Amend House File 2495, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 1, by inserting after line 7 the  
4 following:

5 "Sec. 100. Section 39.3, Code 1997, is amended by  
6 adding the following new subsection:

7 NEW SUBSECTION. 10A. "Referendum" means an  
8 election called pursuant to section 39.5, by  
9 resolution of the governing body of a city or county  
10 to approve or disapprove the adoption, repeal, or  
11 amendment of an ordinance.

12 Sec. 101. Section 39.5, Code Supplement 1997, is  
13 amended by striking the section and inserting in lieu  
14 thereof the following:

15 39.5 LOCAL ELECTIONS, REFERENDA, AND INITIATIVES  
16 PROHIBITED.

17 1. Local elections, referenda, and initiatives are  
18 prohibited except for the following:

19 a. For those offices which are specifically  
20 authorized or required by state law to be filled by  
21 the voters at an election.

22 b. For those public measures which are  
23 specifically authorized or required by state law to be  
24 put before the voters as a public measure.

25 c. For referenda which may be called by resolution  
26 of the board of supervisors or city council for  
27 approval or disapproval of the adoption of a proposed  
28 ordinance, or the repeal or amendment of an existing  
29 ordinance by the board of supervisors or city council.

30 The referral resolution must be adopted at the  
31 meeting in which the ordinance is finally passed. The  
32 resolution shall indicate whether the results of the  
33 referendum are to be binding or nonbinding on the  
34 governing body submitting the ordinance, repeal, or  
35 amendment to referendum. Notice of the adoption of  
36 the resolution shall be published with the summary of  
37 the ordinance, repeal, or amendment as provided in  
38 section 331.302, subsection 8, or section 380.7,  
39 subsection 3, whichever is applicable.

40 2. The provisions of chapters 39 through 53 shall  
41 apply to the conduct of elections held pursuant to  
42 this section."

43 2. Page 7, by inserting before line 3 the  
44 following:

45 "Sec. 102. Section 331.238, Code 1997, is amended  
46 by adding the following new subsection:

47 NEW SUBSECTION. 4. An alternative form of county  
48 government shall not provide for the power of  
49 initiative and referendum to be extended to its  
50 citizens, except as provided in section 39.5."

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Page 2

- 1 3. Page 9, by inserting after line 1 the  
2 following:  
3 "Sec. 103. Section 372.10, Code 1997, is amended  
4 by adding the following new unnumbered paragraph:  
5 NEW UNNUMBERED PARAGRAPH. A home rule charter  
6 shall not provide for the power of initiative and  
7 referendum to be extended to its citizens except as  
8 provided in section 39.5."  
9 4. Page 9, by striking lines 2 through 5 and  
10 inserting the following:  
11 "Sec. \_\_\_\_ . EFFECTIVE DATE. This section and  
12 sections 100, 101, 102, and 103 of this Act, being  
13 deemed of immediate importance, take effect upon  
14 enactment."  
15 5. Title page, line 1, by inserting after the  
16 word "state" the following: "and providing an  
17 effective date".  
18 6. By renumbering as necessary.

By ROD HALVORSON

S-5310 FILED MARCH 23, 1998

*Lost 4/1/98 (p. 1000)*

## HOUSE FILE 2495

## AN ACT

## RELATING TO THE CONDUCT OF ELECTIONS IN THE STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 39.2, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

All special elections which are authorized or required by law, unless the applicable law otherwise requires, shall be held on Tuesday. A special election shall not be held on the first, and second, and third Tuesdays preceding and following the primary and the general elections.

Sec. 2. Section 44.4, subsection 3, Code Supplement 1997, is amended to read as follows:

3. Those filed with the city clerk, at least forty-two days before the municipal regularly scheduled or special city election. However, for those cities that may be required to hold a primary election, at least sixty-three days before the regularly scheduled or special city election.

Sec. 3. Section 44.9, subsection 6, Code 1997, is amended to read as follows:

6. In the office of the proper city clerk, at least forty-two days before the regularly scheduled or special city election. However, for those cities that may be required to hold a primary election, at least sixty-three days before a regularly scheduled or special city election.

Sec. 4. Section 49.12, Code 1997, is amended to read as follows:

## 49.12 ELECTION BOARDS.

There shall be appointed in each election precinct an election board which shall ordinarily consist of three or five precinct election officials. ~~However, in precincts using only one voting machine at any one time, and in precincts voting by paper ballot where no more than three hundred fifty persons~~

~~cast ballots in the last preceding similar election, the board shall consist of three precinct election officials, and in precincts using more than two voting machines one additional precinct election official may be appointed for each such additional machine.~~ At the commissioner's discretion, additional precinct election officials may be appointed to work at any election. Double election boards may be appointed for any precinct as provided by chapter 51. Not more than a simple majority of the members of the election board in any precinct, or of the two combined boards in any precinct for which a double election board is appointed, shall be members of the same political party or organization if one or more registered voters of another party or organization are qualified and willing to serve on the board.

~~if double counting boards are not appointed for precincts using paper ballots and using only three precinct election officials, a fourth precinct election official shall be appointed from the election board panel to serve beginning at the time the polls close to assist in counting the paper ballots.~~

Sec. 5. Section 49.53, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The commissioner shall not less than four nor more than twenty days before the day of each election, except those for which different publication requirements are prescribed by law, publish notice of the election. The notice shall contain a facsimile of the portion of the ballot containing the first rotation as prescribed by section 49.31, subsection 2, and shall show the names of all candidates or nominees and the office each seeks, and all public questions, to be voted upon at the election. The sample ballot published as a part of the notice may at the discretion of the commissioner be reduced in size relative to the actual ballot but such reduction shall not cause upper case letters appearing on the published sample ballot to be less than five thirty-sixths of an inch high in candidates' names or in summaries of public measures. The

notice shall also state the date of the election, the hours the polls will be open, the location of each polling place at which voting is to occur in the election, the location of the polling places designated as early ballot pick-up sites, and the names of the precincts voting at each polling place, but the statement need not set forth any fact which is apparent from the portion of the ballot appearing as a part of the same notice. The notice shall include the full text of all public measures to be voted upon at the election. The notice shall also include notice of testing required pursuant to sections 52.9, 52.35, and 52.38.

Sec. 6. Section 49.77, subsection 4, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who has been sent an absentee ballot by mail but for any reason has not received it shall be permitted to cast a ballot in person pursuant to section 53.19 and in the manner prescribed by section 49.81.

Sec. 7. Section 52.9, unnumbered paragraph 2, Code 1997, is amended to read as follows:

It shall be the duty of the commissioner or the commissioner's duly authorized agents to examine and test the voting machines to be used at any election, after the machines have been prepared for the election and not less than twelve hours before the opening of the polls on the morning of the election. The For any election to fill a partisan office, the county chairperson of each political party referred to in section 49.13 shall be notified in writing of the time said machines shall be examined and tested so that they may be present, or have a representative present. For every election, the commissioner shall include the notice in the notice of the election published as required by section 49.53. Those present for the examination and testing shall sign a certificate which shall read substantially as follows:

Sec. 8. Section 52.9, unnumbered paragraph 3, Code 1997, is amended to read as follows:

The Undersigned Hereby Certify that, having duly qualified, we were present and witnessed the testing and preparation of the following voting machines; that we believe the same to be in proper condition for use in the election of ..... 19.; that each registering counter of the machine is set at 000; that the public counter is set at 000; that the seal numbers and the protective counter numbers are as indicated below.

Signed:

.....  
Republican (if applicable)  
.....  
Democrat (if applicable)  
.....

.....  
Voting machine custodian  
Dated.....19...

Machine Number	Protective Counter Number	Seal Number
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

Sec. 9. Section 52.35, subsections 1 and 2, Code Supplement 1997, are amended to read as follows:

1. The For any election to fill a partisan office, the county chairperson of each political party shall be notified in writing of the time the test will be conducted, so that they may be present or have a representative present. The For every election, the commissioner may-also shall include such notice in the notice of the election published as required by section 49.53. The test shall be open to the public.

2. The test shall be conducted by processing a preaudited group of ballots punched or marked so as to record a predetermined number of valid votes for each candidate, and on

commissioner as suitable for posting. The map shall be displayed prominently in at least four places within the voting precinct, and inside each voting booth, or on the left-hand side inside the curtain of each voting machine.

Sec. 13. Section 357B.2, Code 1997, is amended to read as follows:

357B.2 BOARD OF TRUSTEES.

A benefited fire district shall be governed by a board of trustees consisting of three members who shall serve overlapping, three-year terms. Each trustee shall give bond in an amount to be determined by the board of supervisors, the premium for which shall be paid by the district of the trustee. The members of the board of trustees shall be ~~elected at an election or, if there are insufficient candidates for the office,~~ appointed by the board of supervisors from among the qualified electors registered voters of the district. ~~Notice of the election shall be given by publication in a newspaper having general circulation within the district. The notice shall contain the date, time and location of the election. The elections shall be conducted in accordance with chapter 49 when such provisions are not in conflict with this chapter. The precinct election officials shall be appointed by the board of supervisors from among the qualified electors of the district and shall serve without pay.~~ Any vacancy on the board shall be filled by appointment of by the board of supervisors for the unexpired term. If a benefited fire district is located in more than one county, joint action of the boards of supervisors of the affected counties is required to appoint the members of the board of trustees, to determine the amount of bond, or to dissolve the district as provided in this chapter.

Sec. 14. Section 357G.9, Code 1997, is amended to read as follows:

357G.9 TRUSTEES -- TERM AND QUALIFICATION.

At the election, the names of up to three candidates for trustee shall be written in by the voters on blank ballots

without formal nomination and the council shall appoint three from among the five receiving the highest number of votes as trustees for the district. One trustee shall be appointed to serve for one year, one for two years, and one for three years. The trustees and their successors must be residents of the district and shall give bond in the amount required by the council, the premium of which shall be paid by the district. ~~Vacancies shall be filled by election, but if there are no candidates for a trustee office, the vacancy may be filled by~~ appointment by the council. The term of succeeding trustees shall be three years.

Sec. 15. Section 364.2, subsection 4, paragraph a, Code 1997, is amended to read as follows:

a. A city may grant to any person a franchise to erect, maintain, and operate plants and systems for electric light and power, heating, telephone, telegraph, cable television, district telegraph and alarm, motor bus, trolley bus, street railway or other public transit, waterworks, or gasworks, within the city for a term of not more than twenty-five years. When considering whether to grant, amend, extend, or renew a franchise, a city shall hold a public hearing on the question. Notice of the time and place of the hearing shall be published as provided in section 362.3. The franchise may be granted, amended, extended, or renewed only by an ordinance, but no exclusive franchise shall be granted, amended, extended, or renewed.

Sec. 16. Section 368.19, Code 1997, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. The city shall provide to the commissioner of elections a map of the area to be incorporated, discontinued, annexed, severed, or consolidated, which must be approved by the commissioner as suitable for posting. The map shall be displayed prominently in at least four places within the voting precinct, and inside each voting booth, or on the left-hand side inside the curtain of each voting machine.

each public question, on the ballot. The test group shall include for each office and each question one or more ballots having votes in excess of the number allowed by law for that office or question, in order to test the ability of the automatic tabulating equipment to reject such votes. The ~~county chairperson of a political party~~ Any observer may submit an additional test group of ballots which, if so submitted, shall also be tested. The state commissioner shall promulgate administrative rules establishing procedures for any additional test group of ballots submitted by an observer. If any error is detected, its cause shall be ascertained and corrected and an errorless count obtained before the automatic tabulating equipment is approved. When so approved, a statement attesting to the fact shall be signed by the commissioner and kept with the records of the election.

Sec. 10. Section 52.38, Code Supplement 1997, is amended to read as follows:

52.38 TESTING PORTABLE TABULATING DEVICES.

All portable tabulating devices shall be tested before any election in which they are to be used following the procedure in section 52.35, subsection 2. Testing shall be completed not later than twelve hours before the opening of the polls the morning of the election. ~~The~~ For any election to fill a partisan office, the chairperson of each political party shall be notified in writing of the time the devices will be tested so that the chairperson or a representative may be present. For every election, the commissioner shall include the notice in the notice of the election published as required by section 49.53. Those present for the test shall sign a certificate which shall read substantially as follows:

The undersigned certify that we were present and witnessed the testing of the portable tabulating devices in the following precincts, that we believe the devices are in proper condition for use in the election of ....., 19...; that following the test the vote totals were erased from the memory of each portable tabulating device and a report was produced

showing that all vote totals in the memory were set at 0000; that the devices were securely locked or sealed; and that the serial numbers and locations of the devices which were tested are listed below.

Signed .....  
(name and political party affiliation,  
if applicable)  
.....  
(name and political party affiliation,  
if applicable)  
.....  
Voting equipment custodian  
Dated ..... 19..

Precinct	Location	Serial Number
.....	.....	.....
.....	.....	.....
.....	.....	.....

Sec. 11. Section 53.19, unnumbered paragraph 3, Code Supplement 1997, is amended to read as follows:

However, any registered voter who has received an absentee ballot and not returned it, may surrender the absentee ballot to the precinct officials and vote in person at the polls. The precinct officials shall mark the uncast absentee ballot "void" and return it to the commissioner. Any registered voter who has been sent an absentee ballot by mail but for any reason has not received it may appear at the voter's precinct polling place on election day and sign an affidavit to that effect, after which the voter shall be permitted to vote in person. Such voter shall cast a ballot in accordance with section 49.81. The form of the affidavit for use in such cases shall be prescribed by the state commissioner.

Sec. 12. Section 275.18, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The area education agency administrator shall furnish to the commissioner a map of the proposed reorganized area which must be approved by the

Sec. 17. Section 39.5, Code Supplement 1997, is repealed.

Sec. 18. EFFECTIVE DATE. Section 17 of this Act, repealing Code section 39.5, being deemed of immediate importance, takes effect upon enactment.

Sec. 19. EFFECTIVE DATE. Section 14 of this Act, amending section 357G.9, being deemed of immediate importance, takes effect upon enactment.

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RON J. CORBETT  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2495, Seventy-seventh General Assembly.

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ELIZABETH ISAACSON  
Chief Clerk of the House

Approved 4/17, 1998

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TERRY E. BRANSTAD  
Governor

**HF 2495**