

House Study Bill 58

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON STATE
GOVERNMENT BILL BY
CHAIRPERSON ELGIN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to elections and voter registration by requiring
2 the election of township officers on a nonpartisan basis,
3 prohibiting the processing of certain voter registration
4 applications, removing the requirement for separate entrances
5 to buildings where polling places for more than one precinct
6 are located, relating to use of voting machines or paper
7 ballots at certain elections, requiring names of candidates
8 for nonpartisan office to be printed on the ballot in
9 alphabetical order, relating to information printed on a
10 certain portion of the ballot, modifying opening hours of the
11 polls at certain elections, allowing the voter's declaration
12 of eligibility to be printed on the election register,
13 striking the requirement that a voter's name be announced by a
14 precinct election official, relating to the abstract of votes
15 for county offices, relating to appointment of observers
16 present when ballots are counted, allowing absentee voting at
17 the commissioner's office for part of the day of the election
18 for certain elections, requiring the registered voter's date
19 of birth on the absentee ballot application, deleting the
20 requirement for a separate affidavit envelope for absentee
21 ballots, clarifying that certain confined persons may vote an
22 absentee ballot in person at the commissioner's office,
1 relating to the form prescribed for return carrier envelopes,
2 allowing an immediate family member to return a voted absentee
3 ballot in person to the commissioner's office, allowing an
4 absentee voter to correct a deficiency in the affidavit
5 returned with the voted absentee ballot, allowing the voting
6 of replacement absentee ballots in certain circumstances,
7 changing the deadline for challenging an absentee voter's
8 qualifications, relating to persons nominated for city office
9 by write-in votes, repealing the provision declaring it
10 unlawful for an absentee voter to fail to return the voter's
11 absentee ballot, and including an applicability date
12 provision.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
14 TLSB 1580YC 81
15 sc/cf/24

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1 1 Section 1. Section 39.21, Code 2005, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 4. Township officers as provided in
1 4 section 39.22, subsection 2.
1 5 Sec. 2. Section 39.22, subsection 1, unnumbered paragraph
1 6 2, Code 2005, is amended to read as follows:
1 7 The election of the trustees and clerk of a township may be
1 8 restored after approval of the appointment process under this
1 9 subsection by a resolution of the board of supervisors
1 10 submitting the question to the registered voters who are
1 11 eligible to vote for township officers of the township at the
1 12 next general election. If the proposition to restore the
1 13 election process is approved by a majority of those voting on
1 14 the question, the election of the township officers shall
1 15 commence with the next ~~primary and general elections~~ election.
1 16 A resolution submitting the question of restoring the election
1 17 of township officers at the next general election shall be
1 18 adopted by the board of supervisors upon receipt of a petition
1 19 signed by eligible electors residing in the township equal in
1 20 number to at least ten percent of the registered voters of a
1 21 township. The initial terms of the trustees shall be

1 22 determined by lot, one for two years, and two for four years.
1 23 However, if a proposition to change the method of selecting
1 24 township officers is adopted by the electorate, a resolution
1 25 to change the method shall not be submitted to the electorate
1 26 for four years.

1 27 Sec. 3. Section 39.22, subsection 2, Code 2005, is amended
1 28 to read as follows:

1 29 2. BY ELECTION. If the county board of supervisors does
1 30 not have the power provided under subsection 1 to fill the
1 31 offices of trustee and clerk within a township by appointment,
1 32 then the offices of township trustee and township clerk shall
1 33 be filled by election on a nonpartisan basis. Township
1 34 trustees and the township clerk, in townships which do not
1 35 include a city, shall be elected by the voters of the entire
2 1 township. In townships which include a city, the officers
2 2 shall be elected by the voters of the township who reside
2 3 outside the corporate limits of the city, but a township
2 4 officer may be a resident of the city.

2 5 a. TOWNSHIP OFFICERS. The election of township officers
2 6 shall take place at the general election on ballots which
2 7 shall not reflect a nominee's political affiliation.
2 8 Nomination shall be made by petition in accordance with
2 9 chapter 45. The petition form shall be furnished by the
2 10 county commissioner of elections and shall be filed with the
2 11 county commissioner of elections. A plurality is sufficient
2 12 to elect the township officers.

2 13 ~~a.~~ b. TOWNSHIP TRUSTEES. Township trustees shall be
2 14 elected biennially to succeed those whose terms of office
2 15 expire on the first day of January following the election
2 16 which is not a Sunday or legal holiday. The term of office of
2 17 each elected township trustee is four years, except as
2 18 provided in subsection 1 for initial terms following
2 19 restoration of the election process.

2 20 ~~b.~~ c. TOWNSHIP CLERK. At the general election held in the
2 21 year 1990 and every four years thereafter, in each civil
2 22 township one township clerk shall be elected who shall hold
2 23 office for the term of four years.

2 24 Sec. 4. Section 39A.4, subsection 1, paragraph c,
2 25 subparagraphs (11) and (12), Code 2005, are amended to read as
2 26 follows:

2 27 (11) Returning a voted absentee ballot, by mail or in
2 28 person, to the commissioner's office and the person returning
2 29 the ballot is not the voter, an immediate family member of the
2 30 voter, an absentee ballot courier, a special precinct election
2 31 official designated pursuant to section 53.22, subsection 1,
2 32 or the designee of a voter described in section 53.22,
2 33 subsection 5.

2 34 (12) Making a false or untrue statement reporting that a
2 35 voted absentee ballot was returned to the commissioner's
3 1 office, by mail or in person, by a person other than the
3 2 voter, an immediate family member of the voter, an absentee
3 3 ballot courier, a special precinct election official
3 4 designated pursuant to section 53.22, subsection 1, or the
3 5 designee of a voter described in section 53.22, subsection 5.

3 6 Sec. 5. 39A.5, subsection 1, paragraph b, subparagraph
3 7 (2), Code 2005, is amended to read as follows:

3 8 (2) ~~Neglecting or refusing to return an absentee ballot in~~
3 9 ~~violation of section 53.35, or violating~~ Violating any other
3 10 provision of chapter 53 for which another penalty is not
3 11 provided.

3 12 Sec. 6. Section 43.26, Code 2005, is amended to read as
3 13 follows:

3 14 43.26 BALLOT == FORM.

3 15 The official primary election ballot shall be prepared,
3 16 arranged, and printed substantially in the following form:

3 17 PRIMARY ELECTION BALLOT
3 18 (Name of Party) of
3 19 County of
3 20, State of Iowa,
3 21 ... Rotation (if any).
3 22 Primary election held on
3 23 the ... day of June,(year)
3 24 FOR UNITED STATES SENATOR
3 25 (Vote for no more than one.)
3 26 _____ CANDIDATE'S NAME
3 27 _____ CANDIDATE'S NAME
3 28 _____
3 29 FOR UNITED STATES
3 30 REPRESENTATIVE
3 31 (Vote for no more than one.)
3 32 _____ CANDIDATE'S NAME

3 33 _____ CANDIDATE'S NAME
3 34 _____
3 35 FOR GOVERNOR
4 1 (Vote for no more than one.)
4 2 _____ CANDIDATE'S NAME
4 3 _____ CANDIDATE'S NAME
4 4 _____
4 5 (Followed by other elective state officers in the order in
4 6 which they appear in section 39.9 and district officers in the
4 7 order in which they appear in sections 39.15 and 39.16.)
4 8 FOR BOARD OF SUPERVISORS
4 9 (Vote for no more than two.)
4 10 _____ CANDIDATE'S NAME
4 11 _____ CANDIDATE'S NAME
4 12 _____
4 13 _____
4 14 FOR COUNTY AUDITOR
4 15 (Vote for no more than one.)
4 16 _____ CANDIDATE'S NAME
4 17 _____ CANDIDATE'S NAME
4 18 _____
4 19 (Followed by other elective county officers in the order in
4 20 which they appear in section 39.17.)
4 21 FOR TOWNSHIP CLERK
4 22 ~~(Vote for no more than one.)~~
4 23 _____ CANDIDATE'S NAME
4 24 _____ CANDIDATE'S NAME
4 25 _____
4 26 FOR TOWNSHIP TRUSTEES
4 27 ~~(Vote for no more than two.)~~
4 28 _____ CANDIDATE'S NAME
4 29 _____ CANDIDATE'S NAME
4 30 _____ CANDIDATE'S NAME
4 31 _____
4 32 _____

4 33 Sec. 7. Section 43.43, unnumbered paragraph 2, Code 2005,
4 34 is amended to read as follows:

4 35 I do solemnly swear or affirm that I am a resident of the
5 1 precinct, ward ~~or township~~, city of
5 2, county of, Iowa.

5 3 Sec. 8. Section 43.53, Code 2005, is amended to read as
5 4 follows:

5 5 43.53 NOMINEES FOR SUBDIVISION OFFICE == WRITE-IN
5 6 CANDIDATES.

5 7 The nominee of each political party for any office to be
5 8 filled by the voters of any ~~township or other~~ political
5 9 subdivision within the county shall be the person receiving
5 10 the highest number of votes cast in the primary election by
5 11 the voters of that party for the office. That person shall
5 12 appear as the party's candidate for the office on the general
5 13 election ballot. A person whose name is not printed on the
5 14 official primary ballot shall not be declared nominated as a
5 15 candidate for such office in the general election unless that
5 16 person receives at least five votes. Nomination of a
5 17 candidate for the office of county supervisor elected from a
5 18 district within the county shall be governed by section 43.52
5 19 and not by this section.

5 20 Sec. 9. Section 43.67, unnumbered paragraph 1, Code 2005,
5 21 is amended to read as follows:

5 22 Each candidate nominated pursuant to section 43.52 or 43.65
5 23 is entitled to have the candidate's name printed on the
5 24 official ballot to be voted at the general election without
5 25 other certificate unless the candidate was nominated by write=
5 26 in votes. Immediately after the completion of the canvass
5 27 held under section 43.49, the county auditor shall notify each
5 28 person who was nominated by write-in votes for a county ~~or~~
5 29 ~~township~~ office that the person is required to file an
5 30 affidavit of candidacy if the person wishes to be a candidate
5 31 for that office at the general election. Immediately after
5 32 the completion of the canvass held under section 43.63, the
5 33 secretary of state shall notify each person who was nominated
5 34 by write-in votes for a state or federal office that the
5 35 person is required to file an affidavit of candidacy if the
6 1 person wishes to be a candidate for that office at the general
6 2 election. If the affidavit is not filed by five p.m. on the
6 3 seventh day after the completion of the canvass, that person's
6 4 name shall not be placed upon the official general election
6 5 ballot. The affidavit shall be signed by the candidate,
6 6 notarized, and filed with the county auditor or the secretary
6 7 of state, whichever is applicable.

6 8 Sec. 10. Section 48A.11, subsection 8, Code 2005, is

6 9 amended to read as follows:

6 10 8. A voter registration application lacking the
6 11 registrant's name, sex, date of birth, or residence address or
6 12 description shall not be processed. A voter registration
6 13 application lacking the registrant's driver's license number,
6 14 Iowa nonoperator's identification card number, or the last
6 15 four digits of the registrant's social security number shall
6 16 not be processed. A voter registration application that does
6 17 not indicate a "yes" answer to each of the questions in
6 18 subsection 3 shall not be processed. A registrant whose
6 19 registration is not processed pursuant to this subsection
6 20 shall be notified pursuant to section 48A.26, subsection 3. A
6 21 registrant who does not have an Iowa driver's license number,
6 22 an Iowa nonoperator's identification number, or a social
6 23 security number and who notifies the registrar of such shall
6 24 be assigned a unique identifying number that shall serve to
6 25 identify the registrant for voter registration purposes.

6 26 Sec. 11. Section 48A.26, subsections 4 and 5, Code 2005,
6 27 are amended by striking the subsections.

6 28 Sec. 12. Section 48A.37, subsection 2, Code 2005, is
6 29 amended to read as follows:

6 30 2. Electronic records shall include a status code
6 31 designating whether the records are active, inactive, ~~local,~~
6 32 or pending. Inactive records are records of registered voters
6 33 to whom notices have been sent pursuant to section 48A.28,
6 34 subsection 3, and who have not returned the card or otherwise
6 35 responded to the notice, and those records have been

7 1 designated inactive pursuant to section 48A.29. ~~Local records~~
7 2 ~~are records of applicants who did not answer either "yes" or~~
7 3 ~~"no" to the question in section 48A.11, subsection 3,~~

7 4 ~~paragraph "a".~~ Pending records are records of applicants
7 5 whose applications have not been verified pursuant to section
7 6 48A.25A. All other records are active records. An inactive
7 7 record shall be made active when the registered voter votes at
7 8 an election, registers again, or reports a change of name,
7 9 address, telephone number, or political party affiliation. A
7 10 pending record shall be made active upon verification. ~~A~~

7 11 ~~local record shall be valid for any election for which no~~
7 12 ~~candidates for federal office appear on the ballot. A~~

7 13 ~~registrant with only a local record shall not vote in a~~
7 14 ~~federal election unless the registrant submits a new voter~~
7 15 ~~registration application before election day indicating that~~
7 16 ~~the applicant is a citizen of the United States.~~

7 17 Sec. 13. Section 49.10, subsection 4, Code 2005, is
7 18 amended to read as follows:

7 19 4. ~~No~~ ~~A~~ single room or area of any building or facility
7 20 ~~shall may~~ be fixed as the polling place for more than one
7 21 precinct ~~unless there are separate entrances each.~~ The
7 22 location of each polling place shall be clearly marked within
7 23 the room or area on the days on which elections are held as

7 24 the entrance to location of the polling place of a particular
7 25 precinct, and suitable arrangements ~~are~~ shall be made within
7 26 the room or area to prevent direct access from the polling
7 27 place of any precinct to the polling place of any other
7 28 precinct. When the commissioner has fixed such a polling
7 29 place for any precinct it shall remain the polling place at
7 30 all subsequent elections, except elections for which the
7 31 precinct is merged with another precinct as permitted by
7 32 section 49.11, until the boundaries of the precinct are
7 33 changed or the commissioner fixes a new polling place, except
7 34 that the polling place shall be changed to a point within the
7 35 boundaries of the precinct at any time not less than sixty
8 1 days before the next succeeding election that a building or
8 2 facility suitable for such use becomes available within the
8 3 precinct.

8 4 Sec. 14. Section 49.26, subsection 2, Code 2005, is
8 5 amended to read as follows:

8 6 2. When voting machines are available for an election
8 7 precinct, the commissioner shall determine in advance of each
8 8 regular city election, or special city election, conducted for
8 9 a city of three thousand five hundred or less population or
8 10 any regular school election, or school district special
8 11 election, conducted for a school district in which voting

8 12 occurs in that precinct whether voting there shall be by
8 13 machine or paper ballot. ~~If the commissioner concludes, on~~
8 14 ~~the basis of voter turnout for recent similar elections and~~
8 15 ~~factors considered likely to affect voter turnout for the~~
8 16 ~~forthcoming election, that voting will probably be so light as~~
8 17 ~~to make preparation and use of paper ballots less expensive~~
8 18 ~~than preparation and use of a voting machine, paper ballots~~
8 19 ~~shall be used.~~

8 20 Sec. 15. Section 49.30, subsection 1, Code 2005, is
8 21 amended to read as follows:

8 22 1. Where special paper ballots are used, if it is not
8 23 possible to include all offices and public measures on a
8 24 single ballot, separate ballots may be provided for ~~township~~
~~8 25 offices~~, nonpartisan offices, judges, or public measures.

8 26 Sec. 16. Section 49.30, subsection 2, paragraph a, Code
8 27 2005, is amended to read as follows:

8 28 a. If it is impossible to place the names of all
8 29 candidates on the machine ballot, the commissioner may provide
8 30 a separate paper ballot for the candidates for judge of the
8 31 district court, ~~the township offices~~, and the nonpartisan
8 32 offices listed in section 39.21. One of the paper ballots
8 33 shall be furnished to each registered voter.

8 34 Sec. 17. Section 49.31, subsection 2, unnumbered paragraph
8 35 2, Code 2005, is amended to read as follows:

9 1 On the general election ballot the names of candidates for
9 2 the nonpartisan offices listed in section 39.21 shall be
9 3 arranged ~~by drawing lots for position in alphabetical order by~~
~~9 4 surname under the heading of the office to be filled. The~~
~~9 5 board of supervisors shall hold the drawing at its first~~
~~9 6 meeting following the deadline for receipt of objections and~~
~~9 7 withdrawals by candidates for the general election.~~

9 8 Sec. 18. Section 49.37, subsection 3, Code 2005, is
9 9 amended to read as follows:

9 10 3. The commissioner shall arrange the partisan county
9 11 offices on the ballot with the board of supervisors first,
9 12 followed by the other county offices ~~and township offices~~ in
9 13 the same sequence in which they appear in ~~sections~~ section
9 14 ~~39.17 and 39.22~~. Nonpartisan offices shall be listed after
9 15 partisan offices.

9 16 Sec. 19. Section 49.57, subsection 5, Code 2005, is
9 17 amended to read as follows:

9 18 5. A portion of the ballot, which can be shown to the
9 19 precinct officials without revealing any of the marks made by
9 20 the voter, shall include the words "Official ballot", ~~a~~
~~9 21 designation of the ballot rotation, if any the unique~~
~~9 22 identification number or name assigned by the commissioner to~~
~~9 23 the ballot style~~, the date of the election, and a facsimile of
9 24 the signature of the commissioner who has caused the ballot to
9 25 be printed pursuant to section 49.51.

9 26 Sec. 20. Section 49.73, subsection 1, paragraph e, Code
9 27 2005, is amended to read as follows:

9 28 e. ~~The Any election for the~~ unincorporated area of ~~any a~~
9 29 county ~~voting on a local option sales and services tax~~
~~9 30 pursuant to section 423B.1.~~

9 31 Sec. 21. Section 49.77, subsections 1 and 2, Code 2005,
9 32 are amended to read as follows:

9 33 1. The board members of their respective precincts shall
9 34 have charge of the ballots and furnish them to the voters.
9 35 Any person desiring to vote shall sign a voter's declaration
10 1 provided by the officials, in substantially the following
10 2 form:

10 3 VOTER'S DECLARATION OF ELIGIBILITY

10 4 I do solemnly swear or affirm that I am a resident of the
10 5 precinct, ward or township, city of, county
10 6 of, Iowa.

10 7 I am a registered voter. I have not voted and will not
10 8 vote in any other precinct in said election.

10 9 I understand that any false statement in this declaration
10 10 is a criminal offense punishable as provided by law.

10 11
10 12 Signature of Voter
10 13
10 14 Address
10 15
10 16 Telephone

10 17 Approved:

10 18

10 19 Board Member

10 20 At the discretion of the commissioner, this declaration may
10 21 be printed on each page of the election register and the voter
10 22 shall sign the election register next to the voter's printed
10 23 name. The voter's signature in the election register shall be
10 24 considered the voter's signed declaration of eligibility
10 25 affidavit. The state commissioner of elections shall
10 26 prescribe by rule an alternate method for providing the
10 27 information in subsection 2 for those counties where the
10 28 declaration of eligibility is printed in the election
10 29 register.

10 30 2. ~~One of the precinct election officials shall announce~~

~~10 31 the voter's name aloud for the benefit of any Any persons
10 32 present pursuant to section 49.104, subsection 2, 3, or 5-
10 33 Any of those persons, may upon request view the signed
10 34 declarations of eligibility and may review the signed
10 35 declarations on file or, in the alternative, the listing of
11 1 those voters who have signed declarations of eligibility, so
11 2 long as the person does not interfere with the functions of
11 3 the precinct election officials.~~

11 4 Sec. 22. Section 50.20, Code 2005, is amended to read as
11 5 follows:

11 6 50.20 NOTICE OF NUMBER OF PROVISIONAL BALLOTS.
11 7 The commissioner shall compile a list of the number of
11 8 provisional ballots cast under section 49.81 in each precinct.
11 9 The list shall be made available to the public as soon as
11 10 possible, but in no case later than nine o'clock a.m. on the
11 11 second day following the election. Any elector may examine
11 12 the list during normal office hours, and may also examine the
11 13 ~~affidavit affidavits on the return carrier~~ envelopes bearing
11 14 the ballots of challenged electors until the reconvening of
11 15 the special precinct board as required by this chapter. Only
11 16 those persons so permitted by section 53.23, subsection 4,
11 17 shall have access to the affidavits while that board is in
11 18 session. Any elector may present written statements or
11 19 documents, supporting or opposing the counting of any special
11 20 ballot, at the commissioner's office until the reconvening of
11 21 the special precinct board.

11 22 Sec. 23. Section 50.25, subsection 7, Code 2005, is
11 23 amended by striking the subsection.

11 24 Sec. 24. Section 50.25, Code 2005, is amended by adding
11 25 the following new unnumbered paragraph:

11 26 NEW UNNUMBERED PARAGRAPH. The abstract of the votes for
11 27 each county office is not required to be made on a different
11 28 sheet.

11 29 Sec. 25. Section 52.36, unnumbered paragraph 1, Code 2005,
11 30 is amended to read as follows:

11 31 All proceedings at the counting center shall be under the
11 32 direction of the commissioner and open to the public. The
11 33 proceedings shall be under the observation of at least one
11 34 member of each of the political parties referred to in section
11 35 49.13, ~~designated by the county chairperson or, if the~~

~~12 1 chairperson fails to make a designation, appointed by the
12 2 commissioner. No person except those employed and authorized
12 3 by the commissioner for the purpose shall touch any ballot or
12 4 ballot container.~~

12 5 Sec. 26. Section 53.2, subsections 1 and 4, Code 2005, are
12 6 amended to read as follows:

12 7 1. Any registered voter, under the circumstances specified
12 8 in section 53.1, may on any day, except election day, and not
12 9 more than seventy days prior to the date of the election,
12 10 apply in person for an absentee ballot at the commissioner's
12 11 office or at any location designated by the commissioner.

~~12 12 However, for those elections in which the commissioner directs
12 13 the polls be opened at noon pursuant to section 49.73, a voter
12 14 may apply in person for an absentee ballot at the
12 15 commissioner's office from eight a.m. until eleven a.m. on
12 16 election day.~~

~~12 17 PARAGRAPH DIVIDED. A registered voter may make written
12 18 application to the commissioner for an absentee ballot. A
12 19 written application for an absentee ballot must be received by
12 20 the commissioner no later than five p.m. on the Friday before
12 21 the election. A written application for an absentee ballot
12 22 delivered to the commissioner and received by the commissioner
12 23 more than seventy days prior to the date of the election shall
12 24 be retained by the commissioner and processed in the same
12 25 manner as a written application received not more than seventy
12 26 days before the date of the election. However, in a general
12 27 election year, if an application for an absentee ballot for
12 28 the general election is received on or before primary election
12 29 day, the commissioner shall return the application to the
12 30 voter and shall enclose a notice stating that the application
12 31 may not be submitted until after the primary election.~~

~~12 32 4. Each application shall contain the name and signature
12 33 of the registered voter, the registered voter's date of birth,
12 34 the address at which the voter is registered to vote, and the
12 35 name or date of the election for which the absentee ballot is
13 1 requested, and such other information as may be necessary to
13 2 determine the correct absentee ballot for the registered
13 3 voter. If insufficient information has been provided, the
13 4 commissioner shall, by the best means available, obtain the
13 5 additional necessary information.~~

13 6 Sec. 27. Section 53.8, subsections 1 and 2, Code 2005, are

13 7 amended to read as follows:

13 8 1. Upon receipt of an application for an absentee ballot
13 9 and immediately after the absentee ballots are printed, the
13 10 commissioner shall mail an absentee ballot to the applicant
13 11 within twenty-four hours, except as otherwise provided in
13 12 subsection 3. The absentee ballot shall be enclosed in with
13 13 an unsealed return carrier envelope bearing a serial number
13 14 and voter's affidavit of eligibility. ~~The absentee ballot and~~
~~13 15 unsealed envelope shall be enclosed in or with a carrier~~
~~13 16 envelope marked postage paid which bears the same serial~~
~~13 17 number as the unsealed envelope. The absentee ballot,~~
~~13 18 unsealed envelope, and carrier envelope shall be enclosed in a~~
~~13 19 third envelope to be sent to the registered voter. The~~
~~13 20 envelope shall be marked postage paid.~~ If the ballot cannot
13 21 be folded so that all of the votes cast on the ballot will be
13 22 hidden, the commissioner shall also enclose a secrecy envelope
13 23 with the absentee ballot.

13 24 2. If an application is received so late that it is
13 25 unlikely that the absentee ballot can be returned in time to
13 26 be counted on election day, the commissioner shall enclose
13 27 with the absentee ballot a statement to that effect. The
13 28 statement shall also point out that it is possible for the
13 29 applicant, an immediate family member of the applicant, or the
13 30 applicant's designee if the absentee ballot is voted by a
13 31 voter described in section 53.22, subsection 5, to personally
13 32 deliver the completed absentee ballot to the office of the
13 33 commissioner at any time before the closing of the polls on
13 34 election day. The statement shall also point out that it is
13 35 possible for an absentee ballot courier to personally deliver
14 1 the completed absentee ballot to the office of the
14 2 commissioner within seventy-two hours of retrieving the
14 3 completed ballot or before the closing of the polls on
14 4 election day, whichever is earlier.

14 5 Sec. 28. Section 53.8, subsection 3, unnumbered paragraph
14 6 3, Code 2005, is amended to read as follows:

14 7 Nothing in this subsection nor in section 53.22 shall be
14 8 construed to prohibit a registered voter who is a hospital
14 9 patient or resident of a health care facility, or who
14 10 anticipates entering a hospital or health care facility before
14 11 the date of a forthcoming election, from casting an absentee
14 12 ballot in the manner prescribed by section 53.10 or 53.11.

14 13 Sec. 29. Section 53.12, Code 2005, is amended to read as
14 14 follows:

14 15 53.12 DUTY OF COMMISSIONER.

14 16 The commissioner shall enclose the absentee ballot in an
14 17 unsealed return carrier envelope, to be furnished by the
14 18 commissioner, which envelope shall bear upon its face the
14 19 words "county commissioner of elections", the address of the
14 20 commissioner's office, and the same serial number appearing on
14 21 the unsealed envelope shall be affixed to the application.

14 22 Sec. 30. Section 53.13, Code 2005, is amended to read as
14 23 follows:

14 24 53.13 ~~VOTER'S FORM OF RETURN CARRIER ENVELOPE AND~~
14 25 ~~AFFIDAVIT ON ENVELOPE.~~

14 26 1. On the unsealed return carrier envelope shall be
14 27 printed an affidavit form prescribed by the state commissioner
14 28 of elections.

14 29 2. The return carrier envelope shall be in the form
14 30 prescribed by the state commissioner of elections. The form
14 31 prescribed by the state commissioner of elections shall
14 32 include a method whereby the affidavit can be revealed to the
14 33 county commissioner of elections upon receipt of the completed
14 34 absentee ballot, pursuant to section 53.18, while allowing the
14 35 envelope to remain sealed.

15 1 Sec. 31. Section 53.16, Code 2005, is amended to read as
15 2 follows:

15 3 53.16 SUBSCRIBING TO AFFIDAVIT.

15 4 After marking the ballot, the voter shall make and
15 5 subscribe to the affidavit on the reverse side of the return
15 6 carrier envelope, and fold the ballot or ballots, separately,
15 7 so as to conceal the markings on them, and deposit them in the
15 8 envelope, and securely seal the envelope.

15 9 Sec. 32. Section 53.17, subsections 1 and 2, Code 2005,
15 10 are amended to read as follows:

15 11 1. ~~The sealed envelope containing the absentee ballot~~
15 12 shall be enclosed in a return carrier envelope which shall be
15 13 securely sealed. The sealed return carrier envelope shall be
15 14 returned to the commissioner by one of the following methods:

15 15 a. ~~The sealed return carrier envelope may be delivered by~~
15 16 the registered voter, by an immediate family member of the
15 17 voter, by the special precinct election officials designated

15 18 pursuant to section 53.22, subsection 1, or by the voter's
15 19 designee if the absentee ballot is voted by a voter described
15 20 in section 53.22, subsection 5, to the commissioner's office
15 21 no later than the time the polls are closed on election day.
15 22 b. The ~~sealed return~~ carrier envelope may be mailed to the
15 23 commissioner by the registered voter, by an immediate family
15 24 member of the voter, or by the voter's designee if the ballot
15 25 is voted by a voter described in section 53.22, subsection 5.
15 26 c. The ~~sealed return~~ carrier envelope may be delivered to
15 27 the commissioner by an absentee ballot courier, but only as
15 28 provided in subsection 4.
15 29 2. In order for the ballot to be counted, the return
15 30 carrier envelope must be received in the commissioner's office
15 31 before the polls close on election day or be clearly
15 32 postmarked by an officially authorized postal service not
15 33 later than the day before the election and received by the
15 34 commissioner not later than noon on the Monday following the
15 35 election.

16 1 Sec. 33. Section 53.18, Code 2005, is amended to read as
16 2 follows:

16 3 53.18 MANNER OF PRESERVING BALLOT AND APPLICATION.

16 4 1. Upon receipt of the return carrier envelope containing
16 5 the completed absentee ballot, the commissioner shall at once
16 6 record the serial number appearing on the application and
16 7 return carrier envelope and time of receipt of such ballot and
16 8 attach the elector's application to the unopened return
16 9 carrier envelope. Absentee ballots shall be stored in a
16 10 secure place until they are delivered to the absentee and
16 11 special voters precinct board.

16 12 2. Upon receipt of the return carrier envelope containing
16 13 the completed absentee ballot, the commissioner shall reveal
16 14 the affidavit on the envelope and shall review the affidavit
16 15 for any deficiencies. If the affidavit contains a deficiency
16 16 which would cause the ballot to be rejected, the commissioner
16 17 shall immediately notify the voter of that fact and that the
16 18 voter may correct the deficiency at the commissioner's office
16 19 in the presence of the commissioner or the commissioner's
16 20 designee in the time permitted under section 53.2, subsection
16 21 1.

16 22 3. If the return carrier envelope is open when received by
16 23 the commissioner, or has been opened and resealed, the
16 24 commissioner shall immediately notify the voter of that fact
16 25 and that the voter's absentee ballot shall not be counted
16 26 unless the voter applies for a replacement ballot in person at
16 27 the commissioner's office in the time permitted under section
16 28 53.2, subsection 1. The replacement ballot application shall
16 29 be the same as is required for an application under section
16 30 53.2. If the information on the replacement ballot
16 31 application matches the information on the original
16 32 application, the voter shall be allowed to complete a
16 33 replacement absentee ballot in person at the commissioner's
16 34 office. The same serial number that was assigned to the
16 35 records of the original absentee ballot application shall be
17 1 used on the envelope and records of the replacement ballot.
17 2 The sealed return carrier envelope containing the completed
17 3 replacement ballot shall be marked "Replacement ballot". The
17 4 return carrier envelope containing the original ballot shall
17 5 be marked "Defective ballot" and the replacement ballot and
17 6 replacement application shall be attached to the original
17 7 application and return carrier envelope containing the
17 8 original ballot and shall be stored in a secure place until
17 9 they are delivered to the absentee and special voters precinct
17 10 board, notwithstanding sections 53.26 and 53.27.

17 11 Sec. 34. Section 53.19, unnumbered paragraph 1, Code 2005,
17 12 is amended to read as follows:

17 13 The commissioner shall maintain a list of the absentee
17 14 ballots provided to registered voters, the serial number
17 15 appearing on the unsealed return carrier envelope, the date
17 16 the application for the absentee ballot was received, and the
17 17 date the absentee ballot was sent to the registered voter
17 18 requesting the absentee ballot.

17 19 Sec. 35. Section 53.21, unnumbered paragraph 4, Code 2005,
17 20 is amended to read as follows:

17 21 The voter shall enclose one copy of the above statement in
17 22 the return carrier envelope ~~with the ballot envelope~~ and
17 23 retain a copy for the voter's records.

17 24 Sec. 36. Section 53.22, subsection 5, unnumbered paragraph
17 25 2, Code 2005, is amended to read as follows:

17 26 Absentee ballots voted under this subsection shall be
17 27 delivered to the commissioner no later than the time the polls
17 28 are closed on election day. If the ballot is returned by mail

17 29 the return carrier envelope must be received by the time the
17 30 polls close, or clearly postmarked by an officially authorized
17 31 postal service not later than the day before the election and
17 32 received by the commissioner no later than the time
17 33 established for the canvass by the board of supervisors for
17 34 that election.

17 35 Sec. 37. Section 53.23, subsections 3 and 5, Code 2005,
18 1 are amended to read as follows:

18 2 3. The commissioner shall set the convening time for the
18 3 board, allowing a reasonable amount of time to complete
18 4 counting all absentee ballots by ten p.m. on election day.
18 5 The commissioner may direct the board to meet on the day
18 6 before the election solely for the purpose of reviewing the
18 7 absentee voters' affidavits appearing on the sealed ~~ballot~~
18 8 return carrier envelopes. If in the commissioner's judgment
18 9 this procedure is necessary due to the number of absentee
18 10 ballots received, the members of the board may open the sealed
18 11 ~~ballot return carrier~~ envelopes and remove the secrecy
18 12 envelope containing the ballot, but under no circumstances
18 13 shall a secrecy envelope be opened before the board convenes
18 14 on election day. If the ~~ballot return carrier~~ envelopes are
18 15 opened before election day, two observers, one appointed by
18 16 each of the two political parties referred to in section
18 17 49.13, subsection 2, shall witness the proceedings.

18 18 If the board finds any ballot not enclosed in a secrecy
18 19 envelope and the ballot is folded in such a way that any of
18 20 the votes cast on the ballot are visible, the two special

18 21 precinct election officials, one from each of the two
18 22 political parties referred to in section 49.13, subsection 2,
18 23 shall place the ballot in a secrecy envelope. No one shall
18 24 examine the ballot. Each of the special precinct election
18 25 officials shall sign the secrecy envelope.

18 26 5. The special precinct election board shall preserve the
18 27 secrecy of all absentee and special ballots. After the
18 28 affidavits on the envelopes have been reviewed and the
18 29 qualifications of the persons casting the ballots have been
18 30 determined, those that have been accepted for counting shall
18 31 be opened. The ballots shall be removed from the ~~affidavit~~
18 32 return carrier envelopes without being unfolded or examined,
18 33 and then shall be thoroughly intermingled, after which they
18 34 shall be unfolded and tabulated. If secrecy folders or
18 35 envelopes are used with special paper ballots, the ballots
19 1 shall be removed from the secrecy folders after the ballots
19 2 have been intermingled.

19 3 Sec. 38. Section 53.25, Code 2005, is amended to read as
19 4 follows:

19 5 53.25 REJECTING BALLOT.

19 6 In case the absentee voter's affidavit is found to be
19 7 insufficient, or that the applicant is not a duly registered
19 8 voter in such precinct, ~~or that the ballot envelope is open,~~
19 9 ~~or has been opened and resealed,~~ or that the ~~ballot return~~
19 10 ~~carrier envelope, or secrecy envelope if applicable, contains~~
19 11 ~~more than one ballot of any one kind, or that said the voter~~
19 12 ~~has voted in person, such vote shall not be accepted or~~
19 13 ~~counted. If the return carrier envelope is open, or has been~~
19 14 ~~opened and resealed, and a sealed return carrier envelope with~~
19 15 ~~the same serial number and marked "Replacement ballot" is not~~
19 16 ~~attached, the vote shall not be accepted or counted.~~

19 17 If the absentee ballot is rejected prior to the opening of
19 18 the ~~ballot return carrier~~ envelope, the voter casting the
19 19 ballot shall be notified by a precinct election official by
19 20 the time the canvass is completed of the reason for the
19 21 rejection on a form prescribed by the state commissioner of
19 22 elections.

19 23 Sec. 39. Section 53.27, Code 2005, is amended to read as
19 24 follows:

19 25 53.27 REJECTION OF BALLOT == RETURN OF ENVELOPE.

19 26 If the ballot is rejected, ~~said ballot~~ the return carrier
19 27 envelope, with the affidavit of the voter endorsed thereon,
19 28 shall be returned with ~~said the~~ rejected ballot in the
19 29 envelope endorsed "Defective ballots".

19 30 Sec. 40. Section 53.30, Code 2005, is amended to read as
19 31 follows:

19 32 53.30 BALLOTS, BALLOT ENVELOPES, AND OTHER INFORMATION
19 33 PRESERVED.

19 34 At the conclusion of each meeting of the absentee and
19 35 special voter's precinct board, the board shall securely seal
20 1 all ballots counted by them in the manner prescribed in
20 2 section 50.12. The ~~ballot envelopes, including the return~~
20 3 ~~carrier envelope~~ having the registered voter's affidavit on
20 4 it, ~~the return carrier envelope,~~ and any secrecy envelope

20 5 bearing the signatures of precinct election officials, as
20 6 required by section 53.23, shall be preserved. All
20 7 applications for absentee ballots, ballots rejected without
20 8 being opened, absentee ballot logs, and any other documents
20 9 pertaining to the absentee ballot process shall be preserved
20 10 until such time as the documents may be destroyed pursuant to
20 11 section 50.19.

20 12 Sec. 41. Section 53.31, unnumbered paragraph 1, Code 2005,
20 13 is amended to read as follows:

20 14 Any person qualified to vote at the election in progress
20 15 may challenge the qualifications of a person casting an
20 16 absentee ballot by submitting a written challenge to the
20 17 commissioner no later than five p.m. on the ~~day~~ Friday before
20 18 the election. It is the duty of the special precinct
20 19 officials to challenge the absentee ballot of any person whom
20 20 the official knows or suspects is not duly qualified.
20 21 Challenges by members of the special precinct election board
20 22 or observers present pursuant to section 53.23 may be made at
20 23 any time before the close of the polls on election day. The
20 24 challenge shall state the reasons for which the challenge is
20 25 being submitted and shall be signed by the challenger. When a
20 26 challenge is received the absentee ballot shall be set aside
20 27 for consideration by the special precinct election board when
20 28 it meets as required by section 50.22.

20 29 Sec. 42. Section 53.32, Code 2005, is amended to read as
20 30 follows:

20 31 53.32 BALLOT OF DECEASED VOTER.

20 32 When it shall be made to appear by due proof to the
20 33 precinct election officials that any elector, who has so
20 34 marked and forwarded a ballot, has died before the ~~ballot~~
20 35 return carrier envelope is opened, then the ballot of such
21 1 deceased voter shall be endorsed, "Rejected because voter is
21 2 dead", and be returned to the commissioner; but the casting of
21 3 the ballot of a deceased voter shall not invalidate the
21 4 election.

21 5 Sec. 43. Section 376.11, unnumbered paragraphs 1 and 2,
21 6 Code 2005, are amended to read as follows:

21 7 Write-in votes are permitted to be cast in all elections
21 8 for city offices. A person who receives a sufficient number
21 9 of write-in votes to be elected to a city office shall be
21 10 declared the winner of the election. If a person who was
21 11 elected by write-in votes chooses not to serve in that office
21 12 the person shall submit a resignation in writing to the city
21 13 clerk not later than five ~~o'clock~~ p.m. on the tenth day
21 14 following the canvass of the election. If a person who was
21 15 elected by write-in votes resigns at a later time, the office
21 16 shall be considered vacant at the end of the term and the
21 17 council shall fill the vacancy pursuant to the provisions of
21 18 section 372.13, subsection 2.

21 19 Except in cities where the council has chosen a runoff
21 20 election in lieu of a primary, following the resignation of a
21 21 person who was elected by write-in votes, the city clerk shall
21 22 notify the person who received the next highest number of
21 23 votes cast for the office that the person may assume the
21 24 office. If the person accepts the position, the person shall
21 25 be considered the duly elected officer unless, within ten days
21 26 after the clerk has given notice, a petition requesting a
21 27 special election is filed by eligible electors of the city
21 28 equal in number to twenty-five percent of the number of
21 29 persons who voted for the office at the election. If the
21 30 person declines, the person shall do so in writing to the city
21 31 clerk within ten days and the office shall be considered
21 32 vacant at the end of the term. The vacancy shall be filled
21 33 pursuant to the provisions of section 372.13, subsection 2.
21 34 If the council chooses to appoint, the appointment may be made
21 35 before the end of the current term.

22 1 Sec. 44. Sections 43.21 and 53.35, Code 2005, are
22 2 repealed.

22 3 Sec. 45. APPLICABILITY DATE. This Act applies to
22 4 elections held on or after January 1, 2006.

22 5 EXPLANATION

22 6 This bill amends Code provisions relating to elections and
22 7 voter registration.

22 8 The bill amends Code sections 39.21 and 39.22 to change the
22 9 offices of township trustee and township clerk to nonpartisan
22 10 elected offices. Code section 43.21 is repealed to conform to
22 11 this change and additional conforming amendments are made to
22 12 Code sections 43.26, 43.43, 43.53, 43.67, 49.30, and 49.37.

22 13 Code section 48A.11 is amended to provide that the voter
22 14 registration application of a person who does not answer "yes"
22 15 to questions pertaining to age and United States citizenship

22 16 shall not be processed. Code sections 48A.26 and 48A.37 are
22 17 amended to remove the status of "local" registration for those
22 18 persons who registered by mail and neglected to answer or
22 19 answered "no" to the question pertaining to United States
22 20 citizenship. Current law would have allowed such a person to
22 21 be registered to vote in elections that have no federal office
22 22 on the ballot.

22 23 Code section 49.10 is amended to remove the requirement
22 24 that a room or area containing a polling place for more than
22 25 one precinct maintain separate entrances.

22 26 Code section 49.26 is amended to remove the factors that a
22 27 county commissioner of elections is to consider when
22 28 determining whether, in an election for a city of 3,500 or
22 29 less population or in a school district election, voting shall
22 30 be by voting machine or paper ballot.

22 31 Code section 49.31 is amended to provide that on general
22 32 election ballots the names of candidates for nonpartisan
22 33 office shall be arranged in alphabetical order by surname.
22 34 Currently, the arrangement of such names is determined by lot
22 35 drawn by the board of supervisors.

23 1 Code section 49.57 is amended to provide that a ballot
23 2 shall be printed to contain the unique identification number
23 3 or name assigned by the commissioner to the ballot style
23 4 rather than a designation of the ballot rotation.

23 5 Code section 49.73 is amended to provide that the polls may
23 6 open at noon, rather than 7 a.m., for any election conducted
23 7 for the unincorporated area of a county. Currently, the polls
23 8 may open at noon for an election in the unincorporated area of
23 9 the county only if it is an election on a local option sales
23 10 and services tax.

23 11 Code section 49.77 is amended to allow a county
23 12 commissioner of elections to print the affidavit of
23 13 eligibility on each page of the election register and the
23 14 signature of the voter in the register next to the voter's
23 15 printed name serves as that voter's declaration of
23 16 eligibility.

23 17 Code section 49.77 is also amended to remove the
23 18 requirement that the precinct election official call aloud the
23 19 name of each voter who has arrived at the polls to vote. The
23 20 section is also amended to require the state commissioner of
23 21 elections to adopt rules providing an alternative method for
23 22 observers allowed at the polling place to know the
23 23 identification of the voter who has arrived at the polls to
23 24 vote.

23 25 Code section 50.25 is amended to provide that the abstract
23 26 of votes in the general election may be made on one sheet for
23 27 county offices, rather than a separate sheet for each county
23 28 officer.

23 29 Code section 52.36 is amended to provide that observers
23 30 from each of the political parties present when ballots are
23 31 counted shall be appointed by the county commissioner of
23 32 elections. Currently, the observers from each party are to be
23 33 designated by the county chairperson of the party and if that
23 34 person does not designate someone to observe, the county
23 35 commissioner must make the designation.

24 1 Code section 53.2 is amended to allow a voter to apply in
24 2 person at the commissioner's office for an absentee ballot
24 3 from 8 a.m. until 11 a.m. on the day of the election if it is
24 4 an election at which the commissioner has directed that the
24 5 polls shall open at noon. The county commissioner of
24 6 elections may, by law, direct that the polls be opened at noon
24 7 for any school district election, city elections in cities of
24 8 3,500 or less population, for cities above 3,500 population if
24 9 there is no contested election or public measure on the
24 10 ballot, any benefited district, and elections on local option
24 11 sales and services tax in the unincorporated area of the
24 12 county.

24 13 Code section 53.2 is further amended to provide that, in a
24 14 general election year, any application for a general election
24 15 absentee ballot which is received by the commissioner on or
24 16 before the date of the primary election shall be returned to
24 17 the applicant with a notice stating that the application may
24 18 not be submitted until after the primary election.

24 19 Code section 53.2 is also amended to provide that an
24 20 application for an absentee ballot require the date of birth
24 21 of the registered voter who is applying for the absentee
24 22 ballot.

24 23 Code section 53.8 is amended to delete the requirement that
24 24 a separate affidavit envelope be provided to an absentee voter
24 25 and requires that the return carrier envelope have printed on
24 26 it the voter's affidavit of eligibility and a serial number.

24 27 The bill makes corresponding amendments in other sections of
24 28 Code chapter 53 and to Code section 50.20.

24 29 Code section 53.8 is also amended to clarify that voters
24 30 who expect to be patients or residents of health care
24 31 facilities or hospitals on election day are not prohibited
24 32 from voting absentee in person at the commissioner's office.

24 33 Code section 53.13 is amended to provide that the return
24 34 carrier envelope shall be in the form prescribed by the state
24 35 commissioner of elections. The form prescribed by the state
25 1 commissioner shall include a method whereby the affidavit can
25 2 be revealed to the county commissioner of elections while
25 3 allowing the envelope to remain sealed.

25 4 Code section 53.17 is amended to allow an immediate family
25 5 member of an absentee voter to deliver the voted ballot to the
25 6 commissioner's office. Corresponding amendments are made to
25 7 Code sections 39A.4 and 53.8.

25 8 Code section 53.18 is amended to require the county
25 9 commissioner of elections to review the affidavit on a return
25 10 carrier envelope received by the commissioner. If there is a
25 11 deficiency in the affidavit, the commissioner is to
25 12 immediately contact the voter and inform the voter of the
25 13 deficiency and that the deficiency may be corrected by the
25 14 voter in person at the commissioner's office in the time
25 15 allowed by statute for voting in person at the commissioner's
25 16 office.

25 17 Code section 53.18 is also amended to require the county
25 18 commissioner of elections to notify an absentee voter if the
25 19 voter's completed absentee ballot is returned in a return
25 20 carrier envelope that is unsealed or that has been opened and
25 21 resealed. The commissioner shall allow the voter to complete
25 22 another application and a replacement ballot in person at the
25 23 commissioner's office in the time allowed by statute for
25 24 voting in person at the commissioner's office. A
25 25 corresponding amendment is made to Code section 53.25.

25 26 Code section 53.31 is amended to change the deadline for
25 27 filing a challenge to an absentee voter from 5 p.m. on the day
25 28 before the election to 5 p.m. on the Friday before the
25 29 election.

25 30 Code section 376.11, relating to write-in votes for city
25 31 offices, is amended to provide that if a person elected by
25 32 write-in votes at a regular city election chooses not to
25 33 serve, the person shall submit the person's resignation to the
25 34 city clerk by 5 p.m. on the tenth day following the canvass of
25 35 that election. Currently, the resignation is required by 5
26 1 p.m. on the day following the canvass of the election.

26 2 Code section 376.11 is also amended to establish a deadline
26 3 for filing a petition to request a special election if a
26 4 write-in candidate who wins a city election declines the
26 5 office, and the candidate receiving the next highest number of
26 6 votes is declared the winner. The deadline established for
26 7 filing the petition is within 10 days after the clerk has
26 8 notified the candidate next declared the winner.

26 9 Code section 53.35, which makes it unlawful for a person to
26 10 fail to return an absentee ballot, is repealed. A
26 11 corresponding amendment is made to Code section 39A.5.

26 12 The bill applies to elections held on or after January 1,
26 13 2006.

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26 15 sc:nh/cf/24