

**CHAPTER 1119****ELECTIONS AND ELECTION PROCEDURES***S.F. 2232*

**AN ACT** relating to elections and election procedures and providing an effective date.

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

Section 1. Section 39.22, subsection 1, Code Supplement 1987, is amended to read as follows:

1. BY APPOINTMENT. The county board of supervisors may pass a resolution in favor of filling the offices of trustee and clerk within a township by appointment by the board, and may direct the county commissioner of elections to submit the question to the eligible voters qualified electors of the township at the next general election. In a township which does not include a city, eligible voters shall consist of the voters of the entire township are eligible to vote on the question. In a township which includes a city, eligible voters are only those voters who reside outside the corporate limits of a city are eligible to vote on the question. The resolution shall apply to all townships which have not approved a proposition to fill township offices by appointment. If the proposition to fill the township offices by appointment is approved by a majority of the eligible voters those voting on the question, the board shall fill the offices by appointment as the terms of office of the incumbent township officers expire. The election of the trustees and clerk of a township may be restored after approval of the appointment process under this subsection by a resolution of the board of supervisors submitting the question to the eligible voters qualified electors who are eligible to vote for township officers of the township at the next general election. If the proposition to restore the election process is approved by a majority of the eligible voters those voting on the question, the election of the township officers shall commence with the next primary and general elections. A resolution submitting the question of restoring the election of township officers at the next general election shall be adopted by the board of supervisors upon petition of at least ten percent of the eligible voters qualified electors of a township. The initial terms of the trustees shall be determined by lot, one for two years, one for three years, and one two for four years. However, if a proposition to change the method of selecting township officers is adopted by the electorate, a resolution to change the method shall not be submitted to the electorate for four years.

Sec. 2. Section 43.11, subsection 1, Code 1987, is amended to read as follows:

1. For an elective county office, in the office of the county commissioner not earlier than seventy-eight days nor later than five o'clock p.m. on the fifty-fifth day prior to the day fixed for holding the primary election.

Sec. 3. Section 43.20, subsection 1, Code 1987, is amended to read as follows:

1. If for a state office governor, or United States senator, by at least one percent of the voters of the candidate's party, in each of at least ten counties of the state, and in the aggregate not less than one-half of one percent of the total vote of the candidate's party in the state, as shown by the last general election.

Sec. 4. Section 43.20, Code 1987, is amended by adding the following new subsection 2 and renumbering the subsequent subsections:

NEW SUBSECTION. 2. If for any other state office, by at least fifty signatures in each of at least ten counties of the state, and in the aggregate not less than one thousand signatures.

Sec. 5. Section 43.26, Code Supplement 1987, is amended to read as follows:

43.26 BALLOT — FORM.

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

PRIMARY ELECTION BALLOT

(Name of Party)

of

County of . . . . . , State of Iowa, . . . . . Rotation (if any).

Primary election held on the . . . . . day of June, 19. . .

FOR UNITED STATES SENATOR

(Vote for no more than one.)

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_

FOR UNITED STATES

REPRESENTATIVE

(Vote for no more than one.)

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_

FOR GOVERNOR

(Vote for no more than one.)

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_

(Followed by other elective state officers in the order in which they appear in section 39.9 and district officers in the order in which they appear in sections 39.15 and 39.16.)

FOR COUNTY AUDITOR

(Vote for no more than one.)

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_

(Followed by other elective county officers in the order in which they appear in sections 39.17 and 39.18.)

FOR TOWNSHIP CLERK

(Vote for no more than one.)

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_

FOR TOWNSHIP TRUSTEES

(Vote for no more than two.)

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_ CANDIDATE'S NAME

\_\_\_\_\_

Sec. 6. NEW SECTION. 43.37 NUMBER OF VOTES PERMITTED PER OFFICE.

The elector shall be permitted to vote for no more candidates for any office than there are persons to be elected to the office. If an elector votes for more persons for any office than the number permitted, the elector's ballot shall not be counted for that office.

Sec. 7. Section 43.115, unnumbered paragraph 1, Code 1987, is amended to read as follows:

All candidates for nominations to be made in primary elections held pursuant to section 43.112 shall file nomination papers with the city clerk not less than ~~thirty~~ forty days prior to the date of the election as established by section 43.114, except that candidates for precinct committee

member shall file affidavits of candidacy as required by section 420.130. The number of eligible electors signing petitions required for printing the name of a candidate upon the official primary ballot shall be one hundred for an office to be filled by the voters of the entire city and twenty-five for an office to be filled by the voters of a subdivision of the city.

Sec. 8. Section 44.4, unnumbered paragraphs 1 and 2, Code Supplement 1987, are amended to read as follows:

Nominations made under the provisions of this chapter and chapter 45 which are required to be filed in the office of the state commissioner shall be filed in that office not more than eighty-five days nor later than five o'clock p.m. on the sixty-seventh day prior to the date of the general election to be held in November; and those nominations made for a special election called pursuant to section 69.14 shall be filed not less than twenty days prior to the date of an election called upon at least forty days' notice and not less than seven days prior to the date of an election called upon at least ten days' notice. Nominations made pursuant to this chapter and chapter 45 which are required to be filed in the office of the commissioner shall be filed in that office not more than seventy-eight days nor later than five o'clock p.m. on the fifty-fifth day prior to the date of the general election. Nominations made under this chapter or chapter 45 for city office shall be filed not more than sixty-five seventy-two days nor later than five o'clock p.m. on the ~~fortieth~~ forty-seventh day prior to the city election with the city clerk, who shall process them as provided by law.

~~Objection~~ Objections to the legal sufficiency of a certificate of nomination or nomination petition or to the eligibility of a candidate may be filed by any person who would have the right to vote for a candidate for the office in question. Such objections must be filed with the officer with whom ~~such~~ the certificate or petition is filed and within the following time:

Sec. 9. Section 44.8, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The hearing shall be held within twenty-four hours of the receipt of the objection if a primary election must be held for the office sought by the candidate against whom the objection has been filed.

Sec. 10. Section 45.1, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. ~~In~~ Except as otherwise provided in subsection 5, in cities having a population of three thousand five hundred or greater according to the most recent federal decennial census, nominations may be made by nomination papers signed by not less than twenty-five eligible electors who are residents of the city or ward.

Sec. 11. Section 45.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Nominations for candidates other than partisan candidates for elective offices in special charter cities subject to section 43.112 may be submitted as follows:

a. For the office of mayor and alderman at large, nominations may be made by nomination papers signed by eligible electors residing in the city equal in number to at least two percent of the total vote received by all candidates for mayor at the last preceding city election.

b. For the office of ward alderman, nominations may be made by nomination papers signed by eligible electors residing in the ward equal in number to at least two percent of the total vote received by all candidates for ward alderman in that ward at the last preceding city election.

Sec. 12. Section 48.1, Code 1987, is amended to read as follows:

#### 48.1 COMMISSIONER OF REGISTRATION.

The commissioner of elections of each county is designated the commissioner of registration for that county, and may designate the city clerk of any city in the county, or the secretary of the board of directors of any school district which has its office in that county, as a

deputy commissioner of registration who shall be responsible for voter registration, subject to the supervision of the county commissioner. The commissioner of registration or an employee of the commissioner of registration may visit each high school located in the county, during the month of May of each year, and at other times at the discretion of the commissioner of registration, and offer to register any person who is eligible under section 48.2 to be registered.

Sec. 13. Section 48.11, unnumbered paragraph 2, Code 1987, is amended to read as follows:

Registration shall close in a precinct at five o'clock p.m., ten days before a general or primary election and eleven days before all other elections, except as provided in section 48.3. The commissioner's office shall be open from eight o'clock a.m. until at least ~~six~~ five o'clock p.m. on the day registration closes prior to each regularly scheduled election. In counties where mobile deputy registrars have been appointed, the commissioner's office shall remain open until at least six o'clock p.m. on the day registration closes for mobile deputy registrars to deliver completed forms, unless all mobile deputy registrars have turned in their supplies earlier.

Sec. 14. Section 48.29, Code 1987, is amended to read as follows:

**48.29 REMOVAL OF REGISTRATION.**

Upon registration in any county of an eligible elector who was previously a resident of another county, if that individual was a qualified elector in the former county of residence, the individual's name shall be struck from the record of voters currently registered in the former county of residence. If the registrar at any time discovers that the same individual is registered at more than one residence location, the commissioner or commissioners involved shall be informed and shall follow the procedure prescribed by section 48.31, subsection 7 6.

Sec. 15. Section 49.12, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

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 ~~8:00 p.m.~~ the time the polls close to assist in counting the paper ballots.

Sec. 16. **NEW SECTION. 49.41 MORE THAN ONE OFFICE PROHIBITED.**

A candidate for public office shall not cause nomination papers to remain filed in the office of the state commissioner or the commissioner on the last day of filing nomination papers, for more than one office to be filled at the general election. A candidate for a public office to be filled at the general election who has filed nomination papers for more than one office shall, not later than the final date for filing, notify the state commissioner or commissioner by affidavit for which office the person elects to be a candidate, which in no case shall be more than one. In the event no such election is made by that date by the candidate, the state commissioner shall not certify the person's name to be placed on the ballot for any office nor shall the commissioner place the person's name on the ballot in any county.

Sec. 17. Section 49.43, Code 1987, is amended to read as follows:

**49.43 CONSTITUTIONAL AMENDMENT OR OTHER PUBLIC MEASURE.**

In precincts using paper ballots all public measures to be voted upon by an elector at a given election shall be printed upon one ballot of some color other than white. In precincts using voting machines all public measures shall be placed in the question row on the machine; however, if it is impossible to place all the public measures on the machine ballot, or if only a portion of the qualified electors of the precinct are entitled to vote upon any measure presented, the commissioner may provide a separate paper ballot for the public measure or measures.

Constitutional amendments and other public measures may be summarized by the commissioner as provided in section 52.25.

Sec. 18. Section 49.56, Code 1987, is amended to read as follows:

49.56 MAXIMUM COST OF PRINTING.

The cost of printing the official election ballots and printed supplies for voting machines shall not exceed an amount determined by the director of the department of general services or the director's designee the usual and customary rates that the printer charges its regular customers.

Sec. 19. Section 49.77, subsection 4, Code Supplement 1987, is amended to read as follows:

4. A person whose name does not appear on the election register of the precinct in which that person claims the right to vote shall not be permitted to vote, except in the circumstance described in section 48.7, subsection 1, paragraph "b", unless the commissioner informs the precinct election officials that an error has occurred and that the person is a qualified elector of that precinct. If the commissioner finds no record of the person's registration but the person insists that the person is a qualified elector of that precinct, the precinct election officials shall allow the person to cast a ballot in the manner prescribed by section 49.81.

Sec. 20. Section 50.22, Code Supplement 1987, is amended to read as follows:

50.22 SPECIAL PRECINCT BOARD TO DETERMINE CHALLENGES.

Upon being reconvened, the special precinct election board shall review the information upon the envelopes bearing the special ballots, and all evidence submitted in support of or opposition to the right of each challenged person to vote in the election. The board may divide itself into panels of not less than three members each in order to hear and determine two or more challenges simultaneously, but each panel shall meet the requirements of section 49.12 as regards political party affiliation of the members of each panel.

PARAGRAPH DIVIDED. The decision to count or reject each ballot shall be made upon the basis of the information given on the envelope containing the special ballot, the evidence concerning the challenge, the registration and the returned receipts of registration. If the challenged voter's registration was canceled in the same county where the person attempted to vote because first class mail was returned by the postal service during the four years preceding the election in progress, the person's ballot shall be accepted for counting and the elector's registration shall be reinstated.

If a special ballot is rejected, the person casting the ballot shall be notified by the commissioner within ten days of the reason for the rejection, on the form prescribed by the state commissioner pursuant to section 53.25, and the envelope containing the special ballot shall be preserved unopened and disposed of in the same manner as spoiled ballots. The special ballots which are accepted shall be counted in the manner prescribed by section 53.24. The commissioner shall make public the number of special ballots rejected and not counted, at the time of the canvass of the election.

Sec. 21. Section 50.45, Code 1987, is amended to read as follows:

50.45 CANVASS PUBLIC – RESULT DETERMINED.

All canvasses of tally lists shall be public, and the persons having the greatest number of votes shall be declared elected. When a public measure has been submitted to the electors, the proposition shall be declared to have been adopted if the vote cast in favor of the question is greater than fifty percent of the total vote cast in favor and against the question, unless laws pertaining specifically to the public measure election establish a higher percentage of a favorable vote. All ballots cast and not counted as a vote in favor or against the proposition shall not be used in computing the total vote cast in favor and against the proposition.

Sec. 22. Section 51.1, Code 1987, is amended to read as follows:

### 51.1 ELECTION COUNTING BOARD.

In all election precincts the board of supervisors may authorize the commissioner to appoint for each primary and general election in which a high voter turnout is anticipated five additional precinct election officials to be known as the election counting board.

Sec. 23. Section 51.7, Code 1987, is amended to read as follows:

#### 51.7 DUTIES OF DOUBLE BOARDS.

The counting boards shall proceed to the respective voting places to which they have been appointed, ~~at one o'clock p.m., or in any precinct in which the commissioner shall deem it necessary, at such earlier hour after nine o'clock a.m.,~~ at such time as the commissioner may direct, and shall take charge of the ballot box containing the ballots already cast in that precinct. ~~It~~ The counting board shall retire to a partitioned space or room provided for that purpose and there proceed to count and tabulate the ballots as it shall find them deposited in the ballot box. The receiving board shall continue to receive the votes of electors in the other box provided, until such time as the counting board shall have finished counting and tabulating the ballots cast in the first ballot box. The two boards shall then exchange the first box for the second box and so continue until they have counted and tabulated all the votes cast on that election day. When the hour arrives for closing the polls, the receiving board shall certify to all matters pertaining to casting of ballots and shall then unite with the counting board in the counting of ballots. The precinct election officials shall then divide the ballots not counted and each group of officials shall proceed to canvass their portion of the same. When the canvass has been completed the officials shall report the result of their canvass in the manner provided by section 50.11.

Sec. 24. Section 52.22, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The precinct election officials shall, as soon as the count is completed and fully ascertained as in this chapter required, lock the machine against voting, and it shall so remain until thirty days after the proclamation of the results of ~~said~~ the election, except that it shall remain locked only ten days after a primary or school election, and only two days after a city primary election, if such election is not contested.

Sec. 25. Section 52.25, Code 1987, is amended to read as follows:

#### 52.25 SUMMARY OF AMENDMENT OR PUBLIC MEASURE.

The question of a constitutional convention, amendments, and public measures including bond issues may be voted on ~~the voting machines and on special paper ballots and ballot cards~~ in the following manner:

The entire convention question, amendment or public measure shall be printed and displayed prominently in at least ~~two~~ four places within the voting precinct, and inside each voting booth, or on the left-hand side inside the curtain of each voting machine, said the printing to be in conformity with the provisions of chapter 49. The public measure shall be summarized by the commissioner and in the largest type possible printed on the special paper ballots, ballot cards, or inserts used in said the voting machines, except that:

1. In the case of the question of a constitutional convention, or of an amendment or measure to be voted on in the entire state, the summary ~~to be placed in the voting machine~~ inserts shall be worded by the state commissioner of elections as required by section 49.44; ~~and~~.

2. In the case of a public question to be voted on in a political subdivision lying in more than one county, the summary shall be worded by the commissioner responsible under section 47.2 for conducting that election.

Sec. 26. Section 52.32, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The provisions of this section shall apply, in lieu of sections 50.1 to 50.12, to any precinct for those elections at which voting is conducted by means of an electronic voting system and the ballots are to be counted at a counting center.

Sec. 27. Section 52.32, subsection 2, Code 1987, is amended to read as follows:

2. The If ballot cards are used and write-in votes are cast on a separate envelope or write-in ballot, the precinct election officials shall next count the write-in votes cast in the precinct, if any. If ballot cards are used, and separate write-in ballots or envelopes for recording write-in votes are used, all special paper ballots or ballot cards are used and write-in votes are recorded directly upon the ballot, this subsection does not apply. All ballots or envelopes on which write-in votes have been recorded shall be serially numbered, starting with the number one, and the same number shall be placed on the regular ballot card of that voter. The precinct election official shall compare the write-in votes with the votes cast on the ballot card. If the total number of votes for any office exceeds the number allowed by law, a notation to that effect shall be entered on the back of the ballot card and the votes for the office involved shall not be counted.

Sec. 28. Section 53.22, subsection 5, Code Supplement 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Absentee ballots voted under this subsection shall be delivered to the commissioner no later than the time the polls are closed on election day. If the ballot is returned by mail the carrier envelope must be clearly postmarked by an officially authorized postal service not later than the day before the election and received by the commissioner no later than the time established for the canvass by the board of supervisors for that election.

Sec. 29. Section 53.38, Code 1987, is amended to read as follows:

**53.38 AFFIDAVIT CONSTITUTES REGISTRATION.**

Whenever a ballot is requested pursuant to section 53.39 or 53.45 on behalf of a voter in the armed forces of the United States, the affidavit upon the ballot envelope of such voter, if the voter is found to be an eligible elector of the county to which the ballot is submitted, shall constitute a sufficient registration under the provisions of chapter 48 and the commissioner shall place the voter's name on the registration record as a qualified elector, if it does not already appear there.

Sec. 30. Section 53.45, subsections 1 and 4, Code Supplement 1987, are amended to read as follows:

1. As provided in this section, the commissioner shall provide special absentee ballots to be used for state general elections. A special absentee ballot shall only be provided to a qualified an eligible elector who completes an application stating both of the following to the best of the qualified eligible elector's belief:

a. The qualified eligible elector will be residing or stationed or working outside the continental United States.

b. The qualified eligible elector will be unable to vote and return a regular absentee ballot by normal mail delivery within the period provided for regular absentee ballots.

The application for a special absentee ballot shall not be filed earlier than ninety days prior to the general election. The special absentee ballot shall list the offices and measures, if known, scheduled to appear on the general election ballot. The qualified eligible elector may use the special absentee ballot to write in the name of any eligible candidate for each office and may vote on any measure.

4. Notwithstanding the provisions of section 53.49, a qualified an eligible elector who requests a special absentee ballot under this section may also make application for an absentee ballot under section 53.2 or an armed forces absentee ballot under section 53.40. If the regular absentee

or armed forces absentee ballot is properly voted and returned, the special absentee ballot is void and the commissioner shall reject it in whole when special absentee ballots are canvassed.

**Sec. 31. NEW SECTION. 53.53 FEDERAL WRITE-IN BALLOTS.**

Upon receipt of an official federal write-in ballot, the commissioner shall examine the voter's written declarations on the envelope. If it appears that the voter is eligible to vote under the provisions of this division, has applied in a timely fashion for an absentee ballot, and has complied with all requirements for the federal write-in ballot, then the federal write-in ballot is valid unless the Iowa absentee ballot is received in time to be counted.

The voter's declaration or affirmation on the federal write-in ballot constitutes a sufficient registration under the provisions of chapter 48 and the commissioner shall place the voter's name on the registration record as a qualified elector, if the voter's name does not already appear on the registration record. No witness to the oath is necessary.

The federal write-in ballot shall not be counted if any of the following apply:

1. The ballot was submitted from within the United States.
2. The voter's application for a regular absentee ballot was received by the commissioner less than thirty days prior to the election.
3. The voter's completed regular or special Iowa absentee ballot was received by the deadline for return of absentee ballots established in section 53.17.
4. The voter's federal write-in ballot was received after the deadline for return of absentee ballots established in section 53.17.

**Sec. 32.** Section 277.4, unnumbered paragraph 2, Code Supplement 1987, is amended to read as follows:

The secretary of the school board shall accept the petition for filing if on its face it appears to have the requisite number of signatures and if it is timely filed. The secretary of the school board shall note upon each petition and affidavit accepted for filing the date and time that the petition was filed. The secretary of the school board shall deliver all nomination petitions, together with the complete text of any public measure being submitted by the board to the electorate, to the county commissioner of elections not later than five o'clock p.m. on the day following the last day on which nomination petitions can be filed.

**PARAGRAPH DIVIDED.** Any person on whose behalf nomination petitions have been filed under this section may withdraw as a candidate by filing a signed statement to that effect with the ~~commissioner~~ secretary at any time prior to five o'clock p.m. on the thirty-fifth day before the election.

**Sec. 33. NEW SECTION. 277.5 OBJECTIONS TO NOMINATIONS.**

Objections to the legal sufficiency of a nomination petition or to the eligibility of a candidate may be filed by any person who would have the right to vote for a candidate for the office in question. The objection must be filed with the secretary of the school board at least thirty days before the day of the school election. When objections are filed notice shall forthwith be given to the candidate affected, addressed to the candidate's place of residence as given on the candidate's affidavit, stating that objections have been made to the legal sufficiency of the petition or to the eligibility of the candidate, and also stating the time and place the objections will be considered.

Objections shall be considered not later than two working days following the receipt of the objections by the president of the school board, the secretary of the school board, and one additional member of the school board chosen by ballot. If objections have been filed to the nominations of either of those school officials, that official shall not pass on the objection. The official's place shall be filled by a member of the school board against whom no objection exists. The replacement shall be chosen by ballot.

Sec. 34. Section 280A.15, subsection 2, Code 1987, is amended to read as follows:

2. Each candidate for member of the board of directors of a merged area shall be nominated by a petition signed by not less than fifty eligible electors of the director district from which the member is to be elected. The petition shall state the number of the director district from which the candidate seeks election, and the candidate's name and status as an eligible elector of the director district. Signers of the petition, in addition to signing their names, shall show their residence, including street and number if any, the school district in which they reside, and the date they signed the petition. ~~Each nomination paper shall have appended to it an affidavit of an eligible elector other than the candidate in substantially the form provided in section 43.17, except as to party affiliation.~~ The petition shall include the affidavit of the candidate being nominated, stating the candidate's name and residence, and that the individual is a candidate, is eligible for the office sought, and if elected will qualify for the office.

Sec. 35. Section 331.203, subsection 1, Code 1987, is amended to read as follows:

1. The board may by resolution, or shall upon petition of the number of qualified eligible electors of the county as specified in section 331.306, submit to the qualified electors of the county at a general election a proposition to increase the number of supervisors to five.

Sec. 36. Section 331.204, subsection 1, Code 1987, is amended to read as follows:

1. In a county having a five-member board, the board may by resolution, or shall upon petition of the number of qualified eligible electors of the county as specified in section 331.306, submit to the qualified electors of the county at a general election a proposition to reduce the number of supervisors to three.

Sec. 37. Section 331.207, subsection 1, Code 1987, is amended to read as follows:

1. The board, upon petition of the number of qualified eligible electors of the county as specified in section 331.306, shall call a special election to be held for the purpose of selecting one of the supervisor representation plans specified in section 331.206 under which the board of supervisors shall be elected.

Sec. 38. Section 303B.3, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The votes cast in the election shall be canvassed and abstracts of the votes cast shall be promptly certified by the commissioner to the commissioner of elections who is responsible under section 47.2 for conducting elections for that regional library board. In each county whose commissioner of elections is responsible under section 47.2 for conducting elections held for a regional library board, the county board of supervisors shall convene at nine o'clock a.m. on the third Monday in November, canvass the abstracts of votes cast and declare the results of the voting. The commissioner shall at once issue certificates of election to each person declared elected.

Sec. 39. Section 376.4, unnumbered paragraphs 5 and 6, Code Supplement 1987, are amended to read as follows:

If the city clerk is not readily available during normal office hours, the city clerk shall designate other employees or officials of the city who are ordinarily available to accept nomination papers under this section. The city clerk shall accept the petition for filing if on its face it appears to have the requisite number of signatures and if it is timely filed. The city clerk shall note upon each petition and affidavit accepted for filing the date and time that the petition was filed.

The city clerk shall deliver all nomination petitions together with the text of any public measure being submitted by the city council to the electorate to the county commissioner of

elections not later than five o'clock p.m. on the day following the last day on which nomination petitions can be filed.

PARAGRAPH DIVIDED. Any person on whose behalf nomination petitions have been filed under this section may withdraw as a candidate by filing a signed statement to that effect as prescribed in section 44.9. Objections to the legal sufficiency of petitions shall be filed in accordance with the provisions of sections 44.4, 44.5, and 44.8.

Sec. 40. Section 376.6, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Each city clerk shall certify to the commissioner of elections responsible under section 47.2 for conducting elections for that city the type of nomination process to be used for the city no later than seventy-seven days before the date of the regular city election. If the city has by ordinance chosen a runoff election or has chosen to have nominations made in the manner provided by chapter 44 or 45, or has repealed nomination provisions under those sections in preference for the primary election method, a copy of the city ordinance shall be attached. No changes in the method of nomination to be used in a city shall be made after the clerk has filed the certification with the commissioner, unless the change will not take effect until after the next regular city election.

Sec. 41. Section 376.8, subsection 2, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In calculating the number of votes necessary to constitute a majority, fractions shall be rounded up to the next higher whole number.

Sec. 42. Section 376.11, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

**376.11 WRITE-IN VOTES.**

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

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

In city primary elections any person who receives write-in votes shall execute an affidavit in substantially the form required by section 45.3, and file it with the county commissioner of elections or the city clerk not later than five o'clock p.m. on the day after the canvass of the primary election. If any person who received write-in votes fails to file the affidavit at the time required, the county commissioner shall disregard the write-in votes cast for that person. A notation shall be made on the abstract of votes showing which persons who received write-in votes filed affidavits. The total number of votes cast for each office on the ballot shall

be amended by subtracting the write-in votes of those candidates who failed to file the affidavit. It is not necessary for a candidate whose name was printed upon the ballot to file an affidavit. Of the remaining candidates, those who receive the highest number of votes to the extent of twice the number of unfilled positions shall be placed on the ballot for the regular city election as candidates for that office.

In cities in which the city council has chosen a runoff election in lieu of a primary, if a person who was elected by write-in votes chooses not to accept the office by filing a resignation notice with the city clerk or commissioner of elections not later than five o'clock p.m. on the day following the canvass, all remaining persons who received write-in votes and who wish to be considered candidates for the runoff election shall execute an affidavit in substantially the form required by section 45.3 and file it with the county commissioner or the city clerk not later than five o'clock p.m. of the fourth day following the canvass. If a person receiving write-in votes fails to file the affidavit at the time required, the county commissioner of elections shall disregard the write-in votes cast for that person. The abstract of votes shall be amended to show that the person who was declared elected declined the office and a notation shall be made next to the names of those persons who did not file the affidavit. A runoff election shall be held with the remaining candidates who have the highest number of votes to the extent of twice the number of unfilled positions.

In a city in which the council has chosen a runoff election if no person was declared elected for an office all persons who received write-in votes shall execute an affidavit in substantially the form required by section 45.3 and file it with the county commissioner of elections or the city clerk not later than five o'clock p.m. on the day following the canvass of votes. If any person who received write-in votes fails to file the affidavit the county commissioner of elections shall disregard the write-in votes cast for that person. The abstract of votes shall be amended to note which of the write-in candidates failed to file the affidavit. A runoff election shall be held with the remaining candidates who have the highest number of votes to the extent of twice the number of unfilled positions.

Sec. 43. Section 420.130, Code 1987, is amended to read as follows:

**420.130 AFFIDAVIT OF CANDIDACY.**

Candidates for city precinct committee member shall cause their names to be printed on the primary ballot by filing an affidavit as provided for in section 43.18 with the county commissioner of elections at least ~~thirty~~ forty days prior to the day fixed for conducting the primary election.

**Sec. 44. EFFECTIVE DATE.**

1. This Act, being deemed of immediate importance, takes effect upon enactment.
2. However, the amendment to section 43.11, subsection 1, Code 1987, as enacted by this Act, takes effect January 1, 1989, and all sections of this Act except the sections amending section 43.11, subsection 1, and section 50.22, Code Supplement 1987, take effect July 1, 1988.

Approved April 27, 1988