

Sec. 4. Section 654C.5, subsection 2, Code 1997, is amended to read as follows:

2. The parties agreeing to mediation shall personally attend and participate in at least one all mediation meeting meetings. ~~A party to a dispute may be represented by another person, if the person participates in mediation and has authority to discuss the dispute on behalf of the party being represented.~~ However, if a party is not a natural person, the party must be represented by a natural person who is an officer, director, employee, or partner of the party. If a person acts in a fiduciary capacity for a party, the fiduciary may represent the party. If the party or an eligible representative is not able to attend and participate as required in this subsection, due to physical infirmity, mental infirmity, or other exigent circumstances determined reasonable by the farm mediation service, the party must be represented by another natural person. Any representative of a party must be authorized to sign instruments provided by this chapter, including a mediation agreement or a statement prepared by the mediator that mediation was waived. This section does not require a party to reach an agreement. This section does not require a person to change a position, alter an activity which is a subject of the dispute, alter an application for a permit for construction of an animal feeding operation, or restructure a contract.

Approved April 17, 1998

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## CHAPTER 1123

### ELECTIONS

H.F. 2495

**AN ACT** relating to the conduct of elections in the state.

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

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

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

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

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

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

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

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

#### 49.12 ELECTION BOARDS.

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

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

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

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

The commissioner shall not less than four nor more than twenty days before the day of each election, except those for which different publication requirements are prescribed by law, publish notice of the election. The notice shall contain a facsimile of the portion of the ballot containing the first rotation as prescribed by section 49.31, subsection 2, and shall show the names of all candidates or nominees and the office each seeks, and all public questions, to be voted upon at the election. The sample ballot published as a part of the notice may at the discretion of the commissioner be reduced in size relative to the actual ballot but such reduction shall not cause upper case letters appearing on the published sample ballot to be less than five thirty-sixths of an inch high in candidates' names or in summaries of public measures. The notice shall also state the date of the election, the hours the polls will be open, the location of each polling place at which voting is to occur in the election, the location of the polling places designated as early ballot pick-up sites, and the names of the precincts voting at each polling place, but the statement need not set forth any fact which is apparent from the portion of the ballot appearing as a part of the same notice. The notice shall include the full text of all public measures to be voted upon at the election. The notice shall also include notice of testing required pursuant to sections 52.9, 52.35, and 52.38.

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

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

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

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

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

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

Signed:

.....  
Republican (if applicable)

.....  
Democrat (if applicable)

.....  
Voting machine custodian

Dated ..... 19.....

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

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

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

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

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

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

The undersigned certify that we were present and witnessed the testing of the portable tabulating devices in the following precincts, that we believe the devices are in proper condi-

tion for use in the election of ....., 19...; that following the test the vote totals were erased from the memory of each portable tabulating device and a report was produced showing that all vote totals in the memory were set at 0000; that the devices were securely locked or sealed; and that the serial numbers and locations of the devices which were tested are listed below.

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

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

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

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

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

NEW UNNUMBERED PARAGRAPH. The area education agency administrator shall furnish to the commissioner a map of the proposed reorganized area which must be approved by the commissioner as suitable for posting. The map shall be displayed prominently in at least four places within the voting precinct, and inside each voting booth, or on the left-hand side inside the curtain of each voting machine.

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

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

Sec. 14. Section 357G.9, Code 1997, is amended to read as follows:  
357G.9 TRUSTEES — TERM AND QUALIFICATION.

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

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

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

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

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

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

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

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

Approved April 17, 1998