



REQUEST FOR RAMSEY COUNTY BOARD ACTION

23

Type of Agenda: ☒ Policy ☐ Consent ☐ Public Hearing
☐ Administrative ☐ Information ☐ Ordinance

Requesting Department: **Commissioners Carter and Parker**

Committee: _____

Meeting Date: _____

Committee: _____

Meeting Date: _____

County-Wide Ramifications ☒

Board Meeting Date: **6-12-12**

or

Affected Commissioner District(s) #: _____

Board Meeting Date: _____

SUBJECT Impact of proposed constitutional amendment relating to voting rights

EXECUTIVE SUMMARY

The Legislature has placed a proposed amendment to the Minnesota constitution on the ballot that, if adopted by the voters at the state general election on November 6, 2012, would have far reaching effects on Ramsey County voters.

Specifically, the proposed amendment would require all voters at a polling place or voting by absentee ballot at a location designated by the Elections Office to present a valid, government-issued photo ID card before being permitted to vote. Any voter lacking such a document would be required to cast a ballot that would only be counted if the voter returned to the Elections Office during a prescribed time period after the election to present one of the authorized identification documents. Absentee voters voting by mail would lose the ability to self-certify their ballots and would be required to find an authorized witness for this purpose. Election day registrants would not have their ballots counted until the Elections Office confirmed their identity and eligibility to vote.

Adoption of the proposed amendment would likely make it difficult if not impossible for voters who either lack the legal documents needed to obtain a government-issued photo ID card or lack the means to obtain these documents. Loss of the ability to self-certify their absentee ballots would likely disenfranchise some overseas and military voters who lack easy access to an authorized witness.

In addition, adoption of the proposed amendment would impose significant costs on Ramsey County taxpayers through a mandated increase in both county and city administrative requirements, estimated at \$1,747,000 for the 2013-2014 biennium.

ACTION REQUESTED

Discussion only—No action requested at this time.

SUBJECT: *Impact of proposed constitutional amendment relating to voting rights*

ATTACHMENTS:

- 1) Voter Identification Brief--AMC/Humphrey School of Public Affairs
- 2) Information from Elections regarding Constitutional Amendment
- 3) Information from Elections regarding Overseas and Military Voters

PREVIOUS ACTION:

COUNTY MANAGER COMMENTS:

SUBJECT: *Impact of proposed constitutional amendment relating to voting rights*

Originating Department Request – Authorized Signature	Date
<i>Heather M. Worthington</i>	<i>6-7-12</i>

Budgeting & Accounting – Authorized Signature	Date

County Attorney – Authorized Signature	Date

Property Management – Authorized Signature	Date

Information Services – Authorized Signature	Date

Other – Authorized Signature	Date

Text of Proposed Constitutional Amendment

Laws of Minnesota 2012, Chapter 167

Section 1. CONSTITUTIONAL AMENDMENT PROPOSED.

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted, article VII, section 1, will read:

Section 1. (a) Every person 18 years of age or more who has been a citizen of the United States for three months and who has resided in the precinct for 30 days next preceding an election shall be entitled to vote in that precinct. The place of voting by one otherwise qualified who has changed his residence within 30 days preceding the election shall be prescribed by law. The following persons shall not be entitled or permitted to vote at any election in this state: A person not meeting the above requirements; a person who has been convicted of treason or felony, unless restored to civil rights; a person under guardianship, or a person who is insane or not mentally competent.

(b) All voters voting in person must present valid government-issued photographic identification before receiving a ballot. The state must issue photographic identification at no charge to an eligible voter who does not have a form of identification meeting the requirements of this section. A voter unable to present government-issued photographic identification must be permitted to submit a provisional ballot. A provisional ballot must only be counted if the voter certifies the provisional ballot in the manner provided by law.

(c) All voters, including those not voting in person, must be subject to substantially equivalent identity and eligibility verification prior to a ballot being cast or counted.

Sec. 2. SUBMISSION TO VOTERS.

(a) The proposed amendment must be submitted to the people at the 2012 general election. If approved, the amendment is effective July 1, 2013, for all voting at elections scheduled to be conducted November 5, 2013, and thereafter. The question submitted must be:

"Shall the Minnesota Constitution be amended to require all voters to present valid photo identification to vote and to require the state to provide free identification to eligible voters, effective July 1, 2013?"

VOTER IDENTIFICATION BRIEF

NICHOLAS ANHUT NINA HUNTINGTON MELISSA YOUNG

INTRODUCTION The proposed voter identification ballot measure to amend Article VII, Section 1 of the Minnesota Constitution will fundamentally change the state's election system. Few states, notably Georgia and Indiana, have implemented equally stringent identification requirements. Executing voter photo identification in Minnesota poses an unprecedented challenge in accommodating Election Day registration. In addition, state and local officials will face monumental tasks: influencing enabling legislation, drafting sound election rules and procedures, and effectively managing election costs. Lastly, with an implementation date of November 2013, time and resources will be extremely limited for effectively addressing all challenges.

ANALYSIS The proposed amendment requires four direct changes to state elections, each with its own implications:

A. All voters must present government-issued photo identification.

Policy leaders must define acceptable forms of identification ensuring maximum access and uniformity, ease of poll site verification, and limited disenfranchisement of discouraged voting-eligible populations.

B. The state must make photographic identification available to eligible individuals at no charge.

Driver's License Agents will process 87,600 voter IDs over four years, and if the state reimburses DLA offices \$5 per ID, local governments will bear \$303,360 of the total production costs. Voters without an ID in some Minnesota cities or nursing homes may have to travel 70 miles or more round-trip in order to obtain ID to have their ballot counted. This would require obtaining and paying for the proper documents to get an ID.

C. All voters must be subject to substantially equivalent state eligibility verification prior to casting or counting a ballot.

This will require: (1) Increased training for election workers; (2) More staff/personnel hours at the polling place; (3) Longer wait times at polling location. There may be liability concerns for election workers based on their ability to accept and reject voters based on the validity of the voter's identification or eligibility to vote.

D. Establishes a provisional ballot system for voters unable to provide appropriate identification.

A voter must return the county auditor's or municipal clerk's office within 7 days with proof of their identity and residence to file their ballot. If the voter fails to either return or provide proof, the ballot is not counted. Provisional balloting can be problematic if it is not used as the last resort for the voter. Similarly to the issue with obtaining the free voter ID card, it may also be a burden for eligible voters to provide proof. The amendment does not provide instruction for situations where someone votes in the wrong precinct.

The proposed amendment will also create indirect changes to state elections.

ELECTION JUDGES There will be an increase expense for training new and returning election judges. The complexity of the new laws may cause high levels of attrition. There may be the need for wage increases to either offset increased liability or to retain and attract election judges. To accommodate increased processing time, extra election judges will be needed. A minimum of two per polling place or four to six for high same-day registration sites.

POLLING PLACES Logistically, polling places will need to increase voting space to accommodate longer lines and new verification stations. Polling places must be able to accommodate CPU equipment with Wireless/LAN access. If local governments choose to use electronic poll books, the anticipated cost per work station would be \$4,293. A total of \$25,539,000 in computers is expected to be purchased.

PUBLIC EDUCATION/OUTREACH Previous proposals have allotted \$2.8M from the state for the purpose of educating the public on the new laws. Local precincts may have to rely on media outlets to assist in this.

VOTER TURNOUT According to the Secretary of State, roughly 700,000 eligible voters may be affected by the proposed amendment. This includes eligible voters who do not have current, valid IDs and voters who use Election Day registration.

RECOMMENDATIONS

- A. Encourage expanded parameters so as to include all federal, state and tribal issued photo identification including government employee, military, student IDs and passports.
- B. Advocate state financial support of electronic poll books as a component to eligibility verification at polling places.
- C. Create clear and consistent standards for casting and counting provisional ballots, as well as allow for ballots to be counted even if cast in the incorrect precinct.
- D. Collaborate with cities and townships to address increased training and staffing cost crucial to the implementation of a verification process.
- E. Consider alternatives such as encouragement of early voting, establishment of vote centers, and development of tools like real-time polling place wait time smartphone applications.

CONCLUSION Because a Minnesota Voter ID system will be wholly unique, it is likely that actual implementation costs may be much higher. Furthermore, many challenges remain unknown. Given the narrow time frame within which implementation must occur once the ballot measure is approved, it is critical AMC play a role in shaping the enacting legislation. Leaders must engage their local stakeholders to meet this challenge while ensuring election integrity.

Ramsey County Elections
Outline for County Board Policy Session on
Proposed Constitutional Amendment Relating to Voting Rights

- I. The impact on the County's voting groups (elderly, students, those w/o picture ID, etc)
 - A. The amendment would require voters to show our election judges a "government-issued photo ID" before voting. We assume that this term will be defined by the legislature (or by the courts), and it is possible that all or some of the following documents would qualify.
 1. Minnesota driver's license
 2. Minnesota state identification card
 3. Photo ID card issued to students at the University of Minnesota or a MnSCU institution (Metro State, St Paul College or Century College)
 4. US passport or passport card
 5. US military ID card
 6. Employee ID card issued by the county, one of our cities or one of our school districts
 7. Photo ID cards issued by Community Human Services or other county, city or school district offices
 8. Photo ID cards issued by the Elections Office
 - B. We estimate that approximately 98% of our 390,147 eligible voters have one of the government-issued photo IDs listed above.
 - C. We estimate that the remaining 2% of our eligible voters (approximately 8,000 people) do not have a government-issued photo ID, broken down as follows.
 1. Elderly voters who no longer drive; they could be at home or in some kind of group housing, such as a nursing home or assisted living facility.
 2. Students at our private colleges who do not have a Minnesota driver's license (note: it is not clear that "government-issued" would include a driver's license from another state, for example.)

3. People who do not have a stable residence from which to apply for a driver's license or state ID card. This would include people whose home has been damaged or foreclosed and who find themselves in temporary housing.
4. Homeless and other individuals with a sporadic residence or no conventional residence at all.
5. Low income persons who cannot afford to obtain a government-issued photo ID. Unless the legislature waives the statutory fees for birth certificates, for example, we expect some people to be in this category. The cost of obtaining a copy of a birth certificate in Minnesota (and other states) is approximately \$27.

II. The budget impact of the amendment on the County and the mechanics of compliance

A. Anticipated county costs

1. Assuming that during a typical biennium, 1% of the total voting in any given election (or approximately 3% for the biennium) will be provisional, estimated cost of securing and archiving the provisional voting materials = \$10,000
2. Using our experience identifying passport applicants, and assuming that we will need to make a positive connection between the person standing before us with an identification document and the certificate on the sealed provisional ballot envelope completed on election day, which we assume will average 10 minutes per transaction.

Assuming that only half of the provisional voters who lack an authorized photo ID will come in to show us an identification document, and assuming that the time to retrieve the sealed provisional ballot envelope, verify that it is the envelope executed by the voter and reviewing the identification document provided by the voter will take approximately 10 minutes per transaction, we estimate 350 staff hours for 2014 and 440 staff hours for 2016. Our hourly burden labor rate for the staff to be

assigned this activity is estimated to be \$22.87 in 2014 and \$23.79 in 2016. We estimate our staff costs for this activity to be approximately \$8,000 in 2014 and \$10,500 in 2016.

3. Based on our experience implementing ranked voting in St Paul in 2011, the estimated cost of a countywide voter education program = \$250,000
4. If identity and eligibility verification occurs at the polling place using the DVS verify process, the estimated cost of two secure computers (aka electronic poll books) on which the state driver's license database is resident in each polling place at the election day registration station will be approximately \$500,000, which is likely to recur every four years.

If the identity and eligibility verification occurs at the Elections Office and not at the polling place, and assuming that this activity will supplant our existing election day registration activity, we estimate that the data matching likely to be required will require an additional minute of staff time per transaction. At that rate, the additional staff time for this activity is estimated to be 530 hours in 2014 and 865 hours in 2016. Our hourly burden labor rate for the staff to be assigned this activity is estimated to be \$14.35 in 2014 and \$14.93 in 2016. We estimate our staff costs for this activity to be approximately \$7,600 in 2014 and \$12,900 in 2016.

5. For 2014, we will need approximately 37,000 provisional envelope sets. For 2016, we will need approximately 58,000 envelope sets. Assuming that a provisional ballot envelope set includes an outer certification envelope and an inner secrecy envelope, each set will cost approximately \$0.14. The total cost for 2014 will be approximately \$5,200 and for 2016 will be approximately \$8,200.
6. Assuming an average of two poll books for the election day registration station and three poll books for pre-registrants (which the legislature is likely to authorize,) we would need an average of five poll books per polling place. Including an average of two additional poll books for each city absentee voting location, plus an additional 10% in reserve to backup malfunctioning units, we would need a total of 974 poll books

countywide. The estimated cost of the additional poll books (other than those deployed to the election day registration stations in each polling place) is \$750,000, which is likely to recur every four years.

7. Assuming that we will process and count the ballots for one-half the number of provisional voters who lack an authorized photo ID, we estimate the time required to do so will be approximately 1.5 minutes per transaction, or approximately 53 hours in 2014 and 66 hours in 2016. Assuming that we will also process and count the election day registrations in a similar fashion, the estimated amount of staff time would be 800 hours in 2014 and 1,300 hours in 2016.

All provisional ballot board judges would be paid at the absentee ballot board rate. The estimated hourly rate for 2014 and 2016 is \$13.00.

The estimated cost of election judges salaries for processing and counting the provisional ballots cast by voters lacking an authorized photo ID is approximately \$690 in 2014 and \$860 in 2016.

The estimated cost of election judge salaries for processing and counting the provisional ballots cast by election day registrants is approximately \$10,400 in 2014 and \$16,900 in 2016.

B. Anticipated city costs

1. Worse case, assuming that the legislature will require two additional election judges of different parties will be required in each precinct to administer provisional voting in each of three elections (state primary, state general election and municipal-school district general election) in a biennium, estimated cost = \$ 174,000

Best case, additional judges would be required only in state general elections. The cost of two additional election judges per polling place for the state general elections in 2014 and 2016 will be approximately \$58,000 for each election.

2. Assuming an additional 30 minutes will be needed in the training sessions to cover provisional voting at the polling place, processing provisional ballots by a body similar to the absentee ballot board, and use of electronic poll books at the polling place; estimated cost = \$14,000
3. Assuming that each polling place and each city hall processing absentee ballots will need a secure ballot box for provisional ballots, the cost would be \$18,600.

III. An accounting of any fraudulent voting, especially in the context of total votes cast in that period, based on data provided by Ramsey County Attorney's Office as of March 1, 2012.

A. Investigations = 1,549

1. There were approximately 1,549 election related referrals (allegations) submitted to the county attorney's office between 2006 and 2011. Some referrals were made by the Elections Office. The balance were made by private organizations.
2. Of those referrals, 1,426 (92%) were either declined by a charging attorney or found to lack the probable cause necessary to forward to a charging attorney for decision. The statistical break down of all referrals, as well as those charged, is reflected in the data below.

B. Total charged = 123

1. 20 felons under supervision only registered but did not vote.
2. 102 felons under supervision registered and voted
3. 1 non-citizen registered and voted.

C. Dispositions

1. 114 were found guilty or admitted their guilt.

2. 9 were dismissed.

D. Total charged by year of their offence

1. Offense year: 2006 = 7 charged (*7 convicted*).
 - a. 2 – Felons registered (only).
 - b. 5 – Felons registered and voted.
2. Offense year: 2007 = 2 charged (*2 convicted*).
 - a. 2 – Felons registered only.
3. Offense year: 2008 = 104 charged (*90 convicted, 6 currently in warrant, 1 active*).
 - a. 21 – Felons registered only.
 - b. 45 – Felons registered and voted.
 - c. 37 - Felons voted only.
 - d. 1 – Non-citizen.
4. Offense year: 2009 = 1 charged (*1 convicted*).
 - a. 1 – Felon registered (only).
5. Offense year: 2010 = 9 charged (*7 convicted, 1 currently in warrant*).
 - a. 1 - Felons registered (only).
 - b. 5 – Felons registered & voted.
 - c. 3 – Felons voted (only).

E. Total convictions, by year of conviction:

1. 2009 – 17 total convictions
2. 2010 – 11 total convictions
3. 2011 – 77 total convictions
4. 2012 – 2 convictions to date; 7 cases are currently in warrant, and 1 case is still pending.

F. Total voting in Ramsey County 2006-2011 = 1,039,890

1. 2006: 259,815
2. 2007: 66,820
3. 2008: 320,803
4. 2009: 61,474
5. 2010: 263,264
6. 2011: 67,714

G. % of total voting not convicted of voter fraud 2006-2011 = 99.988%

IV. Any issues related to particular impacts unique to Ramsey County

A. Ramsey County likely has a disproportionate share of the state's:

1. Private college student population
2. Immigrant population

3. Low-income population
 4. Itinerant population
 5. Health care facilities population
- B. These groups would be less likely than the norm to have a valid, government issued photo ID card available for voting
- C. The board may find it desirable to authorize activities to be conducted by the Elections Office to address the needs of these populations
1. Work with Community Human Services to get photo IDs for persons on cash and food assistance
 2. Work with nursing homes in conjunction with absentee voting in those facilities to create Ramsey County voter ID cards
 3. Work with private college registrars to ensure that the students who are eligible and interested can vote in our elections
 4. Obtain electronic access to documents needed for persons born in Minnesota to get a Ramsey County voter ID card from the Elections Office
 5. Work with the appropriate agencies that represent the interests of our overseas and military population (see narrative 1.)
- V. An explanation of the process of provisional ballots, and potential delays in vote counts
- A. There are two classes of voters who potentially would be affected by the provisional voting process.
1. Voters lacking a valid government issued photo ID at the time of voting
 - a. Pre-registered voters without a government issued photo ID

- b. Election day registrants who previously would have used a voucher
 - c. Absentee voters without an authorized identity document
 - 2. Possibly all election day registrants, unless their identity and eligibility can be confirmed at the time of voting
- B. Provisional ballots for voters in A(1) would likely need to be processed like absentee ballots, with the following items at each polling place and absentee voting location:
 - 1. Signed certificate envelope
 - 2. Inner secrecy envelope
 - 3. Ballots clearly marked as provisional
 - 4. A provisional ballot box
- C. Voters would have a specified period of time after each election to provide one of the required documents to the Elections Office.
 - 1. Voter would present one of the authorized documents to Elections staff
 - 2. Provisional ballot would be retrieved
 - 3. Voter's connection to the provisional ballot would be verified
 - 4. If voter's identity and eligibility has been verified, ballot is delivered to the provisional ballot board
 - 5. Provisional ballot board would open the envelopes, count the votes on the ballot and add the votes to the election day totals

6. At the conclusion of the provisional voting period, the county (or city or school district) canvassing board would reconvene to canvass the results including the votes from the provisional ballots

D. Provisional voting administrative schedule (assumed)

1. Prior to election day – provisional absentee ballots cast and secured
2. Election day – polling place provisional ballots cast and secured
3. Day after election day – number and identity of provisional voters made public
4. Preliminary county canvass (state elections) of votes cast and counted on election day
 - a. Three days after the state primary
 - b. Between eight and ten days after the state general election
5. Provisional voting period - for 14 (?) days after election day – voters present authorized documents in order to have their ballots counted
6. 15 days (?) after election day – provisional ballots counted and results recorded
7. 17 days after election day – results of provisional voting canvassed; election results made official

E. Provisional ballots for A(2) would be counted subject to eligibility confirmation by the Elections Office after election day, assuming that this is not done at the polling place on election day.

1. Need to verify the voter registration application against the voter's driver's license or social security data
2. Confirm the voter's residence

3. Duration – this process is likely to take between 2 and 4 weeks after the election, at 400 staff-hours per week (10 staff persons working 8 hours per day for five working days), depending on the total number of election day registrations

F. Scope of provisional voting

1. For voters without a photo ID, both pre-registered voters and election day registrants who otherwise would have used a voucher, we assume that provisional ballots will be 2% of our total voting for both the 2014 and 2016 state general elections, or approximately 4,200 and 5,300 ballots, respectively
2. For all election day registrants, we assume that provisional ballots will be 15% of our total voting in 2014 and 20% of total voting in 2016, or 31,500 and 53,000 ballots, respectively
3. The experience of other states with provisional voting may provide some insight about the manner in which our voters will interact with that process.
 - a. Under a similar law in Indiana (the proposed Minnesota law is based on the Indiana statute), only 13% of the provisional ballots cast in the 2008 presidential election were ever counted. And Indiana law permits voters without a photo ID to have their provisional ballot counted by completing an affidavit at the county elections office. No such provision is contained in the proposed constitutional amendment.
 - b. In Michigan, the state with election laws most similar to Minnesota, only 48% (2008) and 39% (2010) of the provisional ballots cast in the two most recent state general elections were ever counted.

- c. Since the unofficial results from election day will be known during the provisional voting period, it is possible that some provisional voters will never return to the Elections Office after the election to show a photo ID if the winning margin for the most prominent races on the ballot is greater than the number of provisional ballots cast. How this phenomenon would affect races "down the ballot" is at this point problematical. We do not have enough data yet from other states on this issue to come to a conclusion one way or another.

VI. County and municipal cost summary for 2013-2014 biennium - \$1,747,000

- A. Estimated county costs - \$1,540,000
 - 1. Capital costs - \$1,250,000
 - 2. Public information costs - \$250,000
 - 3. Operational costs - \$40,000
- B. Estimated municipal costs - \$207,000
 - 1. Capital costs - \$19,000
 - 2. Operational costs - \$188,000

6-5-12

Ramsey County Elections
Impact on Overseas and Military Voters of
Proposed Constitutional Amendment on Voting Rights

Absentee voting is a challenge for many voters under the best of circumstances. For Minnesotans who find themselves on active duty with the armed forces or working, volunteering or studying abroad, the smallest barrier can prove to be an insurmountable obstacle to exercising their right to vote while away from home.

Specifically, the "substantially equivalent" language of the proposed constitutional amendment will take away the ability of overseas and military voters to self-certify their absentee ballots, reversing a bipartisan decision of the legislature to remove an unnecessary bureaucratic barrier to voting 27 years ago.

The federal laws provide no relief for our voters. UOCAVA, even as amended by the MOVE act, would not prevent the loss of self-certification under the proposed amendment.

In presidential elections, more than 2,000 Ramsey County residents who reside overseas or are serving in the armed forces typically attempt to vote by absentee ballot. Due to the difficulties placed on them by distance, nearly 20% of these voters fail to return a ballot that can be counted. This problem is especially acute among voters serving in the armed forces, where nearly 30% of the ballots sent by the Elections Office are never returned or are returned in a manner that prevents them from being counted.

As more procedural hurdles are placed in front of voters that are far removed from the state, the greater the chance that even a small mistake has a catastrophic result. This is magnified by the fact that an absentee voter does not get to participate in the provisional voting process.

Affected voters would then need to revert to the pre-1985 environment, in which those voters needed to find a government official to certify their absentee ballot.

And these voters would also need to have the appropriate identity and eligibility documents on hand to show the government official in order to have their ballots certified.

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The government issued photo ID requirements would also make it more difficult for older veterans residing in one of the state-operated homes around Minnesota, particularly those who lack a current, valid driver's license.

Minnesota has had a long and honorable history of making it easier for everyone to vote, especially for those who are serving in the armed forces or residing overseas. For example, the 1985 act to eliminate the requirement for those voters to obtain a witness passed the House by a vote of 129-0 and the Senate by a vote of 55-3.

6-5-12

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