



# STATE OF MINNESOTA

## Office of Governor Tim Pawlenty

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

May 10, 2005

The Honorable James Metzen  
President of the Senate  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
322 State Capitol  
Saint Paul, Minnesota 55155

Dear Senator Metzen:

I have vetoed and am returning to you Senate File 879, relating to city, town, or county state primary election elimination. Senate File 879 allows counties and municipalities to forgo holding the statewide primary if there are no partisan or nonpartisan offices for which nominees must be selected at the state primary.

While I concur with the general intent of the bill, I have vetoed this bill based on some technical concerns I have with its drafting. As you know, election laws are very technical and their interpretation is often contentious. As Governor, it is important that any election bill signed into law achieves its intended result and that we do not interject confusion into the election process.

First, I am concerned as to whether the language of this bill achieves its objective. The bill provides, in relevant part: "*If in any municipality or county there are no partisan or nonpartisan offices for which nominees must be selected at the state primary, no state primary shall be held in the municipality or county.*" Whether a primary is held depends upon whether the office requires the selection of nominees at a primary, rather than the number of individuals who have filed for the office.

The language used in Senate File 879 is significantly different from the language providing for exemption or omission of offices or candidates from primary ballots in existing law. Minnesota Statutes, Section 204D.07, Subdivision 3, governs inclusion of certain nonpartisan offices subject to the statewide primary election. The statute provides:

*If not more than twice the number of individuals to be elected to a nonpartisan office file for the nomination, their names and the name of the office shall be omitted from the state and county nonpartisan primary ballot and the candidates who file shall be the nominees.*

Minnesota Statutes, Section 205.065 contains a similar provision in relation to municipal primary elections:

(ch. 48)

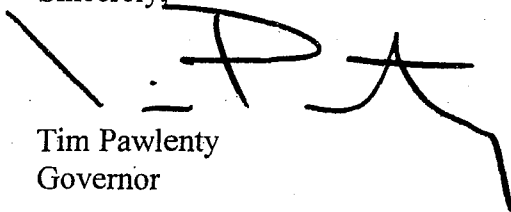
*When not more than twice the number of individuals to be elected to a municipal office file for nomination for the office, their names shall not be placed upon the primary ballot and shall be placed on the municipal general election ballot as the nominees for that office.*

Existing statutes all base exemption on the number of candidates, and not whether the office requires the conducting of a primary to select nominees. The primary is the mechanism for the individual to advance as the nominee on the general election ballot. All partisan offices elected at the state general election *require* that nominees be selected by a primary. As a result, there are arguably *no* circumstances under which the statewide primary election would not be required to select the nominees and the objectives of the proposed law would not be achieved.

Second, I am concerned that both of the current laws which address exemption from a primary election ballot contain specific language directing that the candidates who filed for office become the nominees for the office which results in their placement on the election ballot. Senate File 879 does not include any specific language that makes the candidate the nominee under circumstances where no primary is held. This could cause confusion in preparing the election ballots, or result in challenges to the candidates and ballots.

For these reasons, I have respectfully vetoed Senate File 879. I concur with the authors' and the Legislature's intent in reducing the expense to local governments in holding primaries when the results of the primary will not impact the nominees who will appear on the general ballot. For this reason, the Legislature may wish to consider altering existing provisions in the State Government Operations Omnibus Finance Bill to rectify the concerns I have raised with Senate File 879.

Sincerely,



Tim Pawlenty  
Governor

cc: Representative Steve Sviggum, Speaker of the House of Representatives  
Senator Dean Johnson, Senate Majority Leader  
Senator Dick Day, Senate Minority Leader  
Representative Matt Entenza, House of Representatives Minority Leader  
Senator Michelle Fischbach  
Senator Dave Kleis  
Representative Larry Hosch  
Patrick Flahaven, Secretary of the Senate  
Al Mathiowetz, Chief Clerk of the House of Representatives  
Mary Kiffmeyer, Secretary of the State