

**FIRST ENGROSSMENT
with House Amendments**Fifty-sixth
Legislative Assembly
of North Dakota**ENGROSSED SENATE BILL NO. 2148**

Introduced by

Judiciary Committee

(At the request of the Secretary of State)

1 A BILL for an Act to create and enact a new section to chapter 16.1-11 of the North Dakota
2 Century Code, relating to deadlines for placing county and city measures on election ballots;
3 and to amend and reenact sections 11-07-06, 16.1-05-03, 16.1-11-06, 16.1-11-11, 16.1-11-22,
4 subsection 3 of section 16.1-13-22, sections 16.1-15-01, 16.1-15-19, and subsection 6 of
5 section 16.1-16-01, relating to election of county commissioners, election worker training
6 sessions, the time for submitting nominating petitions or certificates of endorsement, the
7 primary election ballot, and county canvassing boards and recount boards being authorized to
8 stamp and initial absentee ballots.

9 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

10 **SECTION 1. AMENDMENT.** Section 11-07-06 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **11-07-06. Petitions - Signers required - Submission of question to voters.** The
13 board of county commissioners, upon receipt of a petition signed by at least ten percent of the
14 qualified electors of the county as determined by the number of votes cast for the office of
15 governor at the preceding general election, shall, in accordance with applicable provisions of
16 title ~~46~~ 16.1, cause the question of whether commissioners shall be elected at large to be
17 submitted to the qualified electors of the county at the next succeeding primary or general
18 election. If approved by sixty percent of the qualified electors voting at such election, all county
19 commissioner districts in ~~such~~ the county ~~shall~~ must be immediately dissolved, and thereafter
20 as the term of office of each member of the board of county commissioners expires, ~~such~~ the
21 office ~~shall~~ must be filled by an election at large.

22 **SECTION 2. AMENDMENT.** Section 16.1-05-03 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **16.1-05-03. Secretary of state and county auditors to distribute election**
2 **information - County auditor to provide instruction.**

- 3 1. Not less than thirty days before any primary, general, or special election, the
4 secretary of state shall provide an instruction manual approved by the attorney
5 general, which in layman's terms presents in detail the responsibilities of each
6 election official. The secretary of state shall forward sufficient copies of this
7 manual to each county auditor who shall distribute the manuals to each member of
8 all the election boards in the county.
- 9 2. Before each primary and general election, each county auditor or the auditor's
10 designated representative shall conduct training sessions on election laws and
11 election procedures for election officials in the county and may conduct training
12 sessions before any special statewide or legislative district election. The session
13 or sessions must be conducted at such place or places throughout the county as
14 the county auditor determines to be necessary. Attendance at the session is
15 mandatory for members of the election board and for poll clerks ~~unless the board~~
16 ~~of county commissioners determines that the poll clerks in that county may not~~
17 ~~attend~~. The county auditor shall notify the members of the election boards, poll
18 clerks ~~if applicable~~, and the state's attorney of the time and place of the session.
19 The state's attorney shall attend all sessions to give advice on election laws. The
20 county auditor shall invite the district chairman in that county representing any
21 political party casting at least five percent of the total votes cast for governor at the
22 last election to attend the session at the chairman's own expense. On the date of
23 ~~such~~ the course or courses, the county auditor may deliver to all election
24 inspectors at ~~such~~ the meeting the official ballots and all other materials as
25 provided in chapter 16.1-06. Except as otherwise provided in this section, each
26 person attending the course or courses must be compensated as provided in
27 section 16.1-05-05.
- 28 3. An election official, at the option of the county auditor, may be excused from
29 attending a third training session on election laws within a twelve-month period. If
30 an election official has attended a training session within the six months preceding
31 a special election, the election official must be compensated at the pay appropriate

1 for those having attended a training session, as provided in section 16.1-05-05, for
2 that election.

3 **SECTION 3.** A new section to chapter 16.1-11 of the North Dakota Century Code is
4 created and enacted as follows:

5 **Deadline for placing county and city measures on primary, general, or special**
6 **election ballots.** Notwithstanding any other provision of law, a county may not submit a
7 measure for consideration of the voters at a primary, general, or special statewide, district, or
8 county election after four p.m. on the sixtieth day before the election. A city that has combined
9 its regular or a special election with a primary, general, or special county election, according to
10 the provisions set forth in section 40-21-02, may not submit a measure for consideration of the
11 voters at that election after four p.m. on the sixtieth day before the election.

12 **SECTION 4. AMENDMENT.** Section 16.1-11-06 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **16.1-11-06. State candidate's petition or political party certificate of endorsement**
15 **required to get name on ballot - Contents - Filing.** Every candidate for United States
16 senator, United States representative, a state office except the office of state senator or state
17 representative, and judges of the supreme and district courts shall, ~~not more than seventy nor~~
18 ~~less than sixty days,~~ between the first date candidates may begin circulating nominating
19 petitions according to this chapter and before four p.m. of the sixtieth day, prior to any primary
20 election, present to the secretary of state either:

- 21 1. A certificate of endorsement signed by the state chairman of any legally
22 recognized political party containing the candidate's name, post-office address, the
23 title of the office to which the candidate aspires, and the party which the candidate
24 represents; or
- 25 2. A petition containing the following:
 - 26 a. The candidate's name, post-office address, and the title of the office to which
27 the candidate aspires.
 - 28 b. The name of the party the candidate represents if the petition is for an office
29 under party designation.
 - 30 c. The signatures of qualified electors, the number of which must be determined
31 as follows:

- 1 (1) If the office is under party designation, the signatures of three percent
2 of the total vote cast for the candidates of the party with which the
3 candidate affiliates for the same position at the last general election.
4 However, no more than three hundred signatures may be required.
5 (2) If there was no candidate of a party for a position at the preceding
6 general election, at least three hundred signatures.
7 (3) If the office is under the no-party designation, at least three hundred
8 signatures.

9 d. The mailing address and the date of signing for each signer.
10 If the petition or certificate of endorsement is for the office of governor or lieutenant governor, it
11 must contain the names and other information required of candidates for both those offices. If
12 the petition or certificate of endorsement is mailed, it must be in the possession of the secretary
13 of state before four p.m. of the sixtieth day prior to the primary election.

14 **SECTION 5. AMENDMENT.** Section 16.1-11-11 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **16.1-11-11. County and legislative district candidates' petitions - Filing -**

17 **Contents.** Every candidate for a county or legislative district office shall present, ~~not more than~~
18 ~~seventy nor less than sixty days~~ between the first date candidates may begin circulating
19 nominating petitions according to this chapter and before four p.m. of the sixtieth day before
20 any primary election, to the county auditor of the county in which the candidate resides either:

- 21 1. A certificate of endorsement signed by the district chairman of any legally
22 recognized political party containing the candidate's name, post-office address, the
23 title of the office to which the candidate aspires, and the party that the candidate
24 represents; or
25 2. A petition containing the following:
26 a. The candidate's name, post-office address, and the title of the office to which
27 the candidate aspires.
28 b. The name of the party the candidate represents, only if it is a petition for an
29 office that is under party designation.
30 c. The signatures of qualified electors, the number of which must be determined
31 as follows:

- 1 (1) If the office is a county office, the signatures of not less than two
2 percent and not more than five percent of the total vote cast for the
3 office at the most recent general election at which the office was voted
4 upon.
- 5 (2) If the office is a county office and multiple candidates were elected to
6 the office at the preceding general election at which the office was
7 voted upon, the signatures of not less than two percent and not more
8 than five percent of the votes cast for all candidates divided by the
9 number of candidates that were to be elected to that office.
- 10 (3) If the office is a county office and no candidate was elected or no votes
11 were cast for the office at any general election, the number of signers
12 equal to the percentage as provided in paragraph 1 applied to the total
13 average vote cast for the offices of sheriff and county auditor at the
14 most recent general election at which those officers were elected in the
15 petitioner's county. This average must be determined by dividing by
16 two the total vote cast for those offices.
- 17 (4) If the office is a legislative office, the signatures of at least one percent
18 of the total resident population of the legislative district as determined
19 by the most recent federal decennial census.
- 20 (5) In no case may more than three hundred signatures be required.
- 21 d. The mailing address and date of signing for each signer.

22 If the petition or certificate of endorsement is mailed, it must be in the possession of the county
23 auditor before four p.m. on the sixtieth day before the primary election.

24 **SECTION 6. AMENDMENT.** Section 16.1-11-22 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only**
27 **one party.** At the primary election there may be only one ballot for all parties or principles.
28 The ballot must be in the following form:

- 29 1. The ballot must be entitled the "consolidated primary election ballot".

- 1 2. Each party or principle having candidates at the primary election must have a
2 separate column on the ballot; the columns must be separated by a solid six-point
3 rule.
- 4 3. At the head of each column must be printed the name of the political party or
5 principle which it represents.
- 6 4. In each column below the party or principle title must be printed: "You may vote
7 for the candidates of only one party at the primary election. If you cast votes in
8 more than one party column and vote for candidates of more than one party, your
9 party ballot will be rejected."
- 10 5. Immediately below the warning against voting for candidates of more than one
11 party must be printed: "Put a crossmark (X) opposite the name of the candidate
12 for whom you wish to vote. To vote for a person whose name is not printed on the
13 ballot write or paste that person's name in the blank space provided for that
14 purpose."
- 15 6. The offices specified in section 16.1-11-26 must be arranged in each column with
16 the name of each office in the center of each party column at the head of the
17 names of the aspirants for the office.
- 18 7. Immediately under the name of each office must be printed: "Vote for no more
19 than _____ name (or names)."
- 20 8. At the side of the name of each aspirant and in a column must be printed a square
21 or other figure for making a crossmark or other mark. No squares or other figures
22 may be printed at the head of the ballot.
- 23 9. The political party or principle which cast the largest vote for governor at the most
24 recent primary election at which the office of governor was voted upon must have
25 the left-hand column, and the party or principle casting the next largest vote must
26 have the next column, and so on.

27 The judges and the inspector of elections shall inform each elector at the primary, before
28 voting, that if the voter votes for candidates of more than one party the voter's party ballot will
29 be rejected.

30 **SECTION 7. AMENDMENT.** Subsection 3 of section 16.1-13-22 of the North Dakota
31 Century Code is amended and reenacted as follows:

1 3. At primary elections, the inspector or judge shall also inform each elector that if the
2 elector splits the party ballot or votes for candidates of more than one party the
3 elector's party ballot will be rejected.

4 **SECTION 8. AMENDMENT.** Section 16.1-15-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **16.1-15-01. Ballots void and not counted - Part of ballot may be counted.** In the
7 canvass of the votes at any election, a ballot is void and may not be counted if:

- 8 1. It is not endorsed with the official stamp and initials as provided in this title; or
9 2. It is impossible to determine the elector's choice from the ballot or parts of a ballot.

10 If a ballot is marked so only a part of the voter's intention can be determined, the election
11 judges shall count such part. If an elector votes for more than the number of persons to be
12 elected to any office, the elector's ballot may be invalidated only insofar as the elector's vote for
13 such office is concerned, and the balance of the elector's ballot, if otherwise proper, may not be
14 invalidated. However, at primary elections only, a party ballot is void if the elector votes for
15 candidates of more than one party.

16 **SECTION 9. AMENDMENT.** Section 16.1-15-19 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **16.1-15-19. County canvassing board to disregard technicalities, misspelling,
19 and abbreviations - Votes from unestablished precincts disregarded.** In canvassing the
20 election returns, the county canvassing board shall disregard technicalities, misspelling, and
21 the use of initial letters or abbreviations of the name of any candidate for office if it can be
22 ascertained for whom the vote was intended. The board may not count votes polled in any
23 place except at established precincts. The county canvassing board is authorized to stamp
24 and initial properly postmarked absentee ballots that were not considered or counted at the
25 various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12.

26 **SECTION 10. AMENDMENT.** Subsection 6 of section 16.1-16-01 of the North Dakota
27 Century Code is amended and reenacted as follows:

- 28 6. The persons entitled to participate at the recount are:
29 a. Each candidate involved in the recount, either personally or by a
30 representative.

1 b. A qualified elector favoring each side of a question if the recount involves a
2 question or proposition submitted to a vote of the electorate.
3 The persons allowed to participate may challenge the acceptance or exclusion of
4 any ballot. The person challenging a ballot must state the reason for the challenge
5 based upon the law, and the county auditor or other political subdivision election
6 official shall count the challenged ballot as the auditor or election official deems
7 proper and shall then set the ballot aside with a notation that it was challenged and
8 how it was counted. At the conclusion of the recount, the county auditor or other
9 election official shall submit all challenged ballots to the recount board for decision.
10 Except for political subdivision recounts other than counties, the recount board
11 must be composed of the state's attorney of the county, the chairman of the board
12 of county commissioners, and the clerk of the district court of the county. Unless
13 otherwise specified by law, for a political subdivision other than a county, the
14 governing body of the political subdivision shall appoint the recount board. No
15 person may serve on the recount board if the person would not be qualified to
16 serve on the election board pursuant to subsection 2 of section 16.1-05-02. If any
17 of the members of the recount board are disqualified or cannot serve for any other
18 reason, the members of the board of county commissioners or other political
19 subdivision governing body who would be qualified to serve on the board shall
20 appoint disinterested qualified electors of the county or other political subdivision to
21 serve as alternates. The recount board shall review all challenged ballots and on
22 majority vote shall decide how those ballots are counted. The recount board is
23 authorized to stamp and initial properly postmarked absentee ballots that were not
24 considered or counted at the various precincts in the county for the reasons
25 provided in sections 16.1-07-11 and 16.1-07-12 or by the county canvassing
26 boards as provided in section 16.1-15-19. The decision of the recount board is
27 final, subject to the right to contest the election as provided in this chapter. If
28 during the recount a recess is called, the county auditor or other political
29 subdivision election official shall take appropriate steps to safeguard the ballots.