

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1361
(Representatives Klemin, Kretschmar, Maragos, Muscha)
(Senators Hogue, Triplett)

AN ACT to amend and reenact sections 15.1-09-13, 16.1-04-02, 16.1-07-09, 16.1-07-10, 16.1-07-11, 16.1-07-12, and 21-03-11, subsection 4 of section 40-21-02, and section 40-21-16 of the North Dakota Century Code, relating to election precincts and voting places.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-13. Election precincts - Polling places - Election officials.

1. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible.
2. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more polling places for ~~the election~~each precinct. The board shall locate the polling places as conveniently as possible for the voters in the precinct. Once established by the board, a polling place must remain ~~the~~a polling place for a precinct until it is changed by subsequent action of the board.
3. For school board elections not held in conjunction with county elections, the board shall appoint two election judges and two election clerks for each ~~precinct~~polling place. Before opening the polls, the judges and clerks shall take an affirmation or oath to perform their duties according to law and to the best of their ability. The affirmation or oath may be administered by any officer authorized to administer oaths or by any of the judges or clerks.
4. For school board elections held in conjunction with county elections, the county election boards shall administer the election in the same manner as the county or state election.

SECTION 2. AMENDMENT. Section 16.1-04-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-04-02. Voting places - Duties and responsibilities of the board of county commissioners or the governing body of the city.

The board of county commissioners of each county:

1. Shall designate ~~a one or more~~ voting ~~place~~places for each precinct and may alter the voting places when there is a good and sufficient reason. However, the voting places for precincts located within the boundaries of any incorporated city must be designated, and altered if required, by the governing body of the city.
2. Shall provide that all voting places are accessible to the elderly and the physically disabled.
3. May utilize vote centers that contain all of the precincts in a county so that any qualified elector of the county may choose to cast a ballot in that polling location. Qualified electors may vote early at early voting precincts, by absentee ballot, at ~~the~~a polling location of their residential precinct, or at a county vote center. Vote center polling places must serve as ~~the~~a designated polling place for at least one precinct in the county in addition to serving as the site

where any county voter may cast a ballot. An individual voting or attempting to vote more than once in any single election is guilty of a class A misdemeanor.

SECTION 3. AMENDMENT. Section 16.1-07-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-09. Canvassing of mailed absent voter's ballots received late.

In the case of congressional, state, county, city, or school district elections, if an envelope postmarked or otherwise officially marked by the United States postal service or other mail delivery system before the date of election and containing an absent voter's ballot is received by the officer too late to be forwarded to a polling place of the proper voting precinct in time to be tabulated, the ballot must be tallied by the canvassing board of the county, the governing body of the city, or the school board of the school district, as the case may be, at the time the returns are canvassed. Any envelope without a postmark or other official marking by the United States postal service or other mail delivery system or with an illegible postmark or other official marking and containing an absentee voter's ballot must be received by mail by the proper officer prior to the meeting of the canvassing board. An absent voter may personally deliver the absent voter's ballot to the appropriate officer's office at any time before five p.m. on the day before the election. Any envelope containing an absent voter's ballot with a postmark or official date stamp on the day of election or thereafter may not be tallied with the ballots timely submitted for the election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding the ballot shall print the date of receipt on the envelope. Upon receipt, the canvassing board shall determine that the elector was qualified to vote in that precinct, that the elector did not previously vote in that precinct on the date of the election, and that the signatures on the absentee ballot application and the voter's affidavit were signed by the same person before allowing the ballot to be tallied.

SECTION 4. AMENDMENT. Section 16.1-07-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-10. Care and custody of ballot.

Upon receipt of an envelope containing the absent voter's ballot, the proper officer immediately shall attach the application of the absent voter and file the ballot with other absentee ballots from the same precinct. Before delivering the absentee ballots to a polling place of the proper precinct, the proper officer shall package the ballots in a manner so the ballots are sealed securely. The package must be endorsed with the name of the proper voting precinct, the name and official title of the officer, and the words "This package contains an absent voter's ballot and must be opened only according to the processing provisions of section 16.1-07-12." The officer shall keep the package safely in the officer's office until it is delivered by the officer as provided in this chapter.

SECTION 5. AMENDMENT. Section 16.1-07-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-11. Submitting ballot to inspector of elections.

If the envelope containing the absent voter's ballot is received by the county auditor, auditor or clerk of the city, or business manager of the school district, as the case may be, prior to that ~~person's~~individual's delivery of the sealed package containing the official ballots to the inspector of elections of a polling place of the precinct in which ~~such~~the absent voter resides, ~~such~~the ballot, after having been enclosed with the application in an envelope as required by section 16.1-07-10, must be enclosed in ~~such~~the package and delivered ~~therewith~~ to the inspector of the ~~precinct~~polling place. If the official ballots for the precinct have been delivered to the election inspector at the time of receipt by the proper officer of the absent voter's ballot, ~~then~~ the officer or the officer's designee shall personally deliver it to the inspector prior to the close of the polls on election day. Any absent voter's ballot sent to the wrong ~~precinct~~polling place by the official whose duty it is to forward ~~such~~the ballots ~~to the precincts~~, or any absent voter's ballot received by the inspector from the appropriate officer too late to be counted at the ~~precinct~~polling place, must be returned to the official by the election inspector, and

must be tallied by the county canvassing board, the governing body of the city, or the school board, as the case may be, with other absent voters' ballots received too late to be counted on election day.

SECTION 6. AMENDMENT. Section 16.1-07-12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-12. Opening ballot - Voting or rejecting - Depositing in ballot box - Preserving.

At any time beginning on the day before election day and the closing of the polls on election day, the election clerks and board members of the relevant precinctpolling place first shall compare the signature on the application for an absent voter's ballot with the signature on the voter's affidavit provided for in section 16.1-07-08 to ensure the signatures correspond. If the applicant is then a duly qualified elector of the precinct and has not voted at the election, they shall open the absent voter's envelope in a manner as not to destroy the affidavit thereon. They shall take out the secrecy envelope with the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined and indicate in the pollbook of the election that the elector has voted. The election board members not participating in the comparing of signatures and entering voters into the pollbook shall remove the ballot or ballots from the secrecy envelope, unfold and initial the same, and deposit in the proper ballot box for tabulation. The votes from these cast ballots may not be tallied and the tabulation reports may not be generated until the polls have closed on election day. If the affidavit on the outer envelope of a returned absentee ballot is found to be insufficient, or that the signatures on the application and affidavit do not correspond, or that the applicant is not then a duly qualified elector of the precinct, the vote may not be allowed, but without opening the absent voter's envelope, the election inspector or election judge shall mark across the face thereof "rejected as defective" or "rejected as not an elector", as the case may be. These rejected ballots are then turned over to the county canvassing board for final determination of eligibility. The subsequent death of an absentee voter after having voted by absentee ballot does not constitute grounds for rejecting the ballot.

SECTION 7. AMENDMENT. Section 21-03-11 of the North Dakota Century Code is amended and reenacted as follows:

21-03-11. Elections - When and how called and held.

Upon or after the adoption of an initial resolution by the governing body, or at the first meeting of the governing body held after the filing of a petition and proposed initial resolution by the qualified electors as specified in subsection 2 of section 21-03-10, the governing body by resolution shall provide for submitting to the qualified electors of the municipality the question whether ~~such~~the initial resolution shall be approved. The date of ~~such~~the election must be not less than twenty days after the passage of ~~such~~the initial resolution by the governing body or in the filing of a sufficient petition therefor by the qualified electors. The governing body shall designate the date of ~~such~~the election, the polling hours, and polling place ~~thereof~~, which must be the same as for municipal elections therein, and shall appoint an inspector, two judges, and two clerks of election for each polling place. In case of the absence of any ~~such~~election official ~~of election~~, or the official's inability to act at the opening of the polls, the remaining election officials for the precinctpolling place shall appoint a qualified elector to fill ~~such~~the vacancy. ~~Such~~The election must be conducted and the returns thereof made and canvassed as in the case of elections of members of the governing body of ~~such~~the municipality.

SECTION 8. AMENDMENT. Subsection 4 of section 40-21-02 of the North Dakota Century Code is amended and reenacted as follows:

4. For city elections that are not held under an agreement with any county, the governing body of the city shall appoint one inspector and two judges of election for each precinctpolling place in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. In voting precincts in which over three hundred votes are cast in any previous election, the governing body may appoint two election clerks ~~may be appointed by the governing body~~ for each polling place. For a city election that is not held under an agreement with any county in a precinct in which

seventy-five or fewer votes were cast in the last city election, the governing body of the city may appoint one inspector and one judge for each polling place.

SECTION 9. AMENDMENT. Section 40-21-16 of the North Dakota Century Code is amended and reenacted as follows:

40-21-16. Special elections conducted in same manner as general elections.

Special municipal elections to fill vacancies or for any other purpose ~~shall~~must be held and conducted by the inspectors and judges of election of the several ~~precincts~~polling places in the same manner and the returns ~~shall~~must be made in the same form and manner as at regular municipal elections.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1361.

House Vote: Yeas 93 Nays 1 Absent 0

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State