

ELECTIONS

CHAPTER 132

H. B. No. 148—(Wendland)

ABSTRACT AND CANVASS OF VOTES.

An Act to amend and re-enact Section 1009 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota relating to abstract of vote; canvass of vote; certificate of election; tie how decided; publication of abstract, and providing for compensation.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 1009 of the 1925 Supplement to the Compiled Laws of the State of North Dakota be amended and re-enacted to read as follows:

§ 1009. ABSTRACT OF VOTES: CANVASS OF VOTES: CERTIFICATES OF ELECTION: TIE HOW DECIDED: PUBLICATION OF ABSTRACT.] On the second Friday after each election, or as soon as the returns are received, the county auditor shall call to his assistance the clerk of the district court, chairman of the board of county commissioners and the chairman of the county committees of the two political parties that cast the highest vote for governor at the preceding general election and none of the persons so called shall be a candidate for office, unless there is not sufficient of such officers who are not candidates, and shall proceed to open such returns and make abstracts of votes in the manner following from the certified statements prepared by the different inspectors of election in the various precincts. The abstract of votes for United States senator, member of Congress, governor, state auditor, commissioner of insurance, commissioner of agriculture and labor, state treasurer, secretary of state, attorney general, commissioners of railroads, superintendent of public instruction and lieutenant governor shall be on one sheet; the abstract of votes for members of the legislative assembly shall be on one sheet; the abstract of votes for county and precinct officers shall be on one sheet; and it shall be the duty of the county auditor immediately to make out a certificate of election to each of the persons having the highest number of votes for county and precinct offices, respectively, and to deliver such certificate to the person entitled thereto on his making application to the county auditor therefor: provided, that when a tie shall exist between two or more persons for the Senate or House of Representatives, if such district is within the boundary of one county, the auditor of such county, and if such district is within the boundaries of more than one county, then the county auditor of the county casting the greater number of votes for the office of governor, shall immediately by registered letter addressed to the respective candidates

at their postoffice address, give notice to the several persons so having the highest and equal number of votes to attend at his office at a time appointed by him, which shall not be more than twenty days after the tie shall have been declared by such county auditor and they shall then proceed publicly to decide by lot which of the persons so having the highest and equal number of votes shall be declared duly elected and such auditor shall make and deliver to the person thus declared duly elected a certificate of his election as hereinbefore provided. It shall be the duty of the county auditor of each county, on receipt of the returns of any election, to make out his certificate, stating therein the compensation to which the judges and clerks of election may be entitled for their services, and lay the same before the board of county commissioners at their next session, and the said board shall order the compensation aforesaid to be paid out of the county treasury. Immediately after canvassing the returns and making the abstract of votes as provided in this section, the county auditor shall make a certified copy of each abstract and forward it to the secretary of state, and also cause to be published in the official newspapers of the county, in tabular form, the vote by precincts for each officer and proposition voted for at said election. Such publishing to be paid for at a rate not exceeding the rate paid for publishing county commissioners' proceedings. If the county auditor is a candidate for office, he shall take no part in the canvass, but shall act as clerk of such board of canvassers, and the two officers called to the assistance of the county auditor to make such canvass, shall call to their assistance a justice of the peace, and it shall thereupon be their duty at once to attend and canvass such returns as provided by law.

§ 1009A. That the board of county commissioners in each county shall audit, allow and pay the chairmen of the county committees of the two political parties, compensation for the duties herein provided for at the rate of \$5.00 per day.

Approved March 4, 1935.

CHAPTER 133

H. B. No. 129—Niewoehner, Goodlaxon and Bieberdorf)

DISPOSITION BALLOTS—COMPENSATION ELECTION OFFICERS.

An Act to amend and re-enact Section 1008 of the Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 134 of the 1927 Session Laws relating to the return and disposition of election ballots and compensation of election officers.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 1008 of the Supplement to the Compiled Laws of 1913 as amended by Chapter 134 of the 1927

Session Laws be, and same is hereby amended and re-enacted to read as follows:

§ 1008. The inspector of election or one of the judges appointed by him shall forthwith deliver to the clerk of the town, city or village, one of such statements and one of such poll lists, together with the stamps inscribed with the words "Official Ballot" to be filed and preserved in his office, and shall with all convenient dispatch and within three days after the election, deliver the other two statements to the county auditor and Secretary of State, respectively, either in person or by registered mail, said statement having been by the Judges carefully sealed up, together with the other poll lists, and with the oaths of inspectors and clerks affixed, under cover, properly directed to the county auditor and Secretary of State, respectively, and the person making such return shall receive as compensation therefor the sum of two dollars (\$2.00) to be paid out of the county treasury on a warrant of the county auditor.

The statement and poll lists aforesaid, having been duly prepared for delivery to the county auditor as aforesaid, the inspector and judges of election shall cause the ballots of each kind cast at such election to be smoothly spread upon a wrapper of strong durable paper of the same width of such ballots and of sufficient strength to permit of its being folded with the said ballots and form a complete wrapper therefore when folded. Such ballots and wrappers shall then be tightly folded together and the said wrapper securely pasted or glued at the outer end so as to completely envelope and firmly hold such roll together.

Provided, that ballots which are void shall be wrapped in a separate wrapper and so marked on said wrapper.

In the folding and sealing of the ballots as aforesaid the various classes of ballots shall be kept separate.

The judges shall fold in two folds and lay in tiers all ballots counted by them except those which are void, and fold same securely in manila wrappers not exceeding two hundred (200) to each wrapper, on which shall be endorsed in writing or print the number of the precinct, date on which election was held, and securely seal such wrappers by sealing them with sealing wax and stamping on said wax the name of the county with a metal stamp provided for that purpose, so that said wrappers cannot be opened without breaking the seal, and return, either in person, by mail or express, said ballots together with those found void, to the county judge. Immediately upon receiving such ballots, the county judge shall give receipt therefor to said judges of election, and shall place them properly arranged in the order of the precinct numbers in boxes which shall be securely locked. Said boxes shall be placed in a fire-proof vault and shall be securely kept for four months, not opening or inspecting them nor allowing any one else to do so, except upon order of court, in case of contested election, or when it shall be necessary to produce them at a trial for any offense committed at elec-

tion. At the end of four months after said election, said ballots shall be destroyed; provided that if any contest of the election of any officer voted for at such election or prosecution under this article shall be pending at the expiration of said time, the said ballots shall not be destroyed until such contest or prosecution be finally determined. In organized townships or in cities or villages, the inspector of election shall deliver, if he is not himself the officer in question, the ballot boxes together with the said metal stamp to the chairman of the Board of Supervisors of the civil township, or mayor of the city or president of the village, in which the election precinct is situated, as the case may be; and this officer shall keep in safe custody such boxes and stamp until the next election or hand them over to his successor in office to be safely kept by him until such time. At the following general or primary election it shall be the duty of these officers to hand the ballot boxes and said stamp over to the inspector of elections. In unorganized townships the inspector of elections shall cause the ballot boxes to be delivered to the county auditor at the same time when the ballots are returned. Any person violating any of the provisions of this section is guilty of a misdemeanor.

It is the purpose of this act (section) to provide a safe place for keeping of the ballots and to make them readily accessible for use in legal proceedings, and such ballots shall be received in evidence without further identification or foundation being laid, and any failure on the part of the election officers to comply with any of the formalities required hereby as to the return of said ballots shall not invalidate any election or cause any ballot otherwise regular to be disregarded and any omission or irregularities in the manner of identifying or returning the ballots of any precinct may be obviated by proof under the ordinary rules of evidence. It is hereby further provided that the compensation of \$2.00 hereinbefore mentioned shall be full compensation for returning all used or voided ballots and for delivering the ballot boxes to the proper official.

REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 4, 1935.

CHAPTER 134

H. B. No. 123—(Schauss)

NOMINATIONS PUBLIC OFFICE PUBLISHED WHEN.

An Act to amend and re-enact Section 975 of the 1913 Compiled Laws of the State of North Dakota, relating to the publication of nominations for office and fixing duty of county auditor with reference thereto and providing for the number of publications thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 975 of the Compiled Laws of

the State of North Dakota relating to the publication of nominations for public offices and fixing the duty of the county auditor with reference thereto, be and the same is hereby amended and re-enacted to read as follows:

§ 975. NOMINATIONS TO BE PUBLISHED; WHEN.] At least ten days before an election to fill any public office under the provisions of this Chapter the county auditor of each county shall cause to be published in one of the newspapers within the county the nominations certified to him under the provisions of this Chapter; the auditor shall make such publications twice in the official newspaper within his county; provided, that if there is no newspaper published in the county written or printed notices shall be posted in such county.

REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 21, 1935.

CHAPTER 135

S. B. No. 29—(Bonzer)

ELECTION PRESIDENTIAL ELECTORS, PRECINCT COMMITTEEMEN, DELEGATES NATIONAL CONVENTIONS, NATIONAL COMMITTEEMEN AND COMMITTEEWOMEN AND ORGANIZATION COUNTY AND STATE COMMITTEES.

An Act providing for the nomination of candidates for the offices of presidential electors; for the election of party precinct committeemen; delegates to the national party conventions and national party committeemen and national party committeewomen; for the organization of party county and state committees; and to repeal all acts or parts of acts in conflict herewith, including Sections 910-916, inclusive, Compiled Laws 1913 and Chapter 137 of the Session Laws of the year 1927 and Chapter 123 of the Session Laws of the year 1929.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That at the Party Primary Election now held on the last Wednesday in June of each even numbered year prior to Presidential years and commencing with the year 1938, and each fourth year thereafter, there shall be elected as hereinafter provided by the qualified electors of each political party from each voting precinct, committeemen to represent such political party.

§ 2. Each political party in each voting precinct in this State shall be entitled to elect one precinct committeeman for each 250 votes or major fraction thereof, cast in such precinct at the last preceding Presidential election for the Presidential Elector of such party receiving the highest vote in the State; provided that each

precinct shall be entitled to at least one precinct committeeman for each National party. All precinct committeemen shall be electors of their precinct and shall be elected to serve for a term of four years and until their successor is elected and qualified.

§ 3. Candidates for precinct committeemen may have their names placed on separate party ballots of their respective parties within their respective precincts by filing with the county auditor not more than fifty nor less than twenty-five days prior to the election petitions bearing the signatures of not less than five per cent of the last vote in such precinct for the aforesaid candidate for presidential elector of the party to which the candidate for precinct committeeman belongs. Such nominating petitions shall conform with the now existing requirements of law in all matters not specifically provided for herein. Each name on the petition shall be that of a qualified voter and be subscribed under a party heading. Each signer of a nomination paper shall be entitled to sign the same number of petitions as the number of precinct committeemen entitled to be elected in his precinct; he shall add his residence with the street number, if any, and the date of signing.

§ 4. The names of candidates for election as precinct committeemen shall be printed on separate ballots for each political party. Such ballot shall contain only the names of candidates for party precinct committeemen for whose nomination petitions have been filed with the county auditor as is herein provided. If no nominating petitions have been filed for any candidate the ballot shall contain blank lines and spaces on which names may be written or a sticker pasted. The ballot to be used for the election of candidates for said offices shall be prepared for each voting precinct in the county by the county auditor and distributed by him with other election supplies in the same manner and number for each party as is now provided by law for party primary election ballots. Such ballots shall be in the following form, namely:

Party Precinct Committeeman Ballot

.....Party

(Insert party name)

To vote this ballot mark an (X) in the square after the name of each of the persons for whom you wish to vote.

For Precinct Committeeman

(Vote for.....)

John Doe.....

Richard Roe.....

§ 5. No organization, political or otherwise, shall be entitled to a party ballot in the election herein provided for unless said organization nominated and had printed upon the ballot, at the last preceding presidential election, the names of a set of presidential electors pledged to the election of the candidates of said party for president

and vice-president, and further that such candidates for presidential electors received at least five per cent of the total vote cast for president within the state at said election.

§ 6. The candidate or candidates for precinct committeemen equal to the number to be elected receiving, each for himself, the highest number of votes shall be declared elected. Upon the closing of the polls the election officials in each precinct shall proceed to count and canvass the votes cast for precinct committeemen and ascertain who was elected and shall notify the county auditor. The county auditor shall then forthwith make out and mail to each person elected, upon blanks provided by the county, a certificate of election which shall also notify said precinct committeeman of the time and place of the first meeting of the county committee as hereinafter provided. In case of a tie vote the election officials shall immediately decide the winner by drawing lots.

§ 7. Except as herein otherwise provided, the ballots above provided for, shall be prepared, printed, distributed, voted, canvassed and returned and said election held and conducted in the manner now provided by law for party primary election, respectively; likewise, as to notice of election, disposition of ballots, certifying election, penalties for violation of election laws and all other matters not specifically provided for in this Act.

§ 8. The precinct committeemen elected as herein provided, together with the members of the Legislative Assembly of each party, shall constitute the county committee of each party. They shall meet in the court house at the county seat of each county at two o'clock P. M. on the third Wednesday after such primary election and organize by selecting a chairman, a vice chairman, a secretary and a treasurer, by adopting rules and modes of procedure not in conflict with law, and by selecting an executive committee consisting of from five to eleven persons chosen from the county committee, of which executive committee the chairman and secretary shall be members.

Such county committee shall at the same time select one person who shall be a legal voter to act upon and be a member of the State Central Committee of such party in all counties consisting of one legislative district, and in counties having more than one legislative district, the precinct committeemen from each legislative district, meeting separately, shall select a legal voter from their respective legislative district to serve on such state central committee. When two or more counties are embraced in one legislative district, the county committee of each county shall meet as aforesaid and shall elect a committee of three of its members to meet with a similar committee from the other county or counties comprising such legislative district, at the court house at the county seat of the senior county of such district at two o'clock P. M. on the the fourth Wednesday following their election and proceed to elect a member of

such state central committee from such legislative district. Each committee shall be entitled to cast the number of votes equal to the number of precinct committeemen elected in its county in such manner and for such candidate as shall be determined by the majority of such committee acting personally or by proxy. Each member of any committee shall be a legal voter and shall retain such position until his successor is chosen. If any member of such state central committee is unable to attend any meeting of such committee, he shall be authorized to give written proxy to another legal voter of his legislative district or county. Vacancies shall be filled by a majority of the state committee by appointment from the legislative district in which such vacancy exists. Vacancies in the office of precinct committeemen shall be filled by appointment from such precinct made by the county executive committee of such party.

Members so elected as state central committeemen shall meet on the second Wednesday in August following the party primary election and such meeting of said state central committeemen shall be held at the State Capitol and shall convene at 10:00 o'clock A. M. Such meetings shall organize by selecting a chairman, a vice chairman, a secretary and a treasurer and by adopting rules and modes of procedure. The officers so elected need not be members of such committee.

§ 9. The precinct committeemen, at a county meeting held at two o'clock P. M. on the first Wednesday in May in each county at the county seat in each presidential election year shall meet and elect delegates to a State party convention to be held as herein provided. One delegate shall be elected for each 300 votes or major fraction thereof, cast in said county at the last preceding presidential election for the presidential elector of such party receiving the highest vote in the State; provided that every county shall be entitled to at least one delegate. All delegates shall be electors of their county. If any delegate shall be unable to attend such convention, he shall designate in writing an alternate to attend and represent and act for him.

Said state party conventions shall be held in each presidential year prior to the holding of the national party conventions. Such conventions shall be held at such place and at such time as shall be designated by the respective party state central committee.

Such party conventions shall nominate the legal number of candidates for their respective parties for the offices of presidential electors and shall elect a National committeeman and a National committeewoman and the required number of delegates to the National party convention and a like number of alternates. The candidate or candidates for such nomination or election receiving the majority vote of the delegates elected to such convention shall be declared nominated or elected and the chairman and secretary of such convention shall issue certificates of nomination or election. If any delegate to such national convention shall be unable to attend, he shall

designate in writing one of the alternates to attend and represent and act for him. The names of the candidates nominated for presidential electors shall be certified by the chairman and secretary of such convention to the Secretary of State to be placed upon the general election ballot as now provided by law.

§ 10. If a special election shall be called to fill a vacancy in any office requiring a party nomination, the proper party committee shall call a convention to make party nomination for such office and the precinct committeemen of the county or district shall be duly convened and shall elect the required number of delegates to such convention.

§ 11. The provision of Chapter 129, Laws of 1911, and acts amendatory thereof relating to unfair and corrupt election practices are hereby specifically made applicable to all elections and conventions provided for in this act.

§ 12. Should a vacancy occur in any nomination for any nomination for any party office or in the office of national committeeman, or national committeewoman, the proper party committee shall have authority to fill such vacancy.

§ 13. It is not the intention hereof to destroy or impair the organization of any party or principle now existing or hereafter to exist, therefore, each of such parties or principles, and each and all of the state, county, district and other committees thereof shall possess all of the power and authority heretofore established and existing by the usage and customs of such parties not inconsistent with any of the provisions hereof.

§ 14. That the first election held under this act shall be in the year 1938. That the precinct committeemen elected at the party primary in 1934 shall serve until their successors shall be elected and qualified under this act in 1938. Such precinct committeemen so elected in 1934 shall meet at the county seat of each county at 2:00 o'clock P. M. on the first Wednesday in May, 1936, and shall elect delegates to a state party convention as provided in Section 9 hereof. The state central committee of each party shall call in the year 1936 a state convention as provided in Section 9 hereof for the election and nomination of the party officers named in Section 9 of this act.

§ 15. All acts or parts of acts, including Sections 910-916, inclusive, Compiled Laws of 1913, Chapter 137 of the Laws of 1927 and Chapter 123 of the Laws of 1929, and all acts amendatory thereof or in conflict herewith are hereby repealed.

Approved March 13, 1935.

CHAPTER 136**S. B. No. 72—(Ettestad)****PRIMARY ELECTION NOTICE.**

An Act to amend and re-enact Section 922, Compiled Laws of 1913, relating to posting of notices of primary election.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 922, Compiled Laws of 1913, be amended and re-enacted to read as follows:

§ 922. POSTING OF NOTICES.] Such auditor shall forthwith mail to each inspector of election of said county, five copies of such notice, and such inspector of election shall, at the same time that he posts the sample ballots and election instructions, post said notices in five conspicuous places in his election precinct, which notice shall also designate the location of the polling place in his election precinct, provided, however, such inspector shall receive no additional compensation for posting such notices.

Approved February 19, 1935.

FIREMEN'S ASSOCIATION**CHAPTER 137****H. B. No. 97—(Aljets and Gilbertson)****REGIONAL FIRE SCHOOLS.**

An Act to amend and re-enact Chapter 19 of the Political Code of the Compiled Laws of North Dakota for the year 1913, relating to the North Dakota Firemen's Association and providing an appropriation for the use of such Association in promoting regional fire schools, and other activities of such Association.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 1839 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

§ 1839. REGIONAL FIRE SCHOOLS.] For the purpose of promoting the efficiency and growth of the different fire departments, members of the North Dakota Firemen's Association, there shall be held annually under the direction of the North Dakota Firemen's Association at such times and in such places, in the State of North Dakota, as may be designated by said Firemen's Association at its annual state convention, not less than four regional fire schools.