

June 2007

TITLE 16.1

Elections

Summary of Bills Enacted by 2007 Legislative Assembly

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code Title 16.1. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to elections may be classified in these subject areas: election administration; campaign contributions; candidates; and corrupt election practices.

ELECTION ADMINISTRATION

House Bill No. 1380 removes provisions allowing the Secretary of State to reduce election deadlines for special elections relating to certain referendums and changes the date of those special elections from 30 to 50 days after the call for the special election to 90 days after the call for the special election. The bill provides that signature forms filed with initiated or referred measures must be originals and provides that an initiative or referendum petition must be on a form prescribed by the Secretary of State.

Senate Bill No. 2237 provides that an individual who has obtained a protection order or who is protected by a disorderly conduct restraining order must be listed in the central voter file with a "secure active" designation. The bill requires the state court administrator or the Bureau of Criminal Investigation, upon the request of the Secretary of State, to make available to the Secretary of State the name of each individual who has obtained such an order. The bill provides that a "secure active" designation is an exempt record and any individual's record designated as "secure active" is not available to any candidate, political party, or political committee for any purpose. The bill removes the requirement that a county auditor change the designation of an individual who makes a request for removal of the individual's record from the central voter file to "inactive."

House Bill No. 1378 authorizes a board of county commissioners to use vote centers that contain all the precincts in a county so that any qualified elector of the county may choose to cast a ballot in that polling location. The bill provides that a qualified elector may vote early at an early voting precinct, by absentee ballot, at the polling location in the elector's precinct or at a county vote center.

Senate Bill No. 2238 changes the deadline for appointments of election officers from 21 days before the election to 40 days before the election. The bill authorizes a county auditor, with the approval of the board of county commissioners, to appoint as many poll clerks as are necessary for the proper administration of a polling place. The bill requires that the poll clerks be appointed on their knowledge of election matters, attention to detail, and on any necessary technical knowledge. The bill provides that when the members of an election board challenge the right of an individual to vote, the board must require the individual to complete and sign a voter's affidavit.

Senate Bill No. 2233 removes various references to the use of electronic voting systems by townships. The bill also reduces the number of pollbooks, facsimile diagrams of voting devices, and informational posters that a county is required to supply for each polling place.

Senate Bill No. 2235 requires that at the conclusion of a mandatory test of an electronic voting system, the programming for each electronic voting device be sealed within the device with a unique numbered seal that must be verified by the election inspector before the opening of the polls. The bill also requires the Secretary of State to order a random testing of the voting system programming, after each election, for one precinct in each county.

Senate Bill No. 2232 changes from 20 days before an election to 40 days before an election the deadline for making absentee ballots available for distribution. The bill requires that an application for an absentee ballot must include the applicant's birth date and year and motor vehicle operator's license or nondriver identification number. The bill allows a uniformed service member or a family member stationed at any location other than the individual's voting residential address to apply for an absentee ballot. The bill requires an election canvassing board to verify that the signatures on the absentee ballot application and the voter's affidavit were signed by the same individual before allowing the ballot to be tallied. The bill requires a county auditor, with the consent of the board of county commissioners, to designate a public facility as an early voting precinct.

Senate Bill No. 2230 expands the allowed use of mail ballot elections from primary elections to all elections if authorized by a board of county commissioners. The bill allows the scanning of mail ballots to begin at any time after the polls open but prohibits the totaling of results until after the closing of the polls.

Senate Bill No. 2239 requires that a candidate's certificate of nomination by convention must include the nominated individual's telephone number. The bill clarifies that any individual may receive assistance in marking the individual's ballot if the individual requires assistance. The bill removes a requirement that an inspector or election judge inform each voter at a primary election that if the voter splits the party ballot or votes for more than one party, the voter's party ballot will be rejected.

Senate Bill No. 2231 includes on the affidavit for an individual desiring to qualify to vote for presidential electors, a requirement that the applicant include the applicant's telephone number.

House Bill No. 1374 provides that election recounts must be conducted according to guidelines established by the Secretary of State and according to statute. The bill requires that a county auditor, during a recount, review ballots to determine if the ballots were properly initialed and that the initials found on the ballots are verified as those of the precinct board members. The bill provides that a member of a recount board may not have anything of value bet or wagered on the result of the election, be a candidate for the office being recounted, or be the spouse or a family member of a candidate involved in the recount. The bill provides that a contestant or contestee who desires to have ballots preserved must give notice to the county recorder that an election contest is pending in a court.

House Bill No. 1377 changes the responsibility for the handling of ballots after the election from the clerk of the district court to the county recorder and changes the composition of the county canvassing board to include the county recorder and remove the clerk of the district court.

CAMPAIGN CONTRIBUTIONS

House Bill No. 1375 revises the definition of a "public office" for the purpose of the campaign contribution law to include any office to which an individual may be elected by a vote of the people under the laws of the state. The bill authorizes a state political party to establish a separate and segregated account for the management of a state nominating convention and requires a political party to file a postconvention and a year-end contribution and expenditure statement for the account. The bill expands the campaign finance reporting requirements for judicial candidates to require that a candidate's statement include the gross total of all contributions received of \$200 or less and the cash on hand in the candidate's account at the start and close of the reporting period. The bill requires a candidate for a city office to file the candidate's contribution statement with the city auditor rather than the county auditor.

House Bill No. 1499 provides that a political committee includes an organization governed by Section 527 of the Internal Revenue Code, which solicits or receives contributions or makes expenditures for political purposes, and requires such an organization to file campaign contribution and expenditure statements. The bill expands the definition of a "political purpose" for the purposes of campaign finance reporting and for the purposes of corrupt election practices to provide that within the 30 days before a primary election and the 60 days before a special or general election, the term includes any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or

"challenger" is used in support of or in opposition to the election or nomination of a candidate to public office.

CANDIDATES

Senate Bill No. 2234 provides that a candidate's certificate of endorsement or candidate petition must include the candidate's telephone number. The bill changes the affidavit that must be submitted with a certificate of endorsement or petition to include a statement certifying that the candidate is qualified to serve if elected, and to specify how the candidate desires to have the candidate's name on the ballot. The bill also removes the requirement that sample ballots for publication purposes be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for Governor at the last general election at which the office of Governor was filled. The bill reduces the number of poll lists that clerks of primary elections must keep from two to one. The bill repeals a provision relating to presidential preference contests.

House Bill No. 1379 requires a candidate for a nonfederal office who is filing a demand to identify and preserve any write-in vote to file the demand with the county recorder.

CORRUPT ELECTION PRACTICES

House Bill No. 1243 provides that it is a Class A misdemeanor if a person, with reckless disregard for the truth, publishes a political advertisement or news release that is untrue, deceptive, or misleading.

House Bill No. 1376 prohibits a person from approaching an individual attempting to enter a polling place, who is in a polling place, or who is leaving a polling place for the purpose of gathering signatures for any reason.