

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1114

Introduced by

Political Subdivisions Committee

(At the request of the Secretary of State)

1 A BILL for an Act to create and enact ~~sections~~section 40-21-16.1, ~~40-21-16.2, and 40-21-16.3~~ of
2 the North Dakota Century Code, relating to canvassing city elections; ~~and~~ to amend and
3 reenact sections 40-08-08, 40-08-16, ~~40-09-07~~, and 40-09-10 of the North Dakota Century
4 Code, relating to city elections; to repeal section 40-09-07 of the North Dakota Century Code,
5 relating to the bond and oath of a city commissioner; and to declare an emergency.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 40-08-08 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **40-08-08. Vacancies on council - How filled.**

10 If a vacancy occurs in a city council office by death, resignation, or otherwise, the city
11 council may call a special city election to fill the vacancy for the unexpired term, or may, after
12 fifteen days of the date of the vacancy appoint a person from the ward in which the council
13 member previously holding was elected or appointed to fill the vacancy until the next city
14 election, at which election the unexpired term must be filled. Upon petition of five percent of the
15 qualified electors of the ward, as determined by the total number of votes cast in that ward in
16 the last city general election, the council shall call a special election to fill a vacancy occurring
17 more than six months before the next city election, if the petition has been submitted within
18 fifteen days and before four p.m. of the fifteenth day of the date of the vacancy or of the
19 vacancy being filled by appointment. If the petition is mailed, it must be in the possession of the
20 council or its representative before four p.m. on the fifteenth day after the vacancy occurs or
21 after the vacancy was filled by appointment.

22 **SECTION 2. AMENDMENT.** Section 40-08-16 of the North Dakota Century Code is
23 amended and reenacted as follows:

40-08-16. Vacancy in office of mayor - Filled by election or by council - President of council to be acting mayor.

If a vacancy occurs in the office of mayor, the city council may call a special city election to fill such vacancy for the unexpired term or may, after fifteen days from the date of such vacancy, elect one of its members to act as mayor. The member so elected shall possess all the rights and powers of the mayor until the next election and until a mayor is elected and qualified. Upon petition of five percent of the qualified electors, as determined by the total number of votes cast in the city in the last city general election, the council shall call a special election to fill a vacancy occurring more than six months prior to the next city election, provided such petition is submitted within fifteen days of the date of such vacancy. During the interim between the date when a vacancy occurs in the office of mayor and election and qualification of a successor, the president of the city council shall be the acting mayor.

~~SECTION 3. AMENDMENT. Section 40-09-07 of the North Dakota Century Code is amended and reenacted as follows:~~

~~**40-09-07. Bond and oath**Oath of commissioner.~~

~~Each commissioner, before entering upon the duties of office, shall furnish a bond in the penal sum of three thousand dollars conforming to the provisions of law applicable to the bonds of state officers. In, in addition to the oath prescribed by the Constitution of North Dakota, each commissioner shall take an oath that the commissioner is not under any direct or indirect obligation to appoint or elect any person to the office of police officer, firefighter, or any other office, position, or employment under the city government. Each commissioner elected shall qualify under the provisions of this section within ten days after the receipt of the commissioner's certificate of election.~~

SECTION 3. AMENDMENT. Section 40-09-10 of the North Dakota Century Code is amended and reenacted as follows:

40-09-10. HowFilling vacancies in board filled.

If a vacancy occurs in the office of a city commissioner or president of the board of city commissioners, the board may call a special city election to fill such vacancy for the unexpired term, or may, after fifteen days from the date of such vacancy appoint a person to fill such vacancy until the next city election, at which election the unexpired term shall be filled. Upon petition of five percent of the qualified electors, as determined by the total number of votes cast

1 in the city in the last city general election, the commission shall call a special city election to fill a
2 vacancy occurring more than six months prior to the next city election, provided such petition
3 has been submitted within fifteen days of the date of such vacancy.

4 **SECTION 4.** Section 40-21-16.1 of the North Dakota Century Code is created and enacted
5 as follows:

6 **40-21-16.1. City canvassing board - Composition.**

7 ~~The~~For any city election not held in conjunction with a county election, the city canvassing
8 board must be composed of the city auditor, city attorney or appointed replacement, mayor or
9 council president, and two members of the city commission or council. An individual who served
10 on an election board during the election may not serve as a representative on the canvassing
11 board for that same election. The city canvassing board must be comprised of at least five
12 members.

13 ~~SECTION 6.~~ Section 40-21-16.2 of the North Dakota Century Code is created and enacted
14 as follows:

15 ~~40-21-16.2. Qualifications of members of city canvassing board - Replacements -~~
16 ~~Quorum.~~

17 ~~A member of the city canvassing board who has any thing of value bet or wagered on the~~
18 ~~result of the election may not serve on the board. When a member of the city canvassing board~~
19 ~~is a candidate or husband, wife, father, mother, father-in-law, mother-in-law, son, daughter,~~
20 ~~son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the~~
21 ~~half blood, of any candidate for any office for which that member canvasses the votes, the~~
22 ~~member must be removed from that portion of the canvass. If any of the members of the board~~
23 ~~are disqualified or cannot serve for any other reason, the city auditor shall appoint alternates to~~
24 ~~serve in the place of those members of the board who are disqualified. A majority of the~~
25 ~~confirmed members of the board or their duly appointed alternates constitute a quorum and~~
26 ~~may make the canvass provided for in this chapter and certify the results.~~

27 ~~SECTION 7.~~ Section 40-21-16.3 of the North Dakota Century Code is created and enacted
28 as follows:

1 ~~40-21-16.3. Time of city canvassing board meeting - Oath - Reconsideration of~~
2 ~~canvass.~~

3 ~~Not earlier than the third day or later than the sixth day following each election, the city~~
4 ~~canvassing board shall meet and, after taking the oath of office, proceed to open and publicly~~
5 ~~canvass the returns. After the initial meeting of the board as provided in this section, any two or~~
6 ~~more members may call a meeting of the board and, upon approval of a majority of the~~
7 ~~members, the board shall recanvass all or part of the results of the election and may correct any~~
8 ~~previous canvass or certification, or both, in regard to the election.~~

9 **SECTION 5. REPEAL.** Section 40-09-07 of the North Dakota Century Code is repealed.

10 **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.