

CONSTITUTIONAL AMENDMENTS, DISAPPROVED

CHAPTER 749

STATE GOVERNMENT REORGANIZATION

House Concurrent Resolution No. 3044, chapter 794, 1989 Session Laws, proposed by the Fifty-first Legislative Assembly of the State of North Dakota, to create a new section to article V of the Constitution of North Dakota, relating to the reorganization of executive and administrative offices, boards, bureaus, agencies, commissions, and instrumentalities of state government.

STATEMENT OF INTENT

This measure creates a new section to the executive branch article of the Constitution that mandates reorganization of the many offices, boards, bureaus, agencies, commissions, and instrumentalities of state government into no more than fourteen departments other than constitutionally elected offices, boards, or commissions.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed creation of a new section to article V of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the next statewide election, in accordance with the provisions of section 16 of article IV of the Constitution of North Dakota.

SECTION 1. A new section to article V of the Constitution of North Dakota is hereby created and enacted to read as follows:

For more effective administration, the governor may propose to the legislative assembly, from time to time, changes in the statutory allocation of functions, powers, and duties among and within the executive departments, other than those headed by constitutionally elective offices. A commission consisting of the governor, lieutenant governor, and three members of the legislative assembly selected by the legislative council shall, on or before February 1, 1991, propose the allocation of executive power to not more than fourteen departments, not including the departments under constitutionally elected officials or constitutional boards and commissions. Proposed changes under this section must be in special executive orders, setting forth the structural and all statutory changes, and submitted to both houses of the legislative assembly on the same day. If an executive order under this section is not disapproved by a majority of the members elected to either house of the legislative assembly within thirty legislative days, the order shall have the force of law when filed with the secretary of state or on a later day specified in the order.

Disapproved December 5, 1989

71,732 to 174,919

NOTE: This was measure No. 1 on the special election ballot.

CHAPTER 750

LIEUTENANT GOVERNOR AS PRESIDING OFFICER

Senate Concurrent Resolution No. 4005, chapter 793, 1989 Session Laws, proposed by the Fifty-first Legislative Assembly of the State of North Dakota, for the amendment of sections 8 and 13 of article IV, section 7 of article V, and section 9 of article XI of the Constitution of North Dakota, relating to election of presiding officers of the legislative assembly, legislative procedures, powers and duties of the lieutenant governor, and impeachment proceedings; and to repeal section 13 of article XI of the Constitution of North Dakota, relating to impeachment proceedings.

STATEMENT OF INTENT

This amendment removes the lieutenant governor as presiding officer of the Senate and provides that the presiding officer of the Senate must be elected from the membership of the Senate.

BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed amendments to sections 8 and 13 of article IV, section 7 of article V, section 9 of article XI, and repeal of section 13 of article XI of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of the State of North Dakota at the primary election to be held in 1990, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 8 of article IV of the Constitution of North Dakota is hereby amended and reenacted to read as follows:

Section 8. ~~The Each~~ house of representatives shall elect one of its members to act as presiding officer at the beginning of each organizational session.

SECTION 2. AMENDMENT. Section 13 of article IV of the Constitution of North Dakota is hereby amended and reenacted to read as follows:

Section 13. Each house shall keep a journal of its proceedings, and a recorded vote on any question shall be taken at the request of one-sixth of those members present. No bill may become law except by a recorded vote of a majority of the members elected to each house; ~~and the lieutenant governor is considered a member-elect of the senate when the lieutenant governor votes.~~

No law may be enacted except by a bill passed by both houses, and no bill may be amended on its passage through either house in a manner which changes its general subject matter. No bill may embrace more than one

subject, which must be expressed in its title; but a law violating this provision is invalid only to the extent the subject is not so expressed.

Every bill must be read on two separate natural days, and the readings may be by title only unless a reading at length is demanded by one-fifth of the members present.

No bill may be amended, extended, or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions.

The presiding officer of each house shall sign all bills passed and resolutions adopted by the legislative assembly, and the fact of signing shall be entered at once in the journal.

Every law, except as otherwise provided in this section, enacted by the legislative assembly takes effect on July first after its filing with the secretary of state or ninety days after its filing whichever comes later, or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. Every appropriation measure for support and maintenance of state departments and institutions and every tax measure that changes tax rates enacted by the legislative assembly take effect on July first after its filing with the secretary of state or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. An emergency measure takes effect upon its filing with the secretary of state or on a date specified in the measure. Every law enacted by a special session of the legislative assembly takes effect on a date specified in the Act.

The legislative assembly shall enact all laws necessary to carry into effect the provisions of this constitution. Except as otherwise provided in this constitution, no local or special laws may be enacted, nor may the legislative assembly indirectly enact special or local laws by the partial repeal of a general law but laws repealing local or special laws may be enacted.

SECTION 3. AMENDMENT. Section 7 of article V of the Constitution of North Dakota is hereby amended and reenacted to read as follows:

Section 7. The powers and duties of the lieutenant governor shall be ~~to serve as president of the senate; and he may, when the senate is equally divided, vote on procedural matters, and on substantive matters if his vote would be decisive. Additional duties shall be~~ prescribed by the governor. If, during the vacancy in the office of governor, the lieutenant governor shall be impeached, displaced, resign, or die, or from mental or physical disease, or otherwise become incapable of performing the duties of his office, the secretary of state shall act as governor until the vacancy shall be filled or the disability removed.

SECTION 4. AMENDMENT. Section 9 of article XI of the Constitution of North Dakota is hereby amended and reenacted to read as follows:

Section 9. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation to do justice according to the law and evidence. No person shall be convicted

without the concurrence of two-thirds of the members elected. ~~When the governor or lieutenant governor is on trial, the presiding judge of the supreme court shall preside.~~

SECTION 5. REPEAL. Section 13 of article XI of the Constitution of North Dakota is hereby repealed.

Disapproved June 12, 1990

48,967 to 71,452

NOTE: This was measure No. 1 on the primary election ballot.

CHAPTER 751

EFFECTIVE DATE OF LEGISLATION

House Concurrent Resolution No. 3005, chapter 798, 1989 Session Laws, proposed by the Fifty-first Legislative Assembly of the State of North Dakota, for the amendment of section 13 of article IV of the Constitution of North Dakota, relating to the effective date of legislation.

STATEMENT OF INTENT

This amendment provides that all legislation, except appropriation and tax measures, would be effective on August first after filing with the secretary of state or ninety days after filing if filed on or after August first and before January first of the following year. The effective date for appropriation and tax measures would remain July first.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed amendment to section 13 of article IV of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of the State of North Dakota at the general election to be held in 1990, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 13 of article IV of the Constitution of North Dakota is hereby amended and reenacted to read as follows:

Section 13. Each house shall keep a journal of its proceedings, and a recorded vote on any question shall be taken at the request of one-sixth of those members present. No bill may become law except by a recorded vote of a majority of the members elected to each house, and the lieutenant governor is considered a member-elect of the senate when the lieutenant governor votes.

No law may be enacted except by a bill passed by both houses, and no bill may be amended on its passage through either house in a manner which changes its general subject matter. No bill may embrace more than one subject, which must be expressed in its title; but a law violating this provision is invalid only to the extent the subject is not so expressed.

Every bill must be read on two separate natural days, and the readings may be by title only unless a reading at length is demanded by one-fifth of the members present.

No bill may be amended, extended, or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions.

The presiding officer of each house shall sign all bills passed and resolutions adopted by the legislative assembly, and the fact of signing shall be entered at once in the journal.

Every law, except as otherwise provided in this section, enacted by the legislative assembly during its eighty natural meeting days takes effect on July August first after its filing with the secretary of state, or if filed on or after August first and before January first of the following year ninety days after its filing ~~whichever comes later~~, or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. Every appropriation measure for support and maintenance of state departments and institutions and every tax measure that changes tax rates enacted by the legislative assembly take effect on July first after its filing with the secretary of state or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. An emergency measure takes effect upon its filing with the secretary of state or on a date specified in the measure. Every law enacted by a special session of the legislative assembly takes effect on a date specified in the Act.

The legislative assembly shall enact all laws necessary to carry into effect the provisions of this constitution. Except as otherwise provided in this constitution, no local or special laws may be enacted, nor may the legislative assembly indirectly enact special or local laws by the partial repeal of a general law but laws repealing local or special laws may be enacted.

Disapproved November 6, 1990

99,362 to 112,490

NOTE: This was measure No. 1 on the general election ballot.

CHAPTER 752

JUDICIAL VACANCIES

House Concurrent Resolution No. 3040, chapter 799, 1989 Session Laws, proposed by the Fifty-first Legislative Assembly of the State of North Dakota, for the amendment of section 13 of article VI of the Constitution of North Dakota, relating to the filling of judicial vacancies.

STATEMENT OF INTENT

This amendment provides that a person appointed by the Governor to fill a vacancy on the supreme court or district court serves until the next general election. However, if the next general election occurs within one year after the appointment, the appointment continues until the following general election.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed amendment to section 13 of article VI of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 1990, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 13 of article VI of the Constitution of North Dakota is hereby amended and reenacted to read as follows:

Section 13. A judicial nominating committee shall be established by law. Any vacancy in the office of supreme court justice or district court judge shall be filled by appointment by the governor from a list of candidates nominated by the committee, unless the governor calls a special election to fill the vacancy for the remainder of the term. An appointment shall continue until the next general election, when the office shall be filled by election for the remainder of the term continues until the next general election, unless the next general election occurs within one year after the appointment, in which case the appointment continues until the following general election.

Disapproved November 6, 1990

96,635 to 118,164

NOTE: This was measure No. 2 on the general election ballot.

CHAPTER 753

BOARD OF HIGHER EDUCATION MEMBERS

Senate Concurrent Resolution No. 4021, chapter 797, 1989 Session Laws, proposed by the Fifty-first Legislative Assembly of the State of North Dakota, for the amendment of subdivision a of subsection 2 of section 6 of article VIII of the Constitution of North Dakota, relating to the qualifications of the members of the state board of higher education.

STATEMENT OF INTENT

This amendment defines "graduate" for purposes of serving on the state board of higher education.

BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed amendment to subdivision a of subsection 2 of section 6 of article VIII of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 1990, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Subdivision a of subsection 2 of section 6 of article VIII of the Constitution of North Dakota is hereby amended and reenacted to read as follows:

2. a. The state board of higher education shall consist of seven members, all of whom shall be qualified electors and taxpayers of the state, and who shall have resided in this state for not less than five years immediately preceding their appointment, to be appointed by the governor, by and with the consent of the senate, from a list of names selected as hereinafter provided.

There shall not be on said board more than one graduate of any one of the institutions under the jurisdiction of the state board of higher education at any one time. "Graduate" means a person who has received a baccalaureate degree and does not include a person who has received an associate or advanced degree. No person employed by any institution under the control of the board shall serve as a member of the board, nor shall any employee of any such institution be eligible for membership on the state board of higher education for a period of two years following the termination of his employment.

On or before the first day of February, 1939, the governor shall nominate from a list of three names for each position, selected by the unanimous action of the president of the North

Dakota educational association, the chief justice of the supreme court, and the superintendent of public instruction, and, with the consent of a majority of the members-elect of the senate, shall appoint from such list as such state board of higher education seven members, whose terms shall commence on the first day of July, 1939, one of which terms shall expire on the thirtieth day of June, 1940, and one on the thirtieth day of June in each of the years 1941, 1942, 1943, 1944, 1945, and 1946. The term of office of members appointed to fill vacancies at the expiration of said terms shall be for seven years, and in the case of vacancies otherwise arising, appointments shall be made only for the balance of the term of the members whose places are to be filled.

Disapproved November 6, 1990

104,793 to 109,437

NOTE: This was measure No. 3 on the general election ballot.

CHAPTER 754

STATE AUDITOR IN LEGISLATIVE BRANCH

Senate Concurrent Resolution No. 4043, chapter 800, 1989 Session Laws, proposed by the Fifty-first Legislative Assembly of the State of North Dakota, to create a new section to article IV of the Constitution of North Dakota, relating to the office of state auditor; to amend sections 12 and 13 of article V of the Constitution of North Dakota, relating to the office of state auditor; and to provide an effective date.

STATEMENT OF INTENT

This amendment would remove the office of state auditor from the executive branch and place the office in the legislative branch effective in 1992.

BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed creation of a new section to article IV of the Constitution of North Dakota, and the following proposed amendments to sections 12 and 13 of article V of the Constitution of North Dakota, are hereby agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 1990, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. A new section to article IV of the Constitution of North Dakota is hereby created and enacted to read as follows:

At the times and places of choosing members of the legislative assembly, the qualified electors of the state shall choose an auditor. At the time of election the auditor must have attained the age of twenty-five years and must be a qualified elector. The auditor shall hold office at the seat of government for a term of four years beginning in 1992, and until a successor is elected and duly qualified. The term begins on December first following the auditor's election. The auditor shall audit the receipt, expenditure, and use of public funds, as provided by law, and is responsible to the legislative assembly in the performance of those duties and any other duties imposed by law.

SECTION 2. AMENDMENT. Section 12 of article V of the Constitution of North Dakota is hereby amended and reenacted to read as follows:

Section 12. There shall be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, a secretary of state, ~~auditor,~~ treasurer, superintendent of public instruction, commissioner of insurance, an attorney general, a commissioner of agriculture and labor, and a tax commissioner, who shall have attained the

age of twenty-five years and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government for the term of four years beginning with the year 1965, and until their successors are elected and duly qualified; but no person shall be eligible for the office of treasurer for more than two consecutive terms.

The board of railroad commissioners shall hereafter be known as the public service commission and the members of the board of railroad commissioners as public service commissioners and the powers and duties now or hereafter granted to and conferred upon the board of railroad commissioners are hereby transferred to the public service commission.

The public service commissioners shall have the qualifications of state electors, have attained the age of twenty-five years, be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, hold office at the seat of government and until their successors are elected and duly qualified. As each of the three public service commissioners now holding office completes his term, his successor shall be elected for a term of six years.

The legislative assembly may by law provide for a department of labor, which, if provided for, shall be separate and distinct from the department of agriculture, and shall be administered by a public official who may be either elected or appointed, whichever the legislative assembly shall declare; and if such a department is established the commissioner of agriculture and labor provided for above shall become the commissioner of agriculture.

SECTION 3. AMENDMENT. Section 13 of article V of the Constitution of North Dakota is hereby amended and reenacted to read as follows:

Section 13. The powers and duties of the secretary of state, ~~auditor~~, treasurer, superintendent of public instruction, commissioner of insurance, commissioners of railroads, attorney general and commissioner of agriculture and labor shall be prescribed by law. In the event that the legislative assembly shall establish a separate and distinct department of labor, the powers and duties of the officer administering such department of labor shall be prescribed by law.

SECTION 4. EFFECTIVE DATE. If approved by the voters, sections 2 and 3 of this measure become effective on January 1, 1993.

Disapproved November 6, 1990

74,425 to 136,546

NOTE: This was measure No. 4 on the general election ballot.