

SENATE BILL NO. 2390

Introduced by

Senators Lyson, Kinnoin

Representatives Nichols, Wald

1 A BILL for an Act to amend and reenact sections 11-08-05, 11-08-07, 11-08-08, 11-08-09,
2 11-08-10, 11-08-13, 11-08-15, 11-09-18, 11-09-19, subsection 3 of section 11-09.1-05, section
3 11-10-02, subsection 3 of section 11-10.2-01, and section 11-15-01.1 of the North Dakota
4 Century Code, relating to the election of the county sheriff and county state's attorney.

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

6 **SECTION 1. AMENDMENT.** Section 11-08-05 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **11-08-05. Vote required - Effective date - Procedure for discontinuance.** If a
9 majority of the votes cast on the question of the adoption of the county consolidated form of
10 government are in favor of that form, it becomes effective on the first day of January next
11 succeeding the election. All elected officers whose offices become appointive under this
12 chapter shall continue in office until their successors are appointed pursuant to the provisions of
13 this chapter. The question of the discontinuance of the county consolidated office form of
14 government may be submitted to the electors at the next primary election through the same
15 procedures set forth in this chapter for adopting that form of government. On the first day of
16 January following a vote to discontinue, the county reverts to the form of government of the
17 county immediately preceding adoption of the consolidated office form of government, with all
18 offices made appointive under this chapter subject to election at the last preceding general
19 election, or to another optional form of county government adopted by the electors as provided
20 by law.

21 **SECTION 2. AMENDMENT.** Section 11-08-07 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **11-08-07. Appointive officers - County commissioners, sheriff, and state's**
24 **attorney elected - Terms of office - How vacancy filled.** The board of county commissioners

1 shall appoint each county officer mentioned in section 11-08-06, except the members of the
2 board of county commissioners, who must be elected in the manner provided in section
3 11-11-02, and the sheriff and the state's attorney, who must be elected as provided in section
4 11-10-02. Each county officer shall hold office for a term of four years, except as otherwise
5 provided in this chapter, and until the officer's successor is duly appointed and qualified. The
6 board of county commissioners shall fill any vacancy resulting from any cause.

7 **SECTION 3. AMENDMENT.** Section 11-08-08 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **11-08-08. When appointment of officers made - Qualification.** The county officers
10 to be appointed must be appointed by the board of county commissioners at the following times
11 in the year in which the county consolidated office form of government goes into effect:

- 12 1. On or before the fifteenth day of January, the ~~sheriff, state's attorney, and~~ coroner
13 must be appointed, and ~~such officers shall~~ the coroner must qualify within ten days
14 thereafter.
- 15 2. Not less than ten days prior to April first, the county auditor must be appointed, and
16 the appointee qualify within ten days thereafter.
- 17 3. Not less than ten days prior to May first, the county treasurer must be appointed,
18 and the appointee ~~shall~~ must qualify within ten days thereafter.

19 Thereafter, the appointments must be made within ten days prior to the expiration of the terms
20 of office of the officers. The failure of the board of county commissioners to make any
21 appointment within the time prescribed does not impair its power to make the appointment
22 subsequently for the remainder of the term of office of the officer so appointed.

23 **SECTION 4. AMENDMENT.** Section 11-08-09 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **11-08-09. Compensation of officers.** Each member of the board of county
26 commissioners and each other county officer who is appointed by ~~such~~ the board ~~shall~~ or
27 elected must receive as compensation for services the salary prescribed by law for ~~such~~ the
28 officer, except that the county auditor ~~shall~~ must receive a salary not exceeding three thousand
29 dollars per annum and the county treasurer ~~shall~~ must receive a salary not exceeding the
30 amount provided by law for the office of county treasurer, to be fixed by the board of county
31 commissioners.

1 **SECTION 5. AMENDMENT.** Section 11-08-10 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **11-08-10. ~~Board may appoint officers~~ Sheriff or state's attorney of adjoining**
4 **county may run for election - Term of office - Compensation.** The ~~board of county~~
5 ~~commissioners may appoint the sheriff or the state's attorney, or both, of an adjoining county to~~
6 ~~act as the sheriff or state's attorney of its county~~ may run for election in a county which has
7 adopted the county consolidated office form of government. Any such officer of an adjoining
8 county so ~~appointed~~ elected shall serve for a term of ~~two~~ four years and until that officer's
9 successor is ~~appointed~~ elected and qualified. An officer ~~appointed~~ elected under this section is
10 eligible to serve in such dual capacity and ~~shall~~ must receive, in addition to the salary as an
11 officer of the county of residence, a sum not exceeding one-half of such salary, to be fixed by
12 the board of county commissioners. The additional salary ~~shall~~ must be paid by the county in
13 the same manner as other county officers are paid.

14 **SECTION 6. AMENDMENT.** Section 11-08-13 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **11-08-13. Powers and duties of other officers.** The sheriff, state's attorney, and
17 coroner elected or appointed under this chapter shall perform the duties and exercise the
18 powers conferred by law upon them.

19 **SECTION 7. AMENDMENT.** Section 11-08-15 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **11-08-15. Removal of officers.** Any county officer appointed by the board of county
22 commissioners or elected under the provisions of this chapter may be suspended or removed
23 by the governor or by judicial proceedings in the manner provided by law.

24 **SECTION 8. AMENDMENT.** Section 11-09-18 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **11-09-18. State's attorney to be elected - ~~Appointment-~~ **Powers - Duties.** The
27 ~~county manager~~ state's attorney of a county adopting any form of county managership, ~~with the~~
28 ~~approval of the board of county commissioners, may appoint a~~ must be elected in the manner
29 prescribed by general statutes. The state's attorney ~~to~~ shall serve as legal adviser to the board
30 of county commissioners and to the county manager, ~~to~~ act as counsel for the county in any
31 suit instituted by or against it, and ~~to~~ perform ~~such~~ other duties as may be prescribed by the**

1 board of county commissioners or which are imposed on state's attorneys by general statute.
2 ~~In a county adopting a short form of county managership, the county manager, with the~~
3 ~~approval of the board of county commissioners, from time to time or on an annual basis, may~~
4 ~~appoint the~~ The state's attorney of an adjoining county to perform such duties as are required of
5 ~~a state's attorney~~ may run for election in a county which has adopted a short form of county
6 managership. The compensation of the state's attorney of an adjoining county ~~shall~~ must be
7 that agreed upon by the person so ~~appointed~~ elected, the county manager, and the boards of
8 county commissioners of the two counties affected.

9 **SECTION 9. AMENDMENT.** Section 11-09-19 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **11-09-19. Sheriff - Election - ~~Appointment~~ - Duties - Powers.** The sheriff of a county
12 adopting a any form of county manager form of government shall managership must be elected
13 in the manner prescribed by general statutes and ~~shall~~ must perform the duties and be subject
14 to the restrictions contained in the general statutes. ~~In a county adopting a short form of county~~
15 ~~managership, the county manager shall, with the approval of the board of county~~
16 ~~commissioners, appoint one or more police officers who shall perform all police duties imposed~~
17 ~~on the sheriff by general statutes. All other duties imposed on the sheriff shall be performed by~~
18 ~~or under the direction of the county manager. The county manager, from time to time or on an~~
19 ~~annual basis, may contract with an adjoining county and its sheriff to obtain the services of such~~
20 ~~sheriff, and the~~ of an adjoining county may run for election in a county that has adopted a short
21 form of county managership. The compensation of ~~such officer shall~~ the sheriff of an adjoining
22 county must be ~~such as shall be~~ that agreed upon by the sheriff so elected, the county
23 manager, and the boards of county commissioners of the counties affected.

24 **SECTION 10. AMENDMENT.** Subsection 3 of section 11-09.1-05 of the 1997
25 Supplement to the North Dakota Century Code is amended and reenacted as follows:

26 3. Provide for county elected and appointed officers and employees, their selection,
27 powers, duties, qualifications, and compensation, and the terms of county
28 appointed officers and employees. However, after adoption of a home rule charter
29 a county elected office may not be eliminated or combined with another office
30 except upon approval of a majority of the electors of the county voting upon the
31 question at a primary or general election or pursuant to the county officer

1 combination, separation, or redesignation procedures of chapter 11-10.2. A home
2 rule charter may not diminish the term of office for which a current county officer
3 was elected, redesignate that elected office during that term as appointed, or
4 reduce the salary of the office for that term. This subsection does not authorize a
5 county to redesignate the elected offices of sheriff and state's attorney as
6 appointed.

7 **SECTION 11. AMENDMENT.** Section 11-10-02 of the 1997 Supplement to the North
8 Dakota Century Code is amended and reenacted as follows:

9 **11-10-02. Number and election of county officers.** Each organized county, unless it
10 has adopted one of the optional forms of county government provided by the code or has
11 combined or separated the functions of county offices or redesignated offices as elective or
12 appointive pursuant to chapter 11-10.2 or 11-10.3, must have the following officers:

- 13 1. One county auditor.
- 14 2. One register of deeds.
- 15 3. One clerk of the district court, except as otherwise provided by this section.
- 16 4. One state's attorney.
- 17 5. One sheriff.
- 18 6. One county treasurer.
- 19 7. One coroner.
- 20 8. A board of county commissioners consisting of three or five members as provided
21 in this title.

22 In addition, each county must have an elected state's attorney and an elected sheriff.

23 In counties having a population of six thousand or less, the register of deeds shall perform the
24 functions of the clerk of the district court, unless the board of county commissioners adopts a
25 resolution separating the offices no less than thirty days before petitions for nomination to
26 county offices may first be filed for the primary election. In a county having a population of
27 more than six thousand, the offices of clerk of district court and register of deeds may be
28 combined into an office of register of deeds if the board of county commissioners, following
29 consultation with the supreme court, adopts a resolution combining the offices no less than
30 thirty days before petitions for nominations to county offices may first be filed for the primary
31 election. For a county that has properly initiated the option pursuant to section 11-17-11, and

1 the office of the clerk of court is funded by the legislative assembly, the board of county
2 commissioners may provide for the functions of the register of deeds, which may include
3 functions of the clerk of district court and other functions as determined by the board of county
4 commissioners. Counties having a population of six thousand or less and exercising the option
5 provided in section 11-17-11 may contract with the state court administrator for the provision of
6 shared funding for register of deeds' services. The required officers must be chosen by the
7 qualified electors of the respective counties at the general election in each even-numbered
8 year, except the register of deeds, county auditor, treasurer, sheriff, state's attorney, and clerk
9 of the district court, who must be chosen in 1966 and every four years thereafter, the members
10 of the board of county commissioners, who must be chosen in the manner prescribed in section
11 11-11-02, and the county coroner, who must be chosen in the manner prescribed in section
12 11-19.1-03. The clerk of district court elected pursuant to this section is not subject to election
13 in any future general election that occurs after the start of the state biennium after the county
14 has properly initiated the option and the legislative assembly has provided appropriations
15 pursuant to section 11-17-11.

16 **SECTION 12. AMENDMENT.** Subsection 3 of section 11-10.2-01 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 3. This option is available in addition to, or in lieu of, other county structural options
19 authorized under this title, unless a specific mandate for combining or separating
20 particular county offices is otherwise provided by law. The ~~office~~ offices of ~~county~~
21 ~~judge is~~ sheriff and state's attorney are excluded from the application of this
22 chapter.

23 **SECTION 13. AMENDMENT.** Section 11-15-01.1 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **11-15-01.1. Sheriff must be qualified elector and shall must receive required**
26 **training - Exception.** Except as otherwise specifically provided by state law, the sheriff must
27 be a qualified elector in the county in which the sheriff is elected ~~or appointed~~. Within one year
28 after taking office, the sheriff shall attend the sheriffs' school on civil process for one week, and
29 unless already licensed under sections 12-63-01 through 12-63-14, shall begin the training
30 necessary to become so licensed. Within two years after taking office, the sheriff shall
31 complete the procedures required to be licensed under sections 12-63-01 through 12-63-14.