

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

HOUSE BILL NO. 1181
(Political Subdivisions Committee)
(At the request of the Secretary of State)

AN ACT to amend and reenact sections 15-47-08, 16.1-11-16, 16.1-12-02, 40-08-06, 40-13-03, 40-21-02, 40-21-07, 44-01-04, and 44-02-01 of the North Dakota Century Code, relating to officers of political subdivisions taking oaths of office and failing to qualify for office, nominating petitions and procedures for circulating nominating petitions, filling unexpired terms on a city council by election, and appointing election workers in city elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-47-08 of the North Dakota Century Code is amended and reenacted as follows:

15-47-08. Oath of office of school district officers. Each person elected or appointed as a member of the school board or as a business manager of the school district, before entering upon the duties of his office, shall take and file with the business manager of the school district the oath prescribed for civil officers within ten days after notice of the person's election or appointment. Refusal to take the oath of office, as required by this section, must also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to section 44-02-01.

SECTION 2. AMENDMENT. Section 16.1-11-16 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-16. Form of ~~petition~~ nominating petitions. ~~A petition required in this chapter may be one continuous list of names under the proper political title or principle or there may be a number of petitions using the same title, containing the aggregate of names required.~~

1. Each nominating petition circulated by candidates for any state, district, county, or other political subdivision office must include or have attached the following information, which must be made available to each signer at the time of signing:
 - a. The candidate's name, address, and the title of the office to which the candidate aspires, including the appropriate district number if applicable, or whether the petition is intended for an unexpired term of office.
 - b. The name of the party the candidate represents if the petition is for an office under party designation.
 - c. The date of the election at which the candidate is seeking nomination or election.
2. Only qualified electors of the state, district, county, or other political subdivision, as the case may be, may sign nominating petitions. In addition to signing the person's name, petition signers shall include the following information:
 - a. The date of signing.
 - b. Their complete residential address, rural route, or general delivery.
 - c. Either the North Dakota city or its corresponding zip code.
3. Incomplete signatures or accompanying information of petition signers which do not meet the requirements of this section invalidate such signatures. The use of ditto marks to indicate that the information contained on the previous signature line carries over does not

invalidate a signature. Signatures that are not accompanied by a complete date are not invalid if the signatures are preceded and followed by a signature that is accompanied by a complete date.

SECTION 3. AMENDMENT. Section 16.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-02. Certificates of nomination by petition - Form and contents. Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. The names of nominees so nominated must appear on the ballot as independent nominations. Each certificate of nomination by petition must contain:

- ~~1. The name of the nominee.~~
- ~~2. The office the nominee desires to fill.~~
- ~~3. The post office address of the nominee.~~
4. Signatures of qualified electors who reside in the state, district, or political subdivision. The signatures need not be appended to one paper, and each person signing shall add that person's mailing address and the date of signing meet the specifications for nominating petitions set forth in section 16.1-11-16. The signatures on the petition must be in the following number:
 - a. 1. Except as provided in ~~subdivision e~~ subsection 3, if the nomination is for an office to be filled by the qualified electors of the entire state, there must be no fewer than one thousand signatures.
 - b. 2. If the nomination is for an office to be filled by the qualified electors of a district less than the entire state, the number of signatures must be at least two percent of the resident population of the district as determined by the most recent federal decennial census, but in no case may more than three hundred signatures be required.
 - e. 3. If the nomination is for the office of president, there must be no fewer than four thousand signatures.
 5. 4. If the petition is for the office of governor or lieutenant governor, it must contain the names and other required information of candidates for both those offices.

SECTION 4. AMENDMENT. Section 40-08-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-08-06. Term of office of council members - Staggered terms provided for in cities where other than ten council members elected. Council members shall hold office for four years and until their successors are elected and qualified. Terms of council members must be arranged so that only one-half of the council members in any city are elected in any one election. When a city first adopts the council form of government, or when a city that has adopted the commission system of government returns to the city council form of government as provided by section 40-04-08, the alternation of the terms of the council members must be perfected as follows: of the council members elected in each ward, the one receiving the greater number of votes shall serve until the fourth Tuesday in June following the second succeeding biennial election and the one receiving the lesser number of votes shall serve until the fourth Tuesday in June following the biennial election succeeding the council member's election; if the city is not divided into wards, the one-half of the council members elected in the entire city receiving the greater number of votes shall serve until the fourth Tuesday in June following the second succeeding biennial election and the one-half of the council members elected in the entire city receiving the lesser number of votes shall serve until the fourth Tuesday in June following the biennial election succeeding their election. ~~Whenever, for any cause, more than one-half of the total number of council members in any ward, or more than one-half of the total number of council members in the city, if the city is not divided into wards, are to be elected in any one election, the length of the terms of the council members elected at the election must be determined as provided in this~~

~~section.~~ Whenever, for any reason, vacancies exist on the council which require an unexpired term to be filled by election, the unexpired term must be designated on the ballot separate from any other regular term or terms that may also appear on the ballot. Candidates seeking nomination to an unexpired term are required to indicate whether or not they are seeking a regular term of office or an unexpired term of office on their nominating petitions as set forth in section 40-21-07.

SECTION 5. AMENDMENT. Section 40-13-03 of the North Dakota Century Code is amended and reenacted as follows:

40-13-03. Oaths of municipal officers. Every person elected or appointed to any municipal office, before ~~he~~ the person enters upon the discharge of the duties thereof, shall take and subscribe the oath of office prescribed for civil officers, and, except in the case of the auditor, shall file the same with the city auditor within ten days after notice of ~~his~~ the election or appointment has been given. The oath of the city auditor shall be filed in the office of the auditor of the county in which the municipality is located. Refusal to take the oath of office, as required by this section, shall also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to section 44-02-01.

SECTION 6. AMENDMENT. Section 40-21-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-21-02. City elections - When held - Notice - Polls - Agreements with counties - Judges and inspectors. Biennial municipal elections must be held on the second Tuesday in June in each even-numbered year. Ten days' notice of the time and place of the election and of the offices to be filled at the election must be given by the city auditor by publication in the official newspaper of the city as provided by section 40-01-09. The governing body of a city shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the apportioning of election expenses. For city elections that are not held under an agreement with any county, the governing body of the city shall appoint one inspector, ~~two clerks,~~ and two judges of election for each precinct in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. In voting precincts in which over three hundred votes are cast in any previous election, two election clerks may be appointed by the governing body. For a city election that is not held under an agreement with any county in a precinct in which seventy-five or fewer votes were cast in the last city election, the governing body of the city may appoint one inspector and one judge. When a city enters into an agreement with the county to hold the city election in conjunction with the county election, the deadline for giving notice of the city election along with the offices to be filled at the election may be adjusted in order to meet the publishing requirements of the county.

SECTION 7. AMENDMENT. Section 40-21-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-21-07. Petition for nomination of elective official in cities - Signatures required - Contents. A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least sixty days and before four p.m. on the sixtieth day before the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. If multiple candidates were elected to the office at the preceding city election at which the office was voted upon, the number of signatures must equal at least ten percent of the total votes cast for all candidates divided by the number of candidates that were to be elected to that office at that election. Qualified electors who sign a petition must reside within the ward or precinct in and for which that officer is to be elected, if the election is by wards, or within the corporate limits of the city if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the qualified electors at large residing within the city. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the sixtieth day prior to the holding of the election. However, no more than three hundred signatures may be required and the signatures may be on separate sheets of paper. ~~Each qualified elector who signs a petition shall add to the petition the petitioner's mailing address.~~ Petitions must meet the specifications of nominating petitions pursuant to section 16.1-11-16. If a city election is not ~~held in conjunction with~~ combined with a state or county election according to section 40-21-02, a candidate may be nominated by filing the

required petition with the city auditor at least thirty-three days and before four p.m. on the thirty-third day before the holding of the election. Nominating petitions required by this section may not be circulated or signed more than ninety days before the date when nominating petitions must be filed pursuant to this section. Any signatures to a nominating petition obtained more than ninety days before that date may not be counted.

SECTION 8. AMENDMENT. Section 44-01-04 of the North Dakota Century Code is amended and reenacted as follows:

44-01-04. State, district, and county officers - Failure to qualify - Vacancy. If any person elected to any state, district, ~~or~~ county, or other political subdivision office fails to qualify and enter upon the duties of such office within the time fixed by law, such office must be deemed vacant and must be filled by appointment as provided by law. If there is a contest for such office or if the person elected to such office is prevented or obstructed in any manner from entering upon the duties thereof, the time above prescribed does not govern and ~~he~~ the person must be allowed twenty days after the day such contest is determined or such obstruction removed in which to qualify.

SECTION 9. AMENDMENT. Section 44-02-01 of the North Dakota Century Code is amended and reenacted as follows:

44-02-01. Vacancies - Causes thereof. An office becomes vacant if the incumbent shall:

1. Die in office;
2. Be adjudged mentally ill;
3. Resign from office;
4. Be removed from office;
5. Fail to discharge the duties of ~~his~~ office, when such failure has continued for sixty consecutive days, except when prevented from discharging such duties by reason of ~~his~~ service in the armed forces of the United States, by sickness, or by other unavoidable cause; provided, however, that as to any office which under the law the vacancy must be filled by the governor, the governor for good cause shown may extend the period, which the incumbent may be absent, for an additional period of sixty days. No remuneration on account of such office may be paid to an absentee officeholder during ~~his~~ the person's absence, and such office in all cases becomes vacant upon the termination of the term for which ~~he~~ the person was elected or appointed;
6. Fail to qualify as provided by law, which includes taking the designated oath of office prescribed by law;
7. Cease to be a resident of the state, district, county, or township in which the duties of the office are to be discharged, or for which ~~he~~ the person may have been elected;
8. Be convicted of a felony or any offense involving moral turpitude or a violation of ~~his~~ the officer's official oath;
9. Cease to possess any of the qualifications of office prescribed by law; or
10. Have ~~his~~ the person's election or appointment declared void by a competent tribunal.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1181.

House Vote: Yeas 98 Nays 0 Absent 0

Senate Vote: Yeas 45 Nays 0 Absent 4

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State