

Fifty-seventh  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1103

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

1 A BILL for an Act to amend and reenact sections 27-05-01, 27-05-02.1, and 27-05-05 of the  
2 North Dakota Century Code, relating to judicial districts, vacancies in the office of district judge,  
3 and the election of presiding judges.

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

5 **SECTION 1. AMENDMENT.** Section 27-05-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

#### 7 **27-05-01. Judicial districts - Number of judges.**

8 ~~4. The judicial districts in this state and the number of judges in each district are as~~  
9 ~~designated by rule of the supreme court. The number of judges in each of the~~  
10 ~~judicial districts is as follows:~~

- 11 ~~a. The northwest judicial district shall have five judges.~~
- 12 ~~b. The northeast judicial district shall have three judges.~~
- 13 ~~c. The northeast central judicial district shall have four judges.~~
- 14 ~~d. The east central judicial district shall have four judges.~~
- 15 ~~e. The southeast judicial district shall have three judges.~~
- 16 ~~f. The south central judicial district shall have five judges.~~
- 17 ~~g. The southwest judicial district shall have three judges.~~

18 ~~2. Each judicial district has that number of additional judges as designated by rule of~~  
19 ~~the supreme court pursuant to subsection 3 of section 27-05-00.1. The supreme~~  
20 ~~court shall reduce the number of district judges pursuant to section 27-05-02.1 to~~  
21 ~~forty-two before January 2, 2001. The total number of district court judgeships in~~  
22 ~~this state is forty-two.~~

23 **SECTION 2. AMENDMENT.** Section 27-05-02.1 of the 1999 Supplement to the North  
24 Dakota Century Code is amended and reenacted as follows:

**27-05-02.1. Vacancy in office of district judge - Transfer of judgeships - ~~Abolition of offices~~— Hearing.**

1. Notwithstanding section 44-02-03, when a vacancy occurs in the office of district court judge, the supreme court shall determine, within ninety days of receiving notice of the vacancy from the governor and in consultation with the judges and attorneys in the affected judicial district, whether that office is necessary for effective judicial administration or whether a the district judgeship may be transferred to ~~the~~ another location to fulfill a need for judicial services. The supreme court may, consistent with that determination, order that:
  - a. The vacancy be filled in the manner provided pursuant to chapter 27-25; or
  - b. ~~The vacant office be abolished, with or without transfer of a district judgeship as provided by subsection 5; or~~
  - e. The vacant office be transferred to a judicial district in which an additional judge is necessary for effective judicial administration, and that the vacancy be filled in the manner provided pursuant to chapter 27-25 with respect to that judicial district.
2. ~~Subject to subsection 3, the supreme court may, after consultation with district court judges and attorneys in the affected judicial district, abolish one or more offices of district court judge if the supreme court determines that the office is not necessary for effective judicial administration and abolition of the office is necessary to reduce the number of district court judges as required in subsection 2 of section 27-05-01. At least one year before the end of the term of office of a district court judge holding the judgeship, the supreme court shall notify the judges of the affected judicial district of a determination that the judgeship will be abolished. The abolition of an office of district court judge under this subsection is effective at the end of the term of office of the district court judge holding that judgeship. The district court judge holding the judgeship to be abolished may petition the supreme court, within thirty days after receiving notice that the judgeship will be abolished, for a hearing on the determination. The supreme court shall hold the hearing within thirty days after receipt of the petition. Within thirty~~

1           ~~days after the hearing, the supreme court shall affirm, reverse, or modify its~~  
2           ~~previous determination.~~

3           ~~3. The authority conferred upon the supreme court in subsection 2 may be exercised:~~

4           ~~a. From July 1, 1995, until June 30, 1997, if on July 1, 1995, the number of~~  
5           ~~district court judges is more than forty eight;~~

6           ~~b. From July 1, 1997, until June 30, 1999, if on July 1, 1997, the number of~~  
7           ~~district court judges is more than forty six; and~~

8           ~~c. From July 1, 1999, until December 31, 2000, if on July 1, 1999, the number of~~  
9           ~~district court judges is more than forty two.~~

10          4. For purposes of subsection 1, a vacancy is also deemed to have occurred in the  
11          office of district judge if the judge in the affected office declares the intention not to  
12          seek reelection or if a judge fails to timely file a petition for candidacy with the  
13          secretary of state pursuant to section 16.1-11-06. The secretary of state shall  
14          immediately notify the supreme court if a judge fails to timely file a petition. The  
15          supreme court may establish by rule procedures for providing notice of the  
16          intention not to seek reelection. The supreme court, within ninety days of receiving  
17          notice of a judge's intention not to seek reelection or within twenty-one days of  
18          receiving notice that a judge has failed to timely file a petition for candidacy, shall  
19          determine whether the office is necessary for effective judicial administration. The  
20          supreme court shall consult with the judges and attorneys of the affected judicial  
21          district in making the determination. The supreme court, consistent with that  
22          determination, may order any disposition available under subsection 1. The  
23          supreme court shall notify the secretary of state of its determination. ~~If the vacant~~  
24          ~~office is abolished, an election for that office may not be held. This subsection~~  
25          ~~applies to notice given by or the failure to timely file a petition for candidacy by a~~  
26          ~~district judge otherwise eligible for reelection to the office of district judge or by a~~  
27          ~~county judge otherwise eligible for election in 1994 to the district judgeship~~  
28          ~~replacing the county judgeship.~~

29          ~~5.~~ 3. The supreme court may transfer a district judgeship to any location in which a  
30          judge is necessary for effective judicial administration.

1       6- 4.    The supreme court shall notify the governor of its determinations made pursuant to  
2               this section.

3               **SECTION 3. AMENDMENT.** Section 27-05-05 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5               **27-05-05. Presiding judge of district - How determined - Term of office.** The  
6 district ~~and county~~ judges in judicial districts of this state having more than one district judge  
7 shall elect from among the district judges a presiding judge who shall serve for a period of three  
8 years beginning January 1, 1992. A presiding judge in districts having more than one district  
9 judge must be elected every three years. In the event of a vacancy, a presiding judge must be  
10 elected in the manner provided in this section to serve the remainder of the term.